

I would agree with the information given us by Mr. Henderson that lacking specific instructions the conduct of this particular official of the Indian Affairs branch, or of any official of the Indian Affairs branch, should be reviewed with the greatest sympathy, because if there is any group of people who are called upon to use their own judgment and to fit the regulations into the problems of each separate Indian reservation these Indian officials are the people who really are up against it. I think the greatest care should be taken in condemning them and making sure that there was actual wrongdoing rather than a matter of maybe wrong judgment being used, which is entirely different from criminal action.

MR. HENDERSON:

48. *Payment for loss of salary pending appointment to a position in the civil service.* It is provided in section 71 (3) of the Civil Service Act that a person who, for at least three years, has held the position of Executive Assistant to a Minister or the position of Private Secretary to a Minister, is entitled to be appointed to a position in the civil service for which the person is qualified, not being lower than the position of head clerk. The Act is silent as to the person's entitlement if no position is available.

A case was noted where the former private secretary of an ex-Minister became available for such a position on July 1, 1963 but the Civil Service Commission was unable to provide employment until February 20, 1964. The Civil Service Commission requested Treasury Board to recommend an ex gratia payment in the amount of one-half of the salary the former private secretary would have received had she been employed from July 1st until the resumption of her employment in the public service at the maximum rate of head clerk. Payment on an ex gratia basis was authorized by Order in Council P.C. 1963-8-1730 of November 28, 1963 and the expenditure of \$1,979 was charged to Civil Service Commission Vote 1, 1963-64.

In order to provide for the benefits pursuant to continuity of employment, the Civil Service Commission drafted a regulation under section 68 of the Civil Service Act covering the period July 1, 1963 to February 19, 1964 during which the former secretary was out of employment. This regulation was approved by Order in Council P.C. 1964-6/490 of April 10, 1964.

Paragraph 48 covers payment for loss of salary pending appointment to a position in the civil service. This again is exclusively a 1964 matter.

This is the case of a person who, as you see, for at least three years had filled a position of private secretary to a minister and who, under Section 71(3) of the Civil Service Act, was entitled to be appointed to a position in the civil service for which the person is qualified, such position not being more than that of head clerk. In view of the fact that the Commission was unable to provide employment in the manner contemplated by this section during the period July 1, 1963, to February 20, 1964, this former private secretary received an ex gratia payment in the amount of one half of the salary she would have received had she been employed in the public service during that period at the maximum rate of head clerk.

Now you will note here, as I point out, that the Civil Service Act is silent as to such a person's entitlement if no position is available, and this was the situation in the case described here.