

acts. The Public Service Employment Act, which establishes the Public Service Commission, provides by section 8:

—the commission has the exclusive right and authority to make appointments to or from within the public service—

This includes the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees. The commission by legislation is under specific direction that it shall not discriminate against any person by reason of sex, race, national origin, colour or religion.

In addition to the mandatory obligation of the commission not to discriminate on the grounds I have just mentioned, order in council 1972-2569 has imposed upon the commission the additional obligation to investigate any complaint brought to the attention of the commission where there is an allegation of discrimination on the grounds of sex, race, national origin, colour or religion relating to the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees. Furthermore, any allegation of any discrimination resulting in disciplinary action may be the subject of a grievance, and if the employee's grievance has not been dealt with to his satisfaction he may refer the grievance to adjudication under the Public Service Staff Relations Act if the disciplinary action resulted in discharge, suspension or financial penalty.

Where any such grievance is referred to adjudication, the adjudicator is obliged to give both parties to the grievance an opportunity of being heard which, of course, includes the right of the grievor to be represented by counsel. After consideration of the grievance, the decision of the adjudicator is final and binding upon both parties. It may be trite to say, Mr. Speaker, that the adjudicators are completely independent of the employer or the employee and are appointed by the governor in council. Such appointment is made by the governor in council on the recommendation not of the employer but of the Public Service Staff Relations Board.

Therefore, Mr. Speaker, the legislation presently covering fair labour practices under the Public Service Employment Act and the Public Service Staff Relations Act provides all of the fair employment practices that are defined in the Canada Labour Code and to which the hon. member for Grenville-Carleton has referred. Therefore, the adoption by this House of the motion presently under debate would not provide any additional protection to employees of the public service with respect to fair employment practices, but would only serve to add confusion to an already complex situation.

If the motion were to be carried by this House it would add a conflict whereby a minister of the Crown, namely, the Minister of Labour who administers the Canada Labour Code, could find himself in a difficult position were a dispute to arise within the Department of Labour. Then the Minister of Labour who is charged with the administration of the Canada Labour Code would be charged with the additional responsibility of investigating the complaint where he or his department may be named as a defendant.

For example, a grievor may say he was unjustly dismissed from the Department of Labour. He might at that point name as defendants the Department of Labour and

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the Minister of Labour. The grievance might be such that it would be subject to investigation and examination by the investigators in the Department of Labour who are answerable only to the Minister of Labour. The Minister of Labour might also at this time be a defendant in the grievance procedure, in which case the Minister of Labour would be the investigating body which would have jurisdiction over the tribunal which would hear the grievance and might at the same time be a defendant himself.

Such a patent and obvious conflict of interest would cast suspicion upon the just administration of the Canada Labour Code in relation to the public service, and thus could bring into disrespect a system of fair labour practice presently existing within the public service without providing any additional benefit to the public service by implementation of the Canada Labour Code in relation to the Public Service of Canada. Such an obvious conflict of interest is clearly unacceptable and cannot be permitted to exist.

In the previous parliament this government proposed additional protections against discriminatory practices in the areas of marital status and age. This bill, unfortunately, died on the order paper. This proposal is one which I would support. I hope that the government would bring it in at the earliest opportunity, together with other amendments which in the light of experience would be advisable at this time. The bill presented in the previous parliament to which I have referred was Bill C-206 which provided for the following amendment:

The commission, in prescribing or applying selection standards under subsection (1) shall not discriminate against any person by reason of sex, race, national origin, colour, religion, marital status or age.

This, in effect, would add marital status and age which are not presently contained in the legislation. This would be a specific direction that the commission should not discriminate on these grounds. I would hope that that bill would be brought in again by this government. In addition, some improvement could be made to these acts by making other matters subject to arbitration. This House was advised in the Speech from the Throne as follows:

You will be asked to amend the Public Service Staff Relations Act and the Public Service Employment Act.

The President of the Treasury Board (Mr. Drury) has stated publicly that there will be proposals made to parliament for amendment to the Public Service Staff Relations Act. He has stated that experience gained since the inception of the act has indicated that there are a number of subjects which cannot be arbitrated now but which in his view should be. There are some specific items that are not now subject to arbitration but which should be examined further to determine whether they should properly be made subject to arbitration under the Public Service Staff Relations Act. The proper time to discuss the specific changes is when the government brings forth the legislation referred to in the Speech from the Throne.

Many items that have general application across the public service are referred, with the consent of both the union and the employer, to the National Joint Council for thorough examination and a recommendation is made by the NJC often leading to improved benefits or policy