

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
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POLITICAL RIGHTS FOR TERRITORIAL PUBLIC SERVANTS

A Discussion Paper

October, 1980

INTRODUCTION

On the initiative of the Honourable Member from Yellowknife Centre, the Executive Committee of the Northwest Territories has been examining the question of political rights of Territorial public servants. After giving this matter serious consideration, the Executive Committee has decided to submit this Paper to the Legislative Assembly to seek specific direction from it before proceeding to introduce legislation amending the *Public Service Ordinance*.

BACKGROUND

The current provisions of the *Public Service Ordinance* pertaining to political partisanship preclude in essence a public servant from engaging in work for or on behalf of or against a candidate for election as a Member of the Council of the Territories or the House of Commons of Canada, or engaging in work for or on behalf of or against a political party.

A public servant is further precluded from being a candidate for election as a Member of the Legislative Assembly or the House of Commons unless he applies for and obtains leave of absence without pay from the Commissioner. The *Public Service Ordinance* provides that the Commissioner may, if he is of the opinion that the usefulness to the public service of the employee in the position he then occupies would not be impaired by reason for his having been a candidate at the election, grant to the employee leave of absence without pay. Such leave is for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate.

DIRECTION REQUIRED

The Executive Committee is seeking direction from the Legislative Assembly on the following:

- (i) Should Territorial public servants be allowed to engage in work for or against a candidate for Territorial or federal elections.
- (ii) Should Territorial public servants be allowed to be candidates at a Territorial or federal election and should a public servant seeking to become such a candidate be entitled to leave of absence without pay as a matter of right.

- (iii) If the Legislative Assembly's view of (i) or (ii) above is in the affirmative, up to what level, if any, in the hierarchy of the public service should such activity be permitted.
- (iv) Should the proposed legislation to allow public servants to participate in political activity make a distinction between participation in Territorial elections as opposed to federal elections.
- (v) What should be the maximum period for which leave of absence without pay be given to a public servant and what, if any, level of position should a public servant be entitled to return to upon expiry of his/her leave of absence.

The Executive Committee is of the view that this Assembly should debate the questions raised above and provide a clear direction to the Executive Committee to enable it to introduce legislation in keeping with that direction.

FACTORS TO BE CONSIDERED

It may be noted that at present Territorial public servants are not precluded from participating in municipal elections. As indicated earlier on in this Paper, the restriction on political partisanship applies in respect of Territorial or national elections.

The right of public servants to engage in such political activity has been strongly advanced by the Northwest Territories Public Service Association and the Northwest Territories Teachers Association.

Several Provinces, notably Manitoba, Saskatchewan, and British Columbia have legislated such political freedom, the main restriction being that such political activity is not to be carried out during working hours of the public servant involved. Generally, such legislation precludes a public servant from soliciting funds for political purposes. In the case of Manitoba and British Columbia, the relevant legislation provides that if a public servant is successful at an election, his leave of absence shall be extended for up to five years. Such a provision could present difficulties in a small size public service such as the Northwest Territories.

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