

MINORITY REPORT.

(82 a.)

MINORITY MEMORANDUM of the undersigned Members of the Civil Service Commission.

For various reasons the undersigned have been prevented from offering the Minority Report, which they intimated it was their intention to present; and are forced to content themselves with the present brief joint memorandum. Amongst these reasons is the circumstance that to his other duties, the onerous task of superintending the Census has fallen upon Mr. Taché, thereby taxing his mind and strength to such an extent, that he has been unable to devote any considerable time to this important subject.

In dealing with this question of Civil Service reform, we at the outset recognise the difficulties which surround it, and feel that every change is not for the better, and that unless a certainty exists that alterations are sure to bring desirable results, it is unwise to incur the trouble and derangement which necessarily accompany the changing of an existing and fairly efficient organization.

The Report of the Majority of the Commission, recognising the soundness of this principle, have sought to support their recommendations by the assertion that evils of a sufficient magnitude exist, in the Civil Service, to justify the changes they propose.

A careful perusal of the evidence taken by the Commission confirms the view expressed in the previous paragraph, and it may be well to at once state that the weight of that evidence is at variance with the conclusions of the Majority Report, proof of which opinion we shall hereafter adduce.

To establish Competitive Examination is evidently the aim of the Report, and the main and almost only argument offered in its favor is, that it has of late years been introduced in England, (where, however, it is still on trial, with by no means an ascertained success); and while we fully admit that it is natural for us, as British subjects, to seek from the Parent state, such institutions and organizations as will alike suit the circumstances of both countries, it would be lamentable that such loyal following should lead to a system of unintelligent imitation.

Owing to the difference of circumstances and surroundings, it is self-evident that many things suited for the United Kingdom, might result in consequences inimical to the interest of Canada.

The system of Competitive Examinations being the main issue between the Majority Report and this memorandum, we feel quite justified in assuming the position that its success and maintenance, even in England, are by no means assured.

Beyond having relieved, to a degree, Members of the Administration and of Parliament from the annoyance caused by applicants for office, it is difficult to discover what public interest has been better served by the experiment now being made. Public documents, papers and reviews, as well as evidence taken before Commissions, are proof of the fact that the system is as much discussed and questioned, if not more animadverted against, than it was when first proposed.

It is well known that the Government of the late Lord Beaconsfield was constantly reproached, by partizans of the system, for its disregard of the Orders in Council in relation thereto, and while the present Administration is supposed to be distinctly pledged to it, nevertheless serious breaches of the involved principles are of record at its hands.

In support of this assertion, we may quote from the House of Commons Debates, the following interesting and practically instructive extract:

"HOUSE OF COMMONS,
" MONDAY, Feb. 21st, 1881.

"MR. DALRYMPLE asked the Secretary of State for the Home Department whether it was true that, in the case of the appointment of Mr. J. D. Prior to a factory inspectorship, the usual examination qualifying for the appointment had been dispensed with, and for what reasons an examination which is, rightly or wrongly, in general considered an unfailing test of fitness, had been considered as unnecessary in Mr. Prior's case.

"SIR W. HARCOURT—I am obliged to the hon. member for giving me an opportunity of explaining my action in this matter. Some time ago a large députation representing the various trades in the country, came to me, and among other things, complained that the inspectors under the Factory and Workshops Act, were taken exclusively from a class of persons who had no practical acquaintance with the special interests which it is their business to protect. Though the factory inspectors are an admirable body of men and do their work very well, still it is impossible to deny the substantial truth of this allegation. The examination which is prescribed practically excludes all but men belonging to the wealthier classes, and who have the advantages of a University education. That is obvious when I mention that among the subjects of examination are Latin, Greek, French, German, Italian, statics, dynamics, hydrostatics, pneumatics, &c. (Laughter.)

"When such an examination is coupled with the condition that the candidate must be under 30 years of age, it is obvious that it must exclude all persons of the artizan class. It seemed to me that there was a defect in the system, and that it was very desirable that if the artizans were to be satisfied with the working of these Acts, passed especially for their benefit, their own class should have some share in their administration. (Hear, hear.) I, of course communicated this view to the First Lord of the Treasury, and obtained his sanction to the general principle. I then made it my business to find a proper person on whom the experiment might be tried. (A laugh.) The post of a factory inspector is one which requires, not only knowledge and ability, but tact and judgment to prevent friction between employers and employed. I believe from the character I have received of Mr. Prior that he will fulfill these requirements. (Hear, hear.) I have accordingly applied for the assent of the Treasury under the 7th section of the Order in Council of June 4th, 1870, by which the chief of a department may, if he considers that the qualifications of a candidate, in respect of knowledge and ability deemed requisite for such situation, are wholly or in part professional, or otherwise peculiar, recommend in the public interest that examination be wholly or partially dispensed with. I have received the assent of the Treasury, and I am happy to be able to state that this appointment has the cordial concurrence of Mr. Redgrave, the chief of this department. I wish it to be understood that this is an individual instance, and I have not wished to suspend the general rule as to examination in other cases. I do not contemplate making such appointments the exclusive or even the predominant feature of the system; but I am glad of any legitimate opportunity to give to the artizan and operative classes a share in the Civil Service of the country, especially in matters which peculiarly concern their interest. I think this is such an opportunity, and that it is an experiment worth trying, and I have every hope and confidence in its success. How far it may be extended will depend upon the event. (Hear, hear.)—*The Times*, 22nd February, 1881."

Against the working of the Competitive System it would be but a matter of patience to multiply evidence, similar to that above quoted, of its failure to procure the best or even proper material for a Civil Service; but we shall content ourselves by quoting the testimony given before the Select Parliamentary Committee on Civil Service, in 1877, by Mr. White, the Secretary of the Post Office Department, a member of the present Commission, who joined in the Majority Report, as reflecting the salient points of our objections.

"Question—You have spoken so far about qualifying examination, would you also introduce the competitive system?"

"*Answer*—There are to my mind one or two serious objections, the first, unless I am very much mistaken, that it will lead to a system of cramming, as it has in England. I have known men who knew a great deal more, through cramming, when they were examined, than they did six months afterwards. Then it is a question whether by a system of competitive examination, you would not limit the area from which you could select. Under such a system the appointments would be almost all in the hands of persons living in the cities where educational facilities are great. I don't know that that would be an advantage.

"*Question*—Did you ever think sufficiently on the matter to say that the examinations could be so arranged as to avoid any trouble through cramming?

"*Answer*—I have never thought much on the subject, but I have noticed that cramming has been alleged an evil ever since I can remember anything about it.....

"*Question*—Do you consider competitive examinations, no matter how arranged, must necessarily involve the evil of cramming?

"*Answer*—More or less.

"*Question*—Were you in the Civil Service at home?

"*Answer*—Yes; I was in the Post Office Department for eight years, in the Civil Service at home. We had a man who would pass through the most severe examinations and could translate anything in Greek that might be placed before him, yet he was one of the worst clerks in the Department; he could not even compose a letter. You may get a man whose learning may be thoroughly scholastic, but yet would have no power to adapt his information to practical purposes.

There is no need of very deep or laborious thinking to perceive that in the process of Competitive Examination, if anything, only the mnemonic acquirements of the candidate on the day of examination can be shown; the discerning faculties, the aptitudes, the temperament, and general fitness for any given task, remain quite in the dark. There is but one mode of ascertaining the moral, intellectual and physical fitness of men, brought in connection with certain circumstances, labors and duties; that is probation or trial at the work of the kind required. "By their fruits ye shall know them."

Even the testing of the fitness of applicants for permanent specified or technical work, cannot be determined at a given moment by examination, for the simple reason that, the less educated, at a certain day, may become, in the course of time and in short time, the better of a number of candidates. There are indications that the opinions amongst the learned are undergoing a change, in the matter of examinations in general, and that which is known by the sarcastic term of "Examiniomania," has seen its best days.

Owing to these and other reasons, we feel it incumbent upon us, as Members of the Commission, to dissent from the recommendations, which have in view the establishing of an irresponsible body in a paid Board of Examiners, to supersede the action of the Executive as well as the legitimate exercise of influence on the part of the peoples' representatives, and this the more strongly when considering the multiplied and diversified elements of our country, both geographically and in the composition of its population.

In relation to the experiment of Competitive Examination, now on trial in England, the Majority Report alludes with an apparent degree of discomfort to the fact, that there has been no legislation on this subject, action being based on Orders in Council; which circumstance the report attributes to the little preparation in public and parliamentary opinion for the acceptance of remedial legislation. This is, in itself, an argument against the system; but it is easy to perceive other reasons for this marked absence of Statutory sanction.

In the spirit and practice of the English Constitution, the Crown is the fountain of all appointments, and among the duties and responsibilities of its advisers stand the proper and responsible selection of the servants of the State. If it be, at times, expedient for Constitutional Governments to institute Commissions to investigate, it is repugnant to them to devolve on such bodies, the duty of governing and administering, of which appointments and promotions form an essential part.

The Majority of the Commission, being desirous of bringing forth all that could be argued in favor of Competitive Examinations, have made in the Report an attempt to connect the systems of various Foreign Countries with it; but the fact still remains that it is nowhere established, although some kind of examination is resorted to in several countries. Speaking of the United States, the Report refers to various agitations organized to secure its adoption, which efforts have been so far, however, unsuccessful—nevertheless that almost any change would appear to be for the better, in a country where there is no permanency in the Civil Service.

In connection with that apparently general desire for some change in the United States, it will not be out of place to quote a paragraph on the subject, taken from the message recently delivered to Congress by the President:

"There are very many characteristics, says the President, which go to make a model Civil Servant,—prominent among them are probably industry, good sense, good habits, good temper, patience, order, courtesy and self reliance, manly deference to superior officers, and manly considerations for inferiors. Absence of these traits is not supplied by a wide knowledge of books, or by promptitude in answering questions, or by any other quality, likely to be brought to light by Competitive Examination. To make success in such a contest, therefore, an indispensable condition of Public Employment would very likely result in the practical exclusion of the older applicants, even though they might possess qualifications far superior to their younger and more brilliant competitors."

Even if the system of Competitive Examination were not wrong in principle, and we sincerely believe that it is, its application to Canada would, nevertheless, be fraught with serious difficulties and many dangers, both in an economical point of view, and in relation to an equitable practical working for all parts and sections of our vast territory.

Apart from the question of cost, which, although not of the higher order, is nevertheless worthy of consideration, there is the much more important question, viz: to provide for a just distribution of the public officers, amongst the various sections of our country, the expense of maintaining which is contributed by all. It will be at once apparent that the opportunities for competition and cost to candidates of rural districts and of small and distant localities will involve many hardships when compared with the facilities available for those of the few larger centres of population, although the candidates of rural districts have been proved by experience to be possessed of many advantages over applicants from large cities.

In order to justify their recommendations, the majority of the commission labored to represent the service in such a state of inefficiency as to call for stringent reforms, and in recommending the adoption of the Competitive system, appear to think that they have found an adequate remedy.

In the report of the Sub-Committee of Council, on which is based the Order of the 16th June, 1880, appointing the Commission, a series of possible defects was enumerated, as proper subjects for investigation by the Commission, which was, of course, directed to take evidence and collect information by such means as they might deem expedient in order to ascertain whether these possible defects—to u. g. ater or lesser degree—really existed.

This direction to investigate the Majority deals with as "almost established official propositions," and throughout their report, the actual existence of all the defects referred to is taken for granted, in opposition to the mass of documentary evidence and testimony of over one hundred witnesses, among whom were many of the most experienced public servants.

The nomenclature of these defects, as enumerated in the report, may be summarized as follows. Incapacity or inefficiency from:—

- 1st. Old age.
- 2nd. Bad habits.
- 3rd. Idleness.
- 4th. Want of education.
- 5th. Want of physical strength.

6th. General unfitness.

It is, moreover, asserted that the number of employes is largely in excess of the requirement of the service, and that, by the tendency of the existing rules, a culmination in the higher paid grades of the service, has resulted, by process of time, regardless of the character of the work performed.

Of these numerous counts in this formidable indictment, there is but one, in our opinion, which really exist to an extent that demands a remedy, none however being recommended against that defect by the Majority Report, unless it is claimed that "Competitive Examinations" be a sufficient redress:—the defect in question is the culmination of employes into the highly paid classes, in a measure not commensurate with the character of the work required at their hands. While limiting our admission to one, amongst the alleged evils in the Civil Service, we mean simply to deal with the question in general, and we are not to be supposed to assert that no individual cases are to be found in the service to which the allegations above referred to may apply.

The Civil Service in Canada, like every other service, is subject to and has to suffer from the ordinary defects of human frailty, but what we desire to stoutly affirm is, that this service as a whole, is efficient and will compare favorably with that of other countries in every respect. In support of which affirmation we now adduce, from the evidence given before the Commission, statements as to the condition of the service, limiting ourselves to that offered by the principal officers of the several departments.

Mr. W. H. Griffin, Deputy Postmaster General (page 68), being asked about the efficiency of the staff of his Department, said :

"The officers superintending the various branches are exceedingly able and efficient men. The clerks, as a rule, are a good body of men. The duties of the clerks are done to the best of their ability. The work of the Department is, I think, fairly well done."

Lt.-Col. Panet, Deputy Minister of Militia and Defence, being asked (page 85) "If the officers and clerks of the Civil Service were as good a material as is generally secured by the banks and other large institutions in the country?" answered :

"I believe we have as good a class of people as those mentioned in the question."

Mr. James Johnson, Commissioner of Customs, being questioned (page 169) about the efficiency of the custom Service, said :

"The work of the Inside Service is, I should say, efficiently performed as a general rule. There are degrees of efficiency, and occasional negligence on the part of clerks, but these are exceptions to the general state of things. As respects the Outside Service there are large numbers of efficient and faithful officers, while there are many who are not efficient, and whose general character is not such as should exist in so important a service as the Customs."

Mr. Lowe, Secretary of the Department of Agriculture (page 181 and 184), being asked what has been the effect of the now prevailing method of making appointments, answered :

"In regard to my own Department the result has been decided efficiency. I speak with special reference to our present staff;"

And further on stated :

"There is probably one of the Clerks who is now attaining the age at which he will have to be superannuated. The merits of the clerks are not all equal; but I know of none unfitted for their duties."

Mr. Dennis, Deputy Minister of the Department of the Interior (page 190), in answering the question as to whether he had any clerks not capable of performing their duties efficiently from any cause; answered :

"No."

And being asked if the work of the Department was efficiently performed in the Inside and Outside Service, answered :

"I think in the Inside Service, yes! In the Outside Service there has been one complaint involving the neglect of an officer which the Department is now endeavoring to remedy. It is not a case of inefficiency of an officer, but a charge of willful neglect."

Mr. Robins, Chief Clerk in the Inland Revenue Department (page 207), being asked if the work of the Department was generally well performed, answered:

"I have not so full an opportunity as I could wish to judge of the Outside Service, but I think the work is well performed. As to the Inside Service, I am not always satisfied as to the way in which the work is performed, a lack of diligence on the part of some of the staff is what I complain of."

Mr. Vankoughnet, the Deputy Superintendent of Indian Affairs (page 204), stated:

"There is no officer connected with the Department whose duties are not discharged with sufficient ability to justify the Department in placing him on the Superannuation List."

Mr. Baillargé, Deputy Minister of Public Works, (pages 327-8,) being asked "If the present system of appointments had exposed his Department to employ incompetent persons," answered:

"No inconvenience has been experienced as yet in that respect."

And on being further asked, "If the Department had officers or clerks unfit for service from any cause," replied:

"There is but one officer, I believe, who has reached the age of superannuation, another of our officers has been suspended a short time on account of absence from his duties, owing to inebriate habits."

M. Langevin, Under Secretary of State, (page 262,) being questioned as to the discipline of the Department, answered:—

"I have never had occasion to impose any penalties."

Mr. Lash, Deputy Minister of Justice, being asked (page 1270,) "Are you generally satisfied with the personnel of the Department of Justice, and is the work of the Department generally done to your satisfaction?" answered:

"I am. It is."

Mr. Trudeau, Deputy Minister of Railways and Canals (page 278 and 280,) being asked "As to the effect on the service of the prevailing method of making appointments?" answered:

"I cannot say that the effect is a bad one."

And being further asked "If there was any employé not well fitted to perform their duties?" said:

"No. When an officer in the Outside Service becomes incapacitated for the performance of his duties, the case is reported to the Department by the Engineer in Charge, it is considered in the Department and dealt with by the Minister. I know of no case in the Inside Service."

Mr. John Kidd, the Acting Secretary in the Governor General's Office, (page 284,) being asked, "Is the staff of that office efficient, and if he was satisfied with the work done?" answered:

"Very efficient; perfectly satisfied."

Mr. Courtney, Deputy Minister of Finance, (page 286,) being asked, "If the work of the Department was efficiently performed?" answered:

"The work is kept up without arrears and is so far efficient."

And being further asked "If by a better organization the work could be performed with equal efficiency and at less cost," he said:—

"I do not know that it could be performed at less cost."

Mr. Wm. Smith, Deputy Minister of Marine and Fisheries, being asked, (page 319,) "If the staff of the Department was an efficient one, and if there was more men in it than needed for the work?" answered:

"It is an efficient one comprised of all well conducted persons, and we have not enough men to do the work without employing a small amount of temporary service at a cheap rate."

The answers quoted have reference to all the Departments of the Public Service, the Auditor General's excepted—he being considered a Parliamentary Officer:—while the above refers especially to the Inside Service, much evidence of a similar character to that cited might be adduced from the Report, with reference to the Outside Service.

It is therefore to remedy an evil which does not exist, namely: the want of education in the Civil Service, the competitive examination is recommended: so far as aptitudes and other numerous qualities necessary to constitute an efficient and trustworthy public servant, competitive examination can lay no claim or pretence of ascertaining, the real test being a probationary stage of sufficient duration.

We shall briefly treat the subject of the alleged defects of the Civil Service, by taking them up seriatim:—

1st. "OLD AGE." Any one at all acquainted with the Service knows that is not now crippled by old age; whatever defect of that kind which might have existed in past years has been wisely remedied and provided against in the future, by the passage of the Superannuation Act; then the reference made in the Council memorandum can only apply to the investigation of the question as to whether sufficient recourse has been had to the provisions of the Act.

Old age referred to in that light can only apply to such employes whose constitutions have been impaired by the unrelenting process of time, to the extent of lessening their fitness to work: the element of vigorous and respectable old age otherwise meaning experience and good example, therefore, is rather an advantage to a service than an evil.

But as a matter of fact, notwithstanding that the Report takes for granted that old age is an actual evil in the service, it is proved, both by verbal and documentary evidence that such is not the case; there are indeed very few instances pointed out as calling for the operation of the Superannuation Act in the Inside Service; in the Outside Service, there are more of old age on account of the very large proportion of small offices which do not come within the purview of the Superannuation Act.

That old age is not prevalent in the service, there is unquestionable proof from the lists made out for the Commission, at its own request, of the personnel of the Departments, from which, establishing the statistics of ages for the year 1880, we find that out of 447 names, only 35 are those of men over 60 years of age, very few of which number had reached or over run the age of 65, in the Inside Service; and that out of the number of 2,308 names of the Outside Service, only 313 were those of men of the ages above mentioned, that is to say, a ratio of men above the age of 60, not quite 8 per cent for the Inside, and a little more than 13 per cent for the Outside Service.

These lists were for the most part complete, and the relatively small number of names to be added to complete them, for the year, could not alter the proportion.

2nd. BAD HABITS.—It is presumable that under that title is principally meant intemperance. There are, unfortunately, a few addicted to such in the service, and the members of the Commission were made aware of it; but we have no hesitation in asserting that you could hardly find in the country a body of say 3,000 men in any other civil calling, among whom fewer of those unfortunate cases could be found. Therefore, it is not correct nor just to assume that bad habits are prevalent in the service to such an extent as to singularize it. The Report on this point has, however, no remedy to offer.

3rd. IDLENESS.—This evil, the existence of which seems taken for granted by the Report, is supported by very few instances; the whole evidence establishes that there is no prevalence of such a defect in the service. In the absence of proof, this charge must, therefore, be dismissed, but it cannot be doubted that out of a personnel of several hundreds, in the Inside, and some thousands in the Outside service, there must unavoidably be great difference in zeal, assiduity and earnestness; and that some idlers are very likely to be found.

4th. WANT OF EDUCATION.—The whole record, at least as far as the Inside Service is concerned, goes to establish that it is not wanting in the education required

for the various kinds of work. In point of fact, no case of the existence of this want is made out, and this is the ground work on which the recommendation of the competitive system is based; an assumption which is in direct contradiction with the testimony added.

5th. WANT OF STRENGTH OF CONSTITUTION.—Of all the assumed defects of the Civil Service this is, perhaps, after all, the least formidable and, so far as the litl's information which has transpired on the subject goes, the proof is the contrary of that assertion, for it is held, with every appearance of truth, that the percentage of mortality in the service is much lower, age for age, than it is in ordinary life; and it is well known that the sick list is always proportionately small.

7th. GENERAL UNFITNESS.—Inasmuch as the quotation hereinbefore made of the evidence is a complete rebuttal of the existence of this alleged defect, there is no need of anything being said beyond the reassertion of the fact superabundantly proved, that the service, in general, is fit for its work.

We shall finish this answer, to the charges implied or expressed in the Majority Report against the service by taking up the assertions that "in point of numbers the service is decidedly in excess of its requirements." Again, the whole mass of evidence is at variance with this allegation; but there is on this point a still more formidable refutation produced by the second Report of the majority of the Commission against that assertion of the first Report, and that refutation, being of a practical character, goes on to show how much more easy it is to find fault and to digress on a subject of that nature, than to furnish remedies for defects imaginary or real.

At the time that the second Report of the Commission was presented there were in all 487 permanent employes of all grades, including messengers in the Departments, at the seat of Government (the officers of the Senate and of the House of Commons not included.) The second Report of the majority of the Commission recommends a theoretical organization of the Departments, with mention of the number that should be of every grade and class, the aggregate number of these being what the Majority Report considered to be necessary for the working of the various Departments, at the time that the work was actually performed by 487 permanent employes. (*Estimates and Supply Act of 1881-82.*) It is found that the aggregate number recommended, reaches 551, with a very serious additional expense under the name of *duty pay*, which is proposed to be added to salaries, in *undetermined* but apparently numerous cases.

The increase which appears at first sight by comparing these figures, namely a difference of 64, is not however to be charged against the proposed scheme in its entirety. To make the two terms of the comparison identical, 12 must be added to the 64, to represent one office which is intended to be made an outside service, four offices of a specific nature which are counted in the estimate and not counted in the theoretical organization suggested, and seven officers of the Militia Department appertaining to its civil branch, which the Report proposes to abolish. From that additional number of 76 of increase involved in the proposal must be deducted, first 24 as representing a number of so called extra employes who are very properly recommended to be entered on the the pay list, and an addition of 30 recommended in consequence of an addition of duties suggested to be imposed on the Inside Customs Service. Thereby reducing the apparent proposed increase in numbers to 22; which proposal, though being quite justified, is *per se* the most emphatic refutation of the assertion that—"In point of numbers the service is decidedly in excess of its requirements."

The Majority Report frequently refers to favoritism and baneful influences, but we are of opinion that no wider door could be opened to admit of such that the system of *duty pay*; and we fear a further result would be the creation of heart burnings on the part of those in the same class, holding equal rank and possibly doing as much or more work of a similar character than the so-term'd *duty-paid employes*.

We have not heretofore referred to the cost of the proposed theoretical organization for the Civil Service as compared with that now existing; but on examination it will be found that any difference between the two, in this respect, would be to the

very decided disadvantage of the new scheme, apart entirely from the cost of establishing and maintaining a permanent Civil Service Commission.

In our opinion, based upon several years of experience in the Civil Service, its really noticeable defects may be limited to two: first, an increase in the yearly expenditure more than commensurate with the increasing numbers and work, consequent upon the culmination into the higher salaries; second; a laxity and want of uniformity in its discipline.

In conclusion, after having reviewed what appears to us the more objectionable features of the Majority Report and recommendations, we feel obliged to record our opinion to the effect, that the evidence taken by the Commission is not such as to justify that Report, and we feel that to change a system which has been fairly effective for one that is, at best, an experiment, might be attended with results damaging alike to the interests of the Public and the Service.

J. C. TACHÉ,
JOHN TILTON.

OTTAWA, December, 1881