

## CHAPTER 12

### CIVIL LIBERTIES FOR CIVIL SERVANTS

“THE British Political system depends upon the integrity and political impartiality of the Civil Service.”<sup>1</sup> Now let us look at the official regulations governing the conduct of civil servants. Officers we are told must be careful in their private conduct to do nothing which might bring discredit upon the department. That is clear and unobjectionable.

“The State is entitled to demand that its servants shall not only be honest in fact but beyond the reach of suspicion of dishonesty.” Here already we are in deep water. Not only must the civil servant be sinless but neither must the shadow of sin, even someone else’s sin, rest upon him. “A civil servant is not to subordinate his duty to his private interests *but* neither is he to put himself in a position where interest and duty conflict. He is not to make use of his official position to further those interests but neither is he so to order his private affairs as to allow the suspicion to arise that a trust has been abused or a confidence betrayed.” And now veritably we drown. The state employee can, it appears, have private interests and he need not allow his public duty to come before them—but only presumably if there is no conflict between them. Moreover, he must not only keep official secrets but maintain such a hold over his friends—and enemies—as to ensure that he is not brought under suspicion. And finally, “He is not to indulge in political or party controversy and must, in short, maintain a reserve in all political matters.”

This civil servant, in fact, is to dress himself up as a sort of moral and political eunuch, or to change the metaphor, as an idealized entity without passion or parts. He enters the Service as the novitiate enters the order or convent, becoming not as other men and keeping himself henceforth unspotted from the world. Sterilized and immunized he can then be

<sup>1</sup> Emmeline Cohen, *History of the British Civil Service.*

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expected to withstand the rude shock of events which shake ordinary mortals to their foundations. Politically, the only personal act which presumably will not conflict with his public duty will be the placing of a cross on a ballot paper at very infrequent intervals. As the Chancellor of the Exchequer in 1927 put it, "it is a question of the real interests of the state [again, whose state?] and in the name of those interests we are determined [the we being the Tory party] that the Civil Service shall be kept free from party politics".

To sum up, the civil servant must be not only immaculate but emasculated. Politically, that is if he keeps the regulations, he will be seen but not heard.

It is this sort of spiritually and intellectually castrated individual from whom the community is to expect intelligent and farsighted service. Loyal to the government of the day, even presumably when that government has, maybe, assumed a fascist tinge as governments elsewhere have done, he must learn to assist in the administration of laws and regulations which may for aught he knows press hard on the community or some considerable sections of it. Nevertheless, he must at all times observe a strict political neutrality in order to uphold the honourable traditions of public service. He can, of course, be a member of any party but that practically is all. Being a Tory that will probably be enough, for we shall not overlook the fact that inertia in itself is, particularly in present circumstances, a form of political action. Liberals (the more politically leftward of them), members of the Labour Party and Communists are somewhat differently placed. You can only express a dynamic political doctrine in action. Progressive politics cannot be confined to the world of ideas. Even so, the leftward-looking civil servant must be content to cultivate his own garden. He has entered the Civil Service sanctuary and can cease to trouble himself with such mundane matters as the fascist menace or the possible breakdown of civilization. It may be urged that there is some exaggeration in all this—that throughout the Civil Service thousands of public servants have been for some time indulging in controversial political activity without being brought to book. No one will deny it—

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but there is the regulation and in the light of it where is the assurance that this immunity will continue, particularly in circumstances of political deterioration? What guarantee is there that it will not be used as an instrument for suppressing every allegedly left element in the Service? Why, even where the soliciting of M.P.s to bolster up personal claims for advancement is concerned (an admittedly reprehensible thing), we have to unearth a Treasury Minute of 1867 to discover the authority under which heads of departments are entitled to take action!

The liberty which is not conceded by right is one which will be taken away in changed political circumstances without a by-your-leave and it is no argument therefore to assert that the regulation is only operated in extreme cases. There should be one test and one only. Is the individual civil servant making use of official information of a confidential nature for political purposes and/or is he neglecting or improperly carrying out the duties for which he is paid? If he is guilty on either of these counts then some form of disciplinary action with adequate safeguards and right of appeal must be expected. Apart from these clear derelictions of duty there should be no restrictions whatever imposed upon the free and full exercise of political responsibility on the part of individual civil servants. So clear are most of the larger Service unions on this point that they have become affiliated to the National Council for Civil Liberties and have constituted themselves a Civil Service branch of that body. A still further link between the Service and the Council has been formed by the appointment of L. C. White, General Secretary of the C.S.C.A., as its national chairman. A case book has already been published under the auspices of the Civil Service branch throwing light on the methods adopted by the security authorities in bringing to light obscure political activities of civil servants, most of them temporaries, and revealing the summary treatment meted out to some of them by the departments in which they were employed. The cases are not numerous but they are enough to illustrate the need for vigilance. One in particular, the case of Major Vernon, which goes back to 1937, was made the

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subject of a pamphlet which received a wide circulation at the time. This was a case in which a fake burglary was made the opportunity for "lifting" documents which it was afterwards alleged had been wrongfully detained by Major Vernon, then a technical officer employed at a government aircraft establishment. On the basis of this evidence, attempts were made to prove that Major Vernon was a communist, something which neither then nor now can be said to constitute a crime against British law, and that he had contravened the Official Secrets Act. For one or other of these alleged misdemeanours, there is some doubt which, Major Vernon was discharged by the Air Ministry and in spite of strenuous attempts to secure his reinstatement, during the course of which a thorough investigation of the case was undertaken by W. J. Brown, M.P., he is still outside the Civil Service. Brown stated with regard to this case that "Major Vernon possessed no information which could not be accounted for on grounds entirely creditable to him and that he was prepared to prove that before any independent tribunal". The offer was not however accepted.

As some slight compensation for a deprivation of the right to behave like a fully adult and politically conscious human being, the civil servant receives a few special privileges.

He is for instance exempt from liability for any act committed by him on behalf of the state. One civil servant in a hundred thousand might be affected by that generous concession. He is also entitled to claim exemption from jury service and cannot be *compelled* to act as a mayor or sheriff—that is a delicate touch of irony. Again the civil servant is not required to give evidence in court if by so doing he would prejudice the public interest, and finally he cannot be sued for slander or libel based on a communication made by him on official matters to another crown servant. Here is richness indeed. The whole lot, however, adds up so far as the great body of civil servants are concerned, to just precisely nothing. They are completely offset by two further *verboten*s. The first prevents a state employee from becoming bankrupt, under penalty of dismissal, without prior notification to the head of the department of his intention. The second warns him against

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the mortal sin of "soliciting a colleague for pecuniary accommodation". The approach of an officer to his subordinate for such a purpose is regarded as a particularly grave offence. In matters of this kind the Treasury it will be seen betters the advice of Polonius—"Neither a borrower nor a lender be"—but what is more to the point never try and touch your official inferiors for even the smallest loan.

There is always this fear of financial misdemeanour at the back of the Treasury mind and many of the restrictive regulations governing the conduct of civil servants seem to be aimed at a prevention of the speculation that helped so many of them in the bad old days to feather their nests. What the people who frame the regulations seem never to appreciate is that the really disinterested individual is the one whose social conscience and political understanding are both equally well developed. Such a one may, it is much to be hoped that he will, take an increasingly active part in contemporary politics, however controversial, but he will rate his responsibility towards the community too highly to indulge in any sort of graft at its expense. The Tory politicians and the non-politicals (so called) who try to equate a politically conscious Civil Service with a return to the spoils system know that precisely the opposite is true. The attempt to curtail the political liberties of the public servant has one primary reason—it is to create a docile state apparatus which will come to heel when called—and the rest quite patently is blah.

The majority of civil servants may not as yet be fully alive to the dangers which accompany a restriction of civil liberty in the pure political sense, though events are increasing awareness, but there is one direction in which that majority is very certain that it has suffered a grievous loss.

We have learned of the attempts made by successive governments to persuade civil servants that they were of different clay from the rest of the working community by hedging them round with restraints and providing a relative security of tenure in return for an unquestioning loyalty. We have seen too how at every point of examination the case for this artificial segregation has broken down by the government's own

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intention not to permit Service conditions of work and remuneration to get "out of step" with those of comparable categories outside. We are now to get an even clearer insight into this policy of splitting off the state employee from his fellow worker in office, factory, mine or shop. In other words, we introduce the reader to Section 5 of the Trade Disputes Act of 1927, a piece of legislation which has for sixteen years cast a shadow over the work of every truly educated Civil Service trade unionist, and robbed much of it of its final effectiveness.

All the gains of Service unionism described in a previous chapter would have been impossible without the earlier struggles of the industrial pioneers. Affiliation to the T.U.C. was the measure of appreciation on the part of some of the larger Service unions of that indisputable fact. What more natural then that when the depression of the post-war years produced conditions which sent the figures of unemployment soaring and gave rise to the industrial unrest which culminated in the miners' strike in 1926, the organized workers in the Civil Service had no desire to stand aside. It would be absurd to create the impression that all the members of all the unions were favourably disposed to the idea of linking their destinies with such a body as the T.U.C. Many of them had been conditioned by the methods adopted for that purpose and feared the "bolshevization" of the Civil Service as much as some people fear the bolshevization of Europe to-day. But it is none the less true that the *right* of decision was very much cherished by most civil servants and in the case of the U.P.W., the C.S.C.A., the Post Office Engineering Union and the Association of Officers of Taxes (now the Inland Revenue Staff Federation) affiliation had already been entered into.

When the miners struck they did so as a reaction to vicious cuts in their already subsistence-rate wages by the coal owners, whose action was precipitated by the government's withdrawal of its subsidy from the coal industry under a plea of national economy.

The General Strike, as we know, came about as a result of sympathetic action on the part of the other large unions. It was represented by Tory interests as a threat against the state

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and therefore an illegal act, although the Archbishop of Canterbury had said that "there was no shred of revolutionary or unconstitutional sentiment in its inception". The Civil Service unions became involved through a request to the affiliated unions to state where they stood with regard to:

1. Calling their members out on strike, and
2. Contributing towards the fund for relieving distress among the miners.

To the first question the answer could only be no, because there was nothing in the constitution of any of the organizations concerned which could authorize them to pledge their members to strike action. The answer to the second question was yes—the only possible answer, but one for which the Service has paid a very heavy price. Tory Members of Parliament, always ready and anxious to throw a brick at the Civil Service, asked questions in the House, an enquiry was held and the honorary officers of one of the affiliated unions were for some time in danger of losing their jobs. And then the strike collapsed and reprisals commenced. They took the form of the Trade Disputes Act, described in knowledgeable quarters as the most vicious piece of class legislation on the Statute Book. Whether that is a true description or not may be a matter for dispute. There can be no possible controversy however as to its effect on the Civil Service. Henceforth the employees of the state were to be protected from themselves. Never again must they be allowed to feel generous indignation at the wrong done to other sections of the working class. Not theirs to express any feelings of organized solidarity. The "state" had been endangered. Civil servants were the employees of the state. Never again, as the present Prime Minister said when, as Chancellor of the Exchequer, he received a deputation from the Civil Service Defence Committee in March, 1927, must there be any temptation to participate in subversive actions of that kind against the constitution. Section 5 of the act would henceforth see to that. From the date of its passing it would be impossible for any established civil servant to belong to an organization, the primary object of which was to affect or to

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influence remuneration or conditions of employment, unless that organization confined its membership to persons employed by or under the crown, and was not itself affiliated to any other such organization, the membership of which was not so restricted—or to any body which had political objects or was directly or indirectly associated with any political party or organization.

And so it was. Failing to put blinkers on the Service they could at least put it in irons. Already politically deformed the civil servant must henceforth confront his employer with one hand tied behind him. His conditions of service as we have seen were more or less predetermined by "the long-term trend in industry", but to make common cause with the industrial worker was denied to him. The point was made very cogently by W. J. Brown during the aforementioned deputation to the Chancellor, when he pointed out that it was entirely paradoxical for the Treasury to say "we are going to quote the wages of outside people against your claims for better conditions, but we refuse to allow you to associate with them in a common effort to improve the conditions of both of you". But no arguments based on common sense, economics or equity could be expected to prevail against the blind prejudice or calculated hostility of reactionary politicians. Civil Service Defence Committees were formed all over the country, protest meetings were addressed by Service union leaders, M.P.s were lobbied, and a strong fight was put up in the House of Commons, but the Tories were in full cry. The hunt was up. Civil servants were discovering all sorts of affinities with other classes of workers. If you pricked them they bled—if you reduced the standard of living of the miners it might, who knows, be their turn next.

This was "subversive". The rot must be stopped. Section 5 with the rest of the Trades Disputes Act became law. For sixteen years since then the Service unions have worked for its repeal. In this they have had the support of all the big industrial unions and more latterly of the T.U.C. itself. When the war broke out there was a general understanding that legislation of a controversial nature should not be introduced.

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This agreement was rendered farcical by the acute controversy introduced by the Tories into the debates upon such government-sponsored legislation as the Catering Bill, but it was invoked to dissuade anyone from seeking to reopen the question of the Trade Disputes Act or any part of it. The organized trade union movement had already made considerable sacrifices of hard-won rights. Even under provocation they had expressed themselves in favour of the continued avoidance of unnecessary political strife, but in 1941 an approach was made to the Prime Minister by the T.U.C. in order to discover his reactions to a move to introduce amending legislation. He was asked whether, as leader of the Tory party, he would be prepared to approach his colleagues so that if possible the matter could be put on a non-controversial basis. The approach was made and in December, 1941, a meeting took place between representatives of the T.U.C. and a group of Tories delegated by the National Union of Conservative and Unionist Associations. The results were completely negative. It became as clear as daylight that whatever the Prime Minister himself was prepared to concede, he was under restraint from his Tory associates. Every argument, whether drawn from the economics or the social justice of the case, fell on deliberately deaf ears. No agreement was reached, and apart from sporadic agitation nothing further happened until the summer of 1943, when the issue was forced a stage further by the Union of Post Office workers, which decided at its annual conference to make a direct application to the T.U.C. for reaffiliation.

This, be it said, was not in itself and despite the existence of Section 5 an illegal act. The section was aimed at the individual civil servant who joined the 'wrong' sort of union. If, of course, he chose to remain a member of an organization which had resumed its formal association with the T.U.C. he rendered himself liable to the pains and penalties provided for cases in which the rules which govern the employment of civil servants were contravened. It seems clear that numbers of Post Office employees were prepared to take that risk.

The application was in due course received by the T.U.C. and Sir Walter Citrine made it clear that he would recommend

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its acceptance to annual congress in the following September. Before then, however, things began to happen in other quarters. The government issued a general warning to civil servants threatening the withdrawal of pension rights in the event of their attempting to sidestep the section, whereupon the staff side of the National Whitley Council entered the lists and endeavoured to secure a settlement out of court—entirely without success.

Then in August, 1943, three of the unions previously affiliated to the T.U.C., the C.S.C.A., the Inland Revenue Staff Federation and the Post Office Engineering Union, succeeded in persuading the Prime Minister to receive a deputation.

The Prime Minister met the representatives of the three unions with fair words but empty hands. He repeated the warning given to recalcitrant civil servants and refused to discuss any possible modification of the law unless the application of the U.P.W. for affiliation was withdrawn. Indeed, he held out very little hope that even in those circumstances the government would be prepared to do business. When, however, the suggestion was made that the act might perhaps be amended to permit of industrial affiliation only, leaving the larger issue of political contact until after the war, he agreed to discuss the idea with his cabinet colleagues. The next move was made by the U.P.W. which, in order to leave the way clear for further discussions, withdrew its application. By that time the Prime Minister was in America but on his return the same organizations with the addition of the U.P.W. put in a written request for another interview with him. And the rest, up to the present, is silence. It seems impossible to escape the conclusion that the stranglehold imposed upon the Service by Section 5 is to be maintained for just so long as the writ of the Tory party runs. This in spite of the fact that every day of the war brings fresh evidence in support of the constantly repeated assertion that you cannot deal with the Civil Service as a class apart.

To bring this story up to date, news is recently to hand of a request from the Prime Minister for further details of the proposal for restricted affiliation on a purely industrial basis.

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This information, after consultation with the T.U.C., has been supplied, and by the time this book appears, a definite decision one way or the other will, we hope, have been taken.

In hundreds of ways, civil servants are being affected by wartime regulations and orders applicable to every class of worker. They work in establishments scheduled under the Essential Works Order and their movements are restricted accordingly. They suffer similar restrictions in prohibited areas. In many instances Service unions have been obliged by arrangement with the government to confer upon matters in which state employees and industrial workers have a common interest with the very body with which they were forbidden to establish an organizational link. The government includes the Civil Service within the scope of its plan for all-in social insurance and it ought not to be long before the relative security of tenure and pensionability of the established Civil Service is a *sine qua non* of all categories of employment. Moreover, as we have seen, the Service unions and Whitley bodies, the members of which come into daily contact with the public, are destined to take an increasingly large share of responsibility for the efficient application of post-war social legislation in terms of practical departmental organization. To force them to remain aloof from the industrial unions whose members will benefit or otherwise by the degree of effectiveness of that organization is fantastic. If the ban is maintained it will only be because the present House of Commons is entirely unrepresentative of the popular will. Seen in relation to other significant moves on the part of the more reactionary Tories, their adamant refusal to concede this bare measure of overdue justice leaves a nasty taste in the mouth. They seek by sterilizing the Civil Service to make it 'safe'. It will then be ready for the new role assigned to it by big business. We shall see later what that role is to be. Meanwhile Section 5 must go. Conceived in industrial unrest, born of frightened reaction, it has succeeded in becoming a peculiarly nasty adolescent.

Practically the whole Civil Service trade union movement would welcome, and indeed is working for, its early demise.