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I - The Spirit of Structural Reforms Paternity, Patronate, Paternalism

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« Nous savons qu'en vertu de l'art. 4 du chap. 162-A, tout employeur est tenu de reconnaître comme représentant collectif des salariés à son emploi les représentants d'une association groupant la majorité absolue des dits salariés et de négociier, de bonne foi, avec eux, une convention collective de travail.

Cette disposition donne à la majorité des salariés le droit d'exiger de l'employeur qu'ils se rencontrent pour discuter les conditions de travail qui les régiront, dans le but de conclure une convention dans laquelle ces conditions seront arrêtées. Ce droit est reconnu à l'employé au même titre que le droit d'association.»

Les notes abordent alors la dernière question, à savoir si la sentence avait besoin d'être soumise à la Cour Supérieure, et le tribunal répond dans la négative, et c'est sur ce seul moyen qu'il renvoie l'appel, déboutant ainsi la demanderesse de son action.

Le point en litige était de déterminer ce que signifie la phrase suivante dans l'article 4 du chapitre 169:

La sentence arbitrale, unanime ou majoritaire, peut être exécutée sous l'autorité d'un tribunal compétent sur poursuite intentée par une partie intéressée...

Le savant juge dit qu'il ressort clairement de ce texte que la sentence lie les parties, qu'elle doit être assimilée à un jugement, qu'elle constitue par elle-même un titre en faveur de toute personne intéressée. Et plus loin, les notes continuent en disant que la sentence à elle seule donne à toute personne à qui elle doit profiter le droit d'obtenir les prestations imposées en sa faveur.

Ainsi, sur les moyens de fond, sur l'interprétation des textes déterminant les obligations et les droits des associations d'institutrices et des commissions scolaires en matière de négociation de convention collective, l'Association d'institutrices qui avait triomphé en Cour Supérieure triomphe en Cour du Banc du Roi sur toute la ligne. Elle avait perdu devant le tribunal de première instance une question de procédure des arbitres, question où elle n'était nullement en jeu, et, devant la Cour du Banc du Roi, elle perd parce que le texte sous examen en matière d'exécution de la sentence arbitrale a été interprété à l'effet que le recours à la Cour Supérieure n'était pas nécessaire pour que les parties intéressées puissent s'en servir devant toute cour de justice.

Cette décision, comme nous l'avons dit, n'est pas seulement d'une très grande importance pour

les commissaires d'écoles. Elle l'est aussi pour tout employeur public, corporations municipales, institutions d'assistance publique, les entreprises de téléphone, de télégraphe, de transport, de chemin de fer, de tramway, de navigation, de production et de transmission d'électricité, et elle renferme aussi des interprétations légales du plus haut intérêt sur les obligations des employeurs privés. C'est une des rares fois, nous dit-on, où la Cour du Banc du Roi rend jugement de cette façon, deux bancs siégeant ensemble.

Les procureurs de l'Association étaient Me Marie-Louis Beaulieu, c.r., et Me Louis-Philippe Pigeon, c.r. Ceux des commissaires d'écoles étaient Me Guy Hudon, c. r., Me Noël Dorion, c. r. et Me Victor Trépanier, c. r.

Paternity, Patronate, Paternalism

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change by which he makes himself feel the responsibility of an older brother for his workers; a change by which he bears in mind the unsatisfactory conditions of their life; lastly, a change by which he brings himself to look upon the union as an organisation for justice with which he intends to collaborate in all good will.

C)—Can such a change in the very heart and soul of an employer be realized on the natural level or by the will-power alone? Experience constrains us to say — « No ».

The competition prevailing in the labour market has dispelled any hopes man may have had for the triumph of a spirit of altruism. Egoisms have been aggravated, disputes stirred up and rivalries provoked. The Marxist system itself has denied the possibility of such a change and has put an end to the institution of the Patronate. The Christian social order, alone, can promote this type of progress without suppressing certain classes of men, because it realizes that the change Nature is powerless to effect can be achieved by the power of the Supernatural.

And this is the third point of contact between the concepts of fatherhood and employership. Both suppose a spiritual life. The father has the care of his children's souls and the employer has the care of his workmen's souls. In this way he — the employer — discovers the secrets of that state of Grace which will enable him to become, spiritually, a new man and the foremost workman amongst his workers after the manner of Him Who chose to be the Worker for the Redemption of the World. And from then he is no longer the employer facing his workers and disputing with them, but the patron followed by his workers and guiding them as the leader among them. Redeeming gesture of the Word Himself, who after being incarnated as man returned to his Father bringing in his wake Humanity: that mystic Body of which He is the Head.

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In comparison with such a conception of employment, the nature of paternalism clearly reveals itself as a grotesque imitation.

Indeed, as we have remarked at the beginning of this article, if the patronate is the image of fatherhood, paternalism is its caricature! The tragedy of European Communism, for example, is that it has forgotten this difference and has willed the abolishment of all forms of paternity.

It must be admitted that paternalism presents a powerful temptation at a time when social evolution is becoming imperative. Of what does this paternalism consist? Essentially this — it causes an employer to pretend to Christian principles which he does not feel at heart. Paternalism is, one might say, « social phariseism » — the appearance of unselfishness masking an interest all too self-centred. One might cite the patron who considers as generosity on his part what the workers consider only as their just and fair due. A common misapprehension this!

It follows, and we must insist on this point, that this conversion on the part of the employer is only possible when there is a similar conversion on the part of the worker. Nothing is more distressing than the spectacle of an employer's sincere attempts to achieve the paternal attitude being interpreted as the gestures of an interested paternalism. The workers must make an effort to overcome their defiant attitude at the same time that the patron is striving to become a sort of model workman — militant for the improvement of his men's working conditions. Marxism came to grief when it systematically tried to make patrons out of workmen. Liberalism failed because it systematically opposed the patron to the worker. The Guild System of the Middle Ages was successful as long as the « master » was really only the leading worker, in the same way that the king was the greatest gentleman of his kingdom.

That remains to be done is to restore this very spirit to the Christian social order of modern industrial society. The necessity is to prove to the world without delay that Christianity can triumph over the contemporary doctrines of an atheistic humanism.

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Ideas such as these are pertinent to the present situation in Canada. For, employers everywhere seem imbued with an interest in the welfare of their workers. They are envisaging reforms in economic structure reforms inspired by such powerful social writings as those of the Papal encyclicals. Such a movement should, and could, be a great success! The endeavours and mistakes of others may be extremely usefull if they help to avoir wrong moves.

As regards the reforming of the labour class it might be desirable to bear in mind the following conclusions. They have been formulated, it is true, for the European countries (1) where social unrest is much more advanced. But they present,

non-the-less, the advantage of stressing the problems which are waiting to be solved here.

a) Experience shows that the success of an economic wage formula (2) profit-sharing, ownership-participation, proportionate remuneration, shop convenience, independent shifts, operation on a co-operative basis etc.) requires first of all that the employer does not attempt to use it as a stimulant to production. By a paradox which is quite apparant, an economic formula produces an improvement in output only when its primary purpose is the realisation of social justice. The employer's instinct is to utilize the wage formula as a stimulant. The workman's instinct is to interpret the employer's good intentions as calculated selfishness. The formulas alone are not likely to modify in the least such a misunderstanding. From this it follows that their use is of no value unless it expresses a reform in the state of mind. As this reform can not be achieved spontaneously by the working classes — perhaps because of a certain inferiority complex — only the employer class can embark upon it to begin with.

In the last analysis, it is on the true intentions of the employer towards his employees that the solution of the problem depends.

c) Arising from this — the diversity of the structure and the dimensions of the enterprise being known — the choice of an economic wage formula should conform to each individual case. The objective study of the economic and social facts in a given enterprise should proceed and accompany all sincere attempts at reform. Because, there exists, as opposed to the error of paternalism, another as dangerous, although less prevalent — that of utopian idealism.

« Respect for Nature, a passion for reality and the will to do good », these are the contradictory qualities which, through an alliance of Humanity with Divine Grace, can be counted upon to save modern economy from the chaos which threatens it.

- (1) Publication of the I.S.E.A.: « Salaire et rendement », p. 164.
- (2) In opposition to the technical formulas of salary: — hourly wage, piece work, the systems of Taylor, Rowan, Beveaux, Baunt, Walsley, etc.

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THE SPIRIT OF STRUCTURAL REFORMS

PATERNITY, PATRONATE, PATERNALISM

Marcel CLEMENT

Let us first of all consider the meaning of these words. If the patronate, or employer-relationship, be taken as a reflection of fatherhood, then paternalism is a caricature of that same fatherhood. Paternity is at one and the same time a biological, a psychological and spiritual fact. In its biological sense paternity is of the flesh; in its psychological sense paternity embodies the strong sentiments of love; while in its spiritual sense paternity typifies the magnificent creative power of God.

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The employer-relationship is a noble likeness of this same paternity — although one less perfect. The employer should be a man who, in his innermost being, thinks of himself as the father of those whom he leads.

A)—True, here, the biological tie does not exist. But, it is replaced by an economic tie — the community of interest. Participating in the same enterprise, the employer and the employees have a primary interest in common — the prosperity of their enterprise. If we stress the competing interests of the patron and the workers, we postulate, in the midst of the economic community, the equivalent of what is known in the biological community as the FAMILY. For the family also reposes, in some degree, on antagonism — the antagonism existing between parents and children as to the sharing of the daily bread. But Nature and Grace go hand in hand to teach that it is the father who feeds the family just as our Heavenly Father provides for His children. So the patron, bound to his employees in a shared economic interest, should strive first of all to insure the prosperity of the enterprise, then that of his workmen, and only finally, that of himself.

Economic superiority, as superiority of any other kind, can find its foundation and justification only in the theoretical and practical application of the ideas of « noblesse oblige ».

B)—Just as the economic bond between employer and employee corresponds to the biological bond between the father and his family, so the psychological tie of fatherhood has a corresponding representation in the employer-employee relationship. It is here, however, that we find a basic hindrance, because man is profoundly, often implacably and, more often than not, unknowingly selfish. A father prefers his children's welfare to his own, because, in contrast to his selfishness, the natural love of offspring arouses and sustains in him the spirit of self-denial. But here a very important fact must be clearly understood. If only because of human nature, an employer must, of necessity, differ widely from a father.

The father sees himself in his child — in a physical resemblance, in an inherited gesture, in a trait of character. He is moved by the child's helplessness, his dependance, his complete trust in the arms of those who hold him. Most important, the father has nothing to fear from his child ! The child's most serious rebellions are expressed only in cries and tears. He can do no harm. Neither physically nor morally is he in any fashion formidable.

Nothing of this is found in the relations between employer and employee. The modern way of hiring labour means that the worker is a stranger to his employer. His face is unfamiliar; he comes, perhaps, from a different environment; he is rendered all the more a stranger by the mechanism of the « offer and supply » system of the labour market.

Secondly, the worker, who remains economically the weaker even when protected by the Union, because his buying power is inferior, his security unstable and his dependance established: this worker, this « child » is not sufficiently understood by the employer. It would prove astonishing to discover how slight is the objective knowledge the employer has of his workman's living conditions. And even when, as is the case more and more frequently to-day, this knowledge is acquired, it seldom happens that the employer has sufficient imagination to preserve permanently in his mind the picture of the worker's unhappy situation. Unfortunately this situation has, for those living in it, precisely that same quality of permanency.¹

Finally, if the father has nothing to fear from his children and if, in consequence, no serious feelings of hostility can take root in his consciousness, the employer, on the contrary, knows that he can be apprehensive of concerted action on the part of labour and that individual weakness can change into collective force. And there as always, the sentiment of fear engenders reactions of hostility, often at the very moment when an open mind and a modicum of good-will would easily have saved the situation.

Thus the Patronate, from the point of view of psychology, can not exist as a true picture of fatherhood except on the condition of a profound and inner change in the employer. Required is a

(1) Hence the necessity for reform in structure—intended to compensate for the unavoidable short-comings of personal initiative.