

Mr. J. Carl Opper, Chief Examiner, etc., City Service Commission (cont'd)

through the Classified City Service and the other is by contract.

Sections 268 to 284, inclusive, of the 1938 City Charter provide for the City Service Commission and Section 270 states that the Commission shall provide for appointments and employments in all positions in the Classified City Service based on merit, efficiency, character and industry. Section 271 of the Charter provides that the Commission shall classify all of the municipal offices and positions in the City of Baltimore to which appointments are made by any person or persons (other than the Mayor or the City Council) who are, or may be, clothed by the Charter or any law or ordinance relating to Baltimore City with the power of making appointments, excepting positions involving duties in teaching or supervisory capacity which are to be filled by the Board of School Commissioners, as provided in Sections 129 and 130 of the Charter; and that the offices or places so classified by the Commission shall constitute the Classified City Service of Baltimore, and no appointment to any of such offices or places shall be made except under and according to the rules of the Commission.

It is obvious from the foregoing that the Classified City Service is composed of offices and positions to which appointments are made.

There seems to be a clear distinction between the status of persons performing services by reason of their appointment to a public office and the status of those performing services for a political entity by reason of a contract.

In this connection, the following quotations are applicable:

"The appointment to a public office for a definite term, and the acceptance of such office, bear no analogy to a contract made between the government and an individual. In the latter the terms agreed upon define the rights and obligations of both parties, and neither may depart from them without the consent of the other. In the former both the rights and privileges, as well as the duties, of the appointee are prescribed by the government, and not by agreement of parties. Uffert v. Vogt, 47 Atl. 225, 226, 65 N.J. Law. 377".

"The 'appointment to a public office' is not a contract the impairment of the obligation of which is forbidden by the federal Constitution. Butler v. Pennsylvania, 51 U.S. [10 How.] 402, 15 L. Ed. 472. An appointment to office is not a contract, nor is the office or its prospective emoluments the property of the incumbent. Kenny v. Hudspeth, 36 Atl. 662, 59 N.J. Law. 320".