

With this reserve, I am to state that paragraph 2 of section 26 provides for an exception in favour of this class of employees, since it declares that they may be promoted with a certificate of the Commission, *to be issued with or without examination*, as determined by the regulations.

In fact, this provision would have no meaning whatever, if it were to force this special group of clerks to pass, in addition to the qualifying and promotion examinations required by the old Civil Service Act, a further examination substantially equivalent to the second division competitive examination.

There can be no better proof of my contention than the very words pronounced by the sponsor of the new Act, on the 26th and 29th June, 1908, in regard to these clerks, just before the adoption of this provision by the House of Commons:

"To-day there are a number of junior second class clerks, some of whom have passed the promotion examination which would enable them to pass into the second or first class. Some have not passed it but would be entitled to that promotion under their present status or standing. He thought it would be unfair to those clerks if they were shut out of the promotion which they would have received, and we thought it proper and right that such of them as are deserving might be passed into the second division without being compelled to undergo the open competition."

These words, as well as the text of the law, clearly mean that the legislators intended to respect the vested rights of these clerks, who had complied with the requirements of the old law.

Furthermore, the Department of Justice, in a letter addressed to the Secretary of State, gave the following opinion:

"In the opinion of the Minister of Justice, these regulations (referred to in par. 2, sec. 26) may require examination in certain cases and dispense with examination in other cases. No doubt, however, if there be discrimination by the regulations, it should be on reasonable grounds."

In order to make things clearer, I wish here to interpose a remark. Some may say that these clerks have not to compete in the open competitions, under Regulation 20. But the question remains the same. If it is the intention of the law to exempt them from any further test, they should not be compelled to pass a non-competitive examination which is substantially equivalent to the open competitions for the second division.

In conclusion, I respectfully submit that Regulation 20 should be so amended as to permit the promotion of this special group of the third division, under the following conditions:

(1) Such of them as had passed both the qualifying and promotion examination, under the old Act, to be promoted on the recommendation of the Heads of the Departments, with a certificate of the Commission to be issued without examination.

(2) Such of them as had passed the qualifying examination only, to be promoted on the recommendation of the Heads of the Departments, with a certificate of the Commission to be issued after a promotion examination similar to that required by the old Act.

(3) As to such of them as had never passed any examination, and who accidentally became permanent through the mere coming into force of the new Act, there is no exception in their favour, and they have to submit to the general rule.

The whole respectfully submitted.

M. G. LAROCHELLE,
Commissioner.