Public Service Commission of Canada
Commission de la fonction publique du Canada

100 years / 100 ans
1908-2008

The 100 years of the Public Service Commission of Canada 1908-2008

July 2008

Canada

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This paper is also available on our Web site at **www.psc-cfp.gc.ca**

Cat. No. SC3-133/2008E-PDF
ISBN 978-1-100-10199-6

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Hodgetts, McCloskey, Whitaker, Seymour Wilson. *The Biography of an Institution.* Montreal, London: McGill-Queen's University Press, 1971

Hodgetts. *Pioneer Public Service.* Toronto: University of Toronto Press, 1956

Dawson. *The Civil Service of Canada.* London: Oxford University Press, 1929

Hodgetts. *The Canadian Public Service*. Toronto, Buffalo: University of Toronto Press, 1973

Barnes. "The personnel function in the federal Public Service of Canada"; No. 28 Research and Current Series. Kingston: Industrial Relations Centre, Queen's University, 1975

Granatstein. *The Ottawa Men*. Toronto: Oxford University Press, 1982

Roberts. *So Called Experts*. Toronto: Institute of Public Administration of Canada, 1996

Government of Canada. *Public Service 2000 – The Renewal of the Public Service of Canada.* Ottawa: Minister of Supply and Services Canada, 1990

Bupsingh and Edwards. *Tracking the Role of the PSC in the Governance System of the Federal Public Service.* Ottawa: Public Service Commission, 1997

INTRODUCTION

The work of the Public Service Commission (PSC) is based on a century-old tradition of protecting public service appointments from political interference and ensuring a professional, non-partisan public service. An independent agency mandated by Parliament, the PSC safeguards the integrity of the staffing system in the public service and the political neutrality of public servants by providing policies, guidance and support, as well as through monitoring, audits and investigations.

From 1908 on, the role of the Public Service Commission of Canada has been quite specific. Initially, the role touched on a critically important executive function of the Government of Canada: the quality of appointments to the civil service. Ten years later, in 1918, its role expanded to include exclusive responsibility for making these appointments. This is still its role today.

However, Parliament also gave the Public Service Commission (PSC), or its predecessor, the Civil Service Commission (CSC), many other tasks, all of them more or less related to the quality of the public service it appointed (in the past, for example, organizing government departments and classifying jobs). Since 1908, many factors have influenced the nature of the public service and the role of the PSC: increases in the role and size of government; economic changes; growing population; technological changes; two world wars; studies and calls for reform; political influences; public sentiment; court decisions; and the role of government departments and agencies.

As it celebrates its 100th anniversary, the PSC can take justifiable pride in its longevity and in its ability to adapt to changing conditions, while remaining true to its mandate of safeguarding merit and political neutrality in the federal public service. In fact, the PSC has had a profound impact on the federal public service and on our country. As well, a professional and non-partisan public service, which is recognized as one of the world's best, has contributed much to Canada's democratic system of government and its social and economic well-being.

The PSC is sharing its success story with Canadians and with the world. One hundred years is a good point at which to consider how the PSC came into being and why it remains relevant today.

BACKGROUND

To understand the evolution of the PSC, it is useful to go back to the 1800s. Today's Public Service Commission is the legitimate heir to the civil service reform movement initiated in the 19th century to create an independent, professional public service in which patronage and its associated corruption had no place.

By an 1857 statute entitled an *Act for improving the organization and increasing the efficiency of the Civil Service of Canada*, the Province of Canada established a Board of Examiners for the Civil Service. Its role was to examine "candidates for employment in the Civil Service" and to grant certificates of qualification to those found to possess the moral character and fitness required for service. However, the Civil Service Board was neither full-time nor at arm's length from government.

In 1868, the *Canada Civil Service Act* of the new federal government established a Civil Service Board with limited jurisdiction over examinations, certification and promotional investigations in the Inside Service (civil service positions in and around Ottawa). However, the so-called "spoils system" of appointment by ministers (from the adage "to the victor go the spoils") remained essentially untouched. Newly elected governments fired large numbers of civil servants hired by the previous government, and replaced them with their own people. Widespread overt patronage, overstaffing and inefficiency marked the early years of the Canadian public service.

The *Civil Service Act* of 1882 established a three-member Board of Civil Service Examiners to supervise twice-yearly pass/fail exams for appointments and promotions. Examiners could exclude from further consideration those who did not pass the exam.

THE TASK

The government of the early 1900s attempted to prevent ministers and members of Parliament (MPs) from becoming involved in appointments to the civil service because that involvement seemed to cause the government no end of difficulties. The government believed the proper execution of government policy depended on a professional civil service. It was therefore important to hire competent employees. However, the popularity and electoral future of an MP also depended, at that time, on being able to reward political help. Similarly, the livelihood of a helpful constituent often depended on that influence.

In the late 1800s and early 1900s, various Royal Commissions and journalists had documented scandals and inefficiencies related to appointments to the civil service. Moreover, ordinary Canadians and civil servants themselves deplored some of the worst effects of patronage: incompetence, indifference, inefficiency.

Prime Minister Wilfrid Laurier decided something had to be done, and the 1908 *Civil Service Amendment Act* was his answer.

THE *CIVIL SERVICE AMENDMENT ACT OF 1908*

The title *Civil Service Amendment Act, 1908* is deceptive. The amendments to the *Civil Service Act* in question were substantial: the Public Service Commission of Canada came into formal existence as the Civil Service Commission (CSC), formed of two Commissioners with life tenure on condition of good behaviour. Their statutory compensation, length of tenure and the onerous procedure for dismissal were the means by which Parliament wanted to ensure an independent Commission.

The task of the Commissioners was to appoint Canadians to positions in the civil service solely on the basis of their competence or merit for the job, and not on any political consideration. The government wanted the Commissioners to feel free to bring their best judgment to bear on problems and to do so without fear or favour. The independence of the CSC was further affirmed by the fact it did not report to a minister but to Parliament, and even then only on its overall operations. The CSC did not have to justify to Parliament its selection of a specific person for appointment or promotion. The situation remains the same today for the PSC.

The 1908 *Act* created a politically neutral and independent CSC to vet appointments to and promotions within the civil service. However, political partisanship in appointments was not eliminated. One writer gives a good example of the attitude prevailing at the time. A musician whose grandfather had been a strong party supporter came to Ottawa shortly after his party was returned to power in 1911. He obtained the support of the minister responsible for the Geological Survey as a candidate for a position. He told the CSC that, although he had no qualifications, he wanted the position in order to be able to practise his music.

For several reasons, the reforms of 1908 were limited in scope. First, they applied only to the approximately 5 000 positions in the Inside Service in Ottawa and not to the much larger Outside Service located everywhere else. Second, the certification of a Commissioner that a candidate was qualified meant only that the person met the minimal qualifications for the position. Third, because the Act did not apply to temporary positions, departments created many such positions. Last, when war was declared in 1914, the *War Measures Act* meant appointing a large number of temporary clerks, who were not subject to the *Civil Service Act*.

THE *CIVIL SERVICE ACT OF 1918*

The rapid growth in the civil service as a result of the war led to a push to promote efficiency, to reduce waste, to modernize the civil service, and to ensure a strong government that could deal with the conflict. At the same time, an efficient federal government could help protect Canada's trade interests after the war. Indeed, as early as 1911, a group of prominent businessmen – known as the Toronto Eighteen – had thrown its support behind Robert Borden's Conservatives in order to oppose the decision by

Liberal Prime Minister Wilfrid Laurier to introduce trade reciprocity with the United States. The group offered its support in exchange for a stronger and more efficient government and civil service, and a strengthening of the Department of Trade and Commerce to open up markets abroad.

In 1917, Prime Minister Borden had made the abolition of patronage and reform of the civil service one of the two planks of his new government (the other was the successful prosecution of the war). He said he wanted to "destroy every vestige of patronage." There had been too many failures, near-misses and general inefficiencies in Canada's war effort resulting from patronage appointments.

By 1918, when the new Act was adopted, the distinction in law between political and the non-political or professional civil servants was fairly well established as a fact. The Act also applied to the Outside Service.

The *Civil Service Act, 1918* built on the principle of independence of the Commissioners, who received powers relating to appointments, such as promotion, probation, transfers, and discipline for fraud or impersonation at examinations. There were now three Commissioners, with tenure of 10 years, which only Parliament could renew or end. The CSC was responsible for classifying positions in the civil service, organizing the service within departments, recommending levels of remuneration to the Cabinet (which it could only take or leave), and carrying out investigations and inquiries. The CSC could also regulate dismissal, attendance at work and resignations. It enforced the rule prohibiting civil servants from engaging in politically partisan work in connection with the election of a candidate or handling money for party funds. To further clarify the CSC's power respecting appointments, a 1919 amendment to the Act repealed the power of the Cabinet, ministers and officers of the Crown, or any board or other commission, to appoint any employee to the civil service.

The challenges for the CSC were great. In 1918, it had a staff of 12. Nevertheless, it announced that it would first classify jobs for the 50 000 federal civil servants, and then reorganize all departments.

In the 19th century, "experts" had applied so-called scientific analysis to the work of industrial workers to classify their jobs as a first step toward redesigning how people did their work. However, the Government of Canada was one of the first large-scale employers to seek to classify jobs on such a scale. More than 2 000 classes of jobs were created across the government.

Despite its clear statutory responsibility for reorganizing the civil service, the CSC said it lacked the "necessary measure of support" from departments and needed the Prime Minister's written support or a specific Order-in-Council before proceeding. As a result, the CSC limited itself to making general recommendations for reorganizing departments; for example, it looked for savings that could be made by grouping common services.

The 1918 Act made the CSC responsible for determining rates of compensation for new classes of employees and changing rates for existing ones. A new classification schedule in 1919 eliminated the classification differences between the Inside and Outside services. The compensation task occupied much of the CSC's attention in the latter half of the 1920s.

Merit

The early civil service legislation in Canada had simply stated that appointments were to be based on "competitive examinations" or "open competitive examinations." The competitive examination continued to be the legal criterion for appointment until 1961. The words "merit" and "order of merit" eventually appeared in later civil service legislation, but only for procedural purposes.

The 1918 Act said that examinations could involve a variety of techniques to fairly test the "relative fitness and ability of the candidate to perform the duties." Thus, merit was not related to an abstract skill or knowledge but to the ability to do the work. In everyday terms, however, for most Canadians "merit" became shorthand for the competitive examination.

THE CIVIL SERVICE COMMISSION IN THE 1920S

Since halting patronage was the primary raison d'être of the CSC, it was reasonable for one commentator to write that "the most important function given to the Commission (in 1918) was the administration of civil service appointments by competitive examinations." The CSC always saw itself as being responsible, first and foremost, for the competitive merit system. Similarly, in the public mind, the CSC was always associated with the guardianship of merit, and not with activities geared to achieving greater efficiencies (for example, classification, reorganization of departments or determination of salaries).

While individual members of Parliament regularly advocated a return to the patronage system, prime ministers and ministers respected the CSC's mandate. To a complaining supporter, the incoming prime minister, Mackenzie King, wrote in 1922 that "Parliament has given the CSC far-reaching authority, and has placed its jurisdiction beyond our control... ." A generation later, the Secretary of State said in Parliament: "The Civil Service Commission is responsible not to the ministry but to Parliament. The Secretary of State in no sense administers either the Civil Service or the Commission."

By the mid-1920s, politicians realized they now had time for more important tasks than dealing with the incessant demands from constituents and other MPs and ministers for help in securing positions for them or for their supporters. Removing political considerations from the civil service created more stability as governments succeeded each other without massive turnovers in staff.

During the 1920s, the CSC focused its efforts on strengthening the competitive system of examinations for appointments and promotions (a merit system) as a viable alternative to the patronage system. Formal restrictions on the employment of married women were put in place in 1921. Women who held permanent positions and then married had to resign. These restrictions were not removed until 1955. In 1924, the *Civil Service Superannuation Act* was created to promote and protect a career civil service.

THE DEPRESSION YEARS

By the 1930s, the picture of the civil service had begun to change drastically. All along, the objective had been to transform the civil service by hiring people for their competence, not party affiliation. While the CSC was not solely responsible for the improvement in the quality of people who joined and stayed in the civil service, its selection procedures produced some first-class results. For example, several capable young men joined the public service, including O. D. Skelton, who became Under-Secretary of State for External Affairs; Charles Ritchie, who later became a diplomat; and Lester B. Pearson, a future prime minister. In looking back on this period, Professor A. M. Lower of Queen's University wrote in 1954: "Have we not, for example, been sending our best students into the bureaucracy for years past?"

Nevertheless, the Depression brought serious unemployment and a large decrease in government revenue. The government's response was spending cutbacks, which it designated the Treasury Board, a committee of the Cabinet, to carry out. The government asked the Board to reduce the costs of administering government programs and to make organizational changes to reduce waste and create greater efficiencies.

The government did not dismiss civil servants because it did not wish to create more unemployment. Instead, it ordered salary cuts, stopped salary increases and promotions, and cancelled all personnel moves or decisions that required the expenditure of money. As the recruitment and promotion of civil servants became a rarity, for a number of years the CSC's prime mission of ensuring merit in appointments ceased to be a preoccupation either for the government or for the public.

For a short time in the 1930s, the CSC and the relatively small Treasury Board jointly managed civil service personnel, although they were not joint decision-makers. After Confederation, the Treasury Board had not played a prominent role in managing the civil service and departments, or controlling government expenditures. However, in the 1930s, the Board took over some of the managerial functions the CSC was unwilling or unable to fulfill as a result of being at arm's length from the government and thus without powers or responsibility related to funding. In 1932, the government transferred many of the CSC's staffing responsibilities to the Treasury Board.

The Treasury Board as personnel manager

Prime Minister Richard B. Bennett's choice of the Treasury Board to achieve efficiencies in the civil service focused not on personnel organization or scientific methods of management but on financial discipline. The Board said all administrative and personnel authorities needed to be supervised centrally, or there would be no real incentive for departments to economize. According to the Board, the CSC lacked the necessary authority, for example, to overrule senior government officials on matters such as the number of staff needed to carry out government policy. The Treasury Board's position was that, since it was composed of Cabinet ministers, it could resist moves to increase staff, and thus achieve needed savings.

The Board attempted to restrict permanent appointments to positions and told departments to hire temporary employees to handle any fluctuations in work. In August 1939, the CSC was allowed to appoint individuals to permanent positions if they had held temporary positions for at least a year.

By the end of the 1930s, and without the CSC's legal obligations and duties having been amended in any way, the Treasury Board had established its position with respect to personnel policy through its powers related to funding.

The Civil Service Commission and staff associations

In the early 1920s, Commissioners Clarence Jameson and Lt. Col. Michel-Guy LaRochelle got along well with the staff associations, which, in turn, generally considered the CSC as the protector of the civil service and their best means of advancing the interests of ordinary civil servants. The two men supported the suggestion of some of the associations that a council be set up, formed of employee associations and the CSC or the government, to deal with complaints from individual civil servants. However, the Chairman, the Hon. William Roche, opposed the idea, saying the CSC had such broad powers that it was capable of fixing any problem itself.

Employees were not allowed to communicate directly with the CSC about individual problems; only their deputy heads (the senior civil servants in departments) could do so. Any individual who broke this rule faced the possibility of dismissal from the civil service.

After some years, the staff associations had almost given up on their wish for a council to handle individual appeals. However, by 1938, the new Chairman, Charles Bland, supported the idea of a promotions appeal board as a way for civil servants to understand how promotions were made and to be able to speak up if they felt they had not been treated fairly. However, he insisted on each appeal being screened to see if it was justified, and said the CSC should be able to reject decisions it disagreed with. By the end of 1939, the only appeal that the CSC heard that year was unsuccessful.

In the 20 years since the 1918 Act, the civil service associations had made no gains. While civil servants' terms and conditions of work were among the best in the country, the staff associations could take no credit for this. They had little influence on decisions. It was only in the 1960s that, as full-fledged unions, they gained real influence.

THE CIVIL SERVICE COMMISSION AND WORLD WAR II

Early in 1939, the unemployment level was 20%. By the end of the year, things had changed dramatically. Canada entered the war in September, and, overnight, its objective of shedding staff was reversed to one of keeping them and finding new employees.

There was extraordinary growth in the civil service. The total figures for all types of appointment for the entire civil service went from approximately 9 000 in 1939 to nearly 53 000 in 1946, almost all of them temporary. (Appointment figures are not the same as the number of persons in the service. They represent the movement of individuals – entry, or a move to another department or to a permanent position). From 1939 to 1946, the Commission oversaw some 300 000 assignments, using the same pre-war administrative structure for staffing.

In proclaiming the *War Measures Act,* the federal government was able to govern by means of Orders-in-Council on a very wide range of matters, including staffing of the civil service. The *Civil Service Act* effectively no longer applied. Selection processes were simplified and expedited, and large numbers of temporary appointments were made.

The government established more than 50 independent organizations during the war, some industrial, some regulatory, which hired their own personnel and set their own pay scales. In fact, some people regarded working for the federal civil service as part of their civic duty. The Minister of Munitions and Supply, the Hon. C. D. Howe, led the Canadian industrial effort during the war. He enlisted a group of business executives to volunteer their services (for a dollar) to help organize some of these new organizations. They became known as "C. D. Howe's dollar-a-year men" or "Howes' Boys."

As a result of the explosion in staff numbers, the Treasury Board asked the CSC, in April 1940, to report on all requests for staff, including temporary employees. The CSC was to select new staff, except in cases where the Board directed otherwise. While the CSC's role, was increased, the Board, in fact, had gained control over policy on staff and salary increases. The CSC became its fact-gatherer. Its pay determination function disappeared.

In 1942, the Board suggested that a special committee be set up to classify the positions in the civil service, to examine ways of "rehabilitating" civil servants in work outside the government after the war, and to centralize all personnel functions, except recruitment, in a body under the authority of the Board. The government accepted many of the committee's recommendations, but rejected two proposals the staff associations had favoured: statutory increases and overtime pay for civil servants.

In the face of strong reaction from the associations, the government created a joint employer-employee council, the National Joint Council (NJC), in February 1944. The Minister of Finance rejected the principle of joint decision-making; the NJC was to act only in an advisory capacity to the Treasury Board and the CSC on such matters as conditions of employment. Its role was to "explain to members of the Public Service of Canada the policies of the Government which affect them as employees."

The impact of the war on the Civil Service Commission and the Treasury Board

Despite the fact that, on paper, the CSC possessed most of the powers relating to personnel, the federal government had made the Treasury Board the general manager of civil service personnel. With respect to the CSC's role in protecting merit, the need for effective management control of the civil service was a much larger challenge for the government than patronage. In fact, the CSC itself had gradually absorbed the "need for economy." Chairman Bland at one point declared that the CSC's "basic function was to enforce economy in government spending." The CSC also spent less time on reorganization and did no such work without a request from, and the full cooperation of, the deputy head concerned.

The CSC's contribution to the war in the daily task of placing people in jobs was significant. Moreover, the managers of the large number of wartime agencies and Crown corporations called on the CSC's growing expertise in personnel administration.

One of the Commission's new challenges was the recruitment of returning armed forces personnel. An example of the profound impact the Civil Service Commission had on the federal public service and on Canada was the preferential access given to veterans for jobs in the federal civil service. Some 55 000 benefited from this measure to help them reintegrate into society.

THE POSTWAR PERIOD, 1946 – 1956

As the war neared its end, it was obvious that the civil service required more systematic and innovative personnel administration. The government's new and expanded role (for example, in managing the economy) required large numbers of technical, professional and administrative people. Salaries were too low to keep or to attract the calibre of person needed. Delays in hiring and the arrangements for promoting and transferring people between departments made matters worse.

Still, the war had taught the value of systematic training in improving the skills and performance of civil servants. For example, departments found the CSC's training program for stenographers and typists, set up in 1942, extremely useful.

The end of the war marked important changes for the CSC. In 1946, it developed better selection methods for recruitment. In 1947, it set up its Staff Training and Development Division to handle civil service-wide training. While departments organized the training that their own specialties or operations called for, the CSC provided an advisory service and established a class of officer for the purpose, the staff training officer. The CSC also introduced objective multiple-choice testing, which proved invaluable in processing the large numbers of tests and examinations that were becoming necessary. In 1947, the CSC began to appoint directors of personnel to each department and gradually gave them control of interdepartmental competitions, over which the CSC exercised control by means of audits.

Amendments to the *Financial Administration Act* (FAA) in 1951 gave a statutory existence to the Treasury Board itself and to the functions that it had previously carried out under Orders-in-Council. The FAA stated that the Board of five ministers was to be presided over by a President, and it created the public service or deputy-level position of Secretary of the Treasury Board. The Board was authorized to act for the Cabinet itself with respect to the administration and organization of the civil service, subject to directions from the Cabinet.

The CSC appeals system grew somewhat after the war. Initially, an employee could appeal only promotion competitions, of which there were very few. Individuals were then given the right to appeal against the refusal of salary increases. In 1944, there were only 74 appeals; in 1949, there were 300.

Staff associations and collective bargaining

By the mid-1950s, employer-employee relations at the federal level had changed. Increased prosperity in the country and the effectiveness of unionization in other sectors led to growing pressures for collective bargaining. In 1955, the Civil Service Association of Ottawa asked the government to set up a Royal Commission with a view to establishing the right to collective bargaining in the federal civil service. The government replied that a merit system precluded collective bargaining. It also said the CSC was independent of the government, and thus was much better placed to protect civil servants' interests than a conciliation board. Commissioner Alexandre Boudreau stated that it should be possible to design a mutually satisfactory negotiating system between civil servants and the government.

In 1957, the CSC established the Pay Research Bureau to provide objective information on rates of pay and conditions of employment in government and industry, and to recommend rates for civil servants.

Prime Minister Louis St-Laurent set up a committee of senior officials to consider the question of collective bargaining. The committee, however, was unfavourable to the idea. St-Laurent was not satisfied with the direction the CSC had recently been taking and said it needed strong leadership and a substantial reorganization. The proper role of the CSC needed to be considered in view of the changing labour market conditions and relations between the government and its employees. Mr. St-Laurent added that the *Civil Service Act* itself was more than 35 years old and needed a thorough review.

In 1957, Arnold Heeney, former clerk of the Privy Council, was appointed as president of the CSC, and undertook a review of the *Civil Service Act.* In December 1958, the Heeney Report said a balance was needed between the freedom and flexibility required to enable administrators to do their job and the degree of central control needed to ensure a career civil service based on the merit principle. The Report stated that political and bureaucratic patronage were still forces which had to be held in check by an independent agency." (Bureaucratic patronage, or personal favouritism, means hiring based on the relationship with the person doing the hiring). The Report favoured an independent CSC with an exclusive role in recruitment, selection, appointments and promotions. It also advocated a merit system tempered by more speed and flexibility, as well as a clearer definition of authority for the CSC.

The Heeney Report viewed the CSC as the impartial arbiter between the government and the staff associations regarding salaries and staff relations, with the CSC publicly stating the recommendations it made to the government.

The government appointed Mr. Justice Samuel H. Hughes of the Ontario Supreme Court as Chairman of the CSC, effective July 1, 1959. He was also mandated to draft a new *Civil Service Act* along the general lines of the Heeney Report.

However, by 1960, it was clear that the staff associations were opposed to having the CSC or the government unilaterally determine salaries. The Civil Service Association of Canada argued that the government should no longer have the last word in disputes with its employees. Any final decision, binding on both parties, should be in the hands of an arbitration body "that is independent in all respects."

Hughes had proposed a three-step procedure: associations would consult with the CSC about their demands; the CSC would make recommendations to the Treasury Board; and a meeting of associations and the Treasury Board would be held. Early in 1960, the government recognized its obligation to consult with the staff associations, and agreed that provision had to be made for direct negotiations with the Treasury Board, rather than through the CSC as an intermediary.

THE 1960S: A TIME OF CHANGE

The *Civil Service Act, 1961*

The bill tabled during the 1960-1961 session of Parliament provided for the initiative for salary discussions to come from the staff associations or the Treasury Board. However, it also required the CSC and Treasury Board to consult with the associations regarding other terms and conditions of employment that came under their jurisdiction. More importantly, the bill stated that, after considering the various recommendations, the Cabinet itself was to establish rates of pay.

The bill reflected the wishes of Chairman Hughes to give employees a right to appeal covering not only promotions or refusals to grant a salary increase, but also transfers, demotions, suspensions and dismissals. As well, the bill set up a grievance procedure for any matter arising from the administration of the new *Civil Service Act*, which came into effect at the end of 1961. The CSC would have no further involvement with the organization of the civil service, but would retain its responsibility for classification and the control of appointments and promotions.

The Glassco Commission, 1960-1962

The early 1960s saw yet more studies into the efficiency of staffing and financial management in the civil service. In 1960, the government appointed the Royal Commission on Government Organization, headed by J. Grant Glassco.

The 1962 Glassco Report deplored the waste in human resources caused by the absence of a system for making the best use of people; costly and wasteful personnel administration procedures; and poor personnel management in departments because accountability was fragmented. The Report called the CSC's procedures for promotions and transfers heavy-handed. It found the CSC took so long to identify the best person for a job that good candidates were lost to more nimble employers. According to the Report, the CSC paid too little attention to training and development, its classification system was too complicated, and its pay determination system lacked coordination and a guiding principle.

The gist of the Glassco Report's recommendations was that promotions, transfers and personnel policy should be the responsibility of the Treasury Board, with the recruitment and selection of senior executives and administrative and technical staff, and the day-to-day personnel management delegated to departments. The CSC would carry out common recruitment processes, certify the initial appointment of civil servants and the soundness of the method of selection, and look after disciplinary grievances. It would lose all other management functions, such as appraisals and pay determination.

In the meantime, the Cabinet had asked a Committee of Senior Officials (COSO) to report on action to be taken as a result of the Glassco Report. In its report to the Cabinet in May 1963, COSO reflected the same preoccupation with administrative efficiency as the Glassco Report had. It also recommended that the CSC have the only legal authority for appointments. Promotions and transfers remained the only major issue of contention between COSO and the CSC. The CSC told the Cabinet it disagreed with COSO's suggested allocation of responsibilities. It said the changes would result in a division of authorities and responsibilities for the movement and assignment of civil servants that would be confusing and inefficient for departments and for the CSC.

At the same time, the CSC pushed ahead with delegation to the deputy heads of government of all interdepartmental competitions, closed promotions, transfers and competitions up to the senior levels.

The Preparatory Committee on Collective Bargaining

During the election campaign of 1963, all four federal parties endorsed the idea of collective bargaining for federal civil servants. In August, the government of Prime Minister Lester B. Pearson appointed a high-level working group, the Preparatory Committee on Collective Bargaining (PCCB). Its role was to make preparations for the introduction into the civil service of a system of collective bargaining and arbitration and to examine reforms to the classification and pay systems.

In looking for workable ways of making a collective bargaining system a reality, the PCCB indirectly set out many of the tasks a new CSC would be performing. The PCCB reports to the Cabinet (the last of which came in July 1965) formed much of the basis for new legislation needed to give effect to all of the reforms the government was intent on making.

The PCCB said the Treasury Board, as the employer, would be responsible for the classification and pay systems and other terms and conditions of employment, except those relating directly to the actual appointment of the individual. If bargaining units were to be formed, the CSC would need to discard the existing 680 classes, 1,725 grades and 320 salary ranges into which positions were classified. The PCCB’s new system covering all civil service positions included five occupational categories: operational; administrative support; administrative and foreign service; science and professional; and technical. Within each category were a number of occupational groups (at that time 50; later, more than 70). On October 1, 1964, the CSC set up a Bureau of Classification Revision to implement the new system.

The PCCB decided that a new body, rather than an existing one such as the CSC, was needed to handle third-party functions, including the certification of bargaining units and dispute arbitration. It called this body the Public Service Staff Relations Board.

However, the PCCB concluded that matters such as the selection by the CSC of individuals for appointment under the merit principle could not be subject to collective bargaining. Promotions and appointments would still need to be handled as a distinct function, dealt with by an independent Commission, to ensure that the civil service was broadly representative of the whole community and to guard against political and bureaucratic patronage.

Legislative renewal: the *Public Service Employment Act*, *Public Service Staff Relations Act* and the amended *Financial Administration Act*.

Once the Cabinet had accepted all of the elements proposed by the PCCB for collective bargaining in the civil service, the substance of the new legislation was in place. It took the form of two new Acts: the *Public Service Employment Act* (PSEA) and the *Public Service Staff Relations Act* (PSSRA), as well as amendments to the *Financial Administration Act* (FAA) and the repeal of the *Civil Service Act, 1961*.

The CSC was "continued" as the Public Service Commission of Canada (PSC), with its exclusive right and authority to make appointments "to and within" the major part of the public service. The PSC was responsible for all elements of the staffing system and for overseeing the merit principle.

The *Public Service Employment Act* (PSEA) of 1967 gave operational meaning to the merit principle as follows:

> Appointments to or from within the Public Service shall be based on selection according to merit, as determined by the Commission, and shall be made by the Commission, at the request of the deputy head concerned, by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service.

As had been the case in the earliest civil service legislation, the PSEA left entirely to the PSC's discretion the selection of materials and techniques used to evaluate candidates' suitability for appointment. The PSC could also look at such information as education, knowledge, experience, language, residence "or any other matters that in the opinion of the Commission are necessary or desirable having regard to the nature of the duties to be performed."

In a subsequent decision related to this provision and to the merit principle itself, the Federal Court said that "the(ir) whole aim and purpose is to make the Public Service as effective as possible." Thus, the Court said the Act indicated to those making the selection that the public had a distinct interest in the outcome of their selection – the very interest that "patronage" ignored.

The PSEA did not require all appointments to be made by competition. To allow for potential new ways of determining candidates' qualifications, the Act added that appointments could also be based on "such other process of personnel selection designed to establish the merit of candidates" if that was in the best interests of the public service.

The PSC could delegate to deputy heads its power to appoint, as well as any other of its powers and functions, except obvious ones such as those relating to appeals and inquiries. Moreover, the deputy heads themselves could sub-delegate these powers to their subordinates. Under the PSEA, the PSC also had the broad power to enact any regulations to give effect to the Act.

The PSC was to operate training and development programs and assist deputy heads. It could conduct investigations or inquiries into such matters as fraud at examinations; improper appointments and recommendations for release of an employee by a deputy head; or the improper use of delegation or improper political activity by a deputy head or an employee.

While the PSC figured importantly in the PSEA, the Act also dealt with other issues. By title and content, it also dealt with employment in the public service more broadly (resignations and probations) and gave certain powers to deputy heads (e.g., layoffs and recommendations to release employees from the service).

The *Public Service Staff Relations Act* created a collective bargaining regime in the federal civil service. It also set out the PSC's critical obligation respecting the classification of positions: to define, within 15 days of the coming into force of the PSSRA, all of the occupational groups within each of the five occupational categories "so as to comprise all employees of the public service."

New roles and responsibilities were put in place for the PSC and the Treasury Board. Amendments to the FAA further confirmed the role the Treasury Board had begun to assume in the 1930s as the government's general manager and personnel manager. Generally speaking, the Board had the power to establish all the terms and conditions of employment of public servants that no other law provided for, and the power to negotiate these on behalf of the government, in the case of employees represented by a bargaining agent. The Board's powers were not to affect any of the powers or functions the PSC exercised under the PSEA, or any of the selection processes it conducted.

Official languages

By the late 1950s, matters of culture and language were gaining increased prominence in the country, and the topics came up before the Glassco Commission and in the 1961 *Civil Service Act.* The CSC was to play a leading role in making sure that the federal government served Canadians in the language of their choice and in opening the door for more Francophones to enter the civil service.

The Glassco Report agreed with the principle that the government should provide service in the mother tongue of the two linguistic groups and that French-speaking Canadians should be able to work in an environment in which they could use their own language. To achieve these goals, there should be language training so that certain officers could become bilingual, and a more active recruitment program in French-speaking Canada.

The 1961 *Civil Service Act* contained a provision requiring the CSC to appoint a sufficient number of employees qualified in the English or French languages to a department or local office so it could to perform its functions adequately and provide effective service to the public.

In 1963, the Cabinet ordered a follow-up to the Glassco Report's recommendations on official languages. It also asked the CSC to prepare plans for recruitment, training, promotion and assignment policies and practices to better meet the bilingualism needs of the civil service. The Cabinet also gave the CSC permission to establish the Language Training Centre. The CSC's plans of March 1964 were based on the principle, implicit in the Cabinet's instructions, of achieving a fair representation of both language groups in the federal civil service and making language skills an essential element of the merit principle.

On February 1, 1966, the CSC announced that bilingualism would be a merit factor in appointments in the national capital area. Second language skills or the willingness to acquire them within a given period of time through language training at public expense would be an element of merit. Three years later, the federal *Official Languages Act* made French and English the official languages of Canada.

John Carson

In September 1965, John Carson was appointed Chairman of the CSC, replacing Robertson MacNeill. Within a few weeks, he established the Staffing Branch and created staffing programs that corresponded to the new occupational categories and groups. The CSC also set up the Research and Planning and Training and Development Service. The Commissioners delegated to deputy heads all staffing powers, except those relating to the senior-most groups. The CSC maintained a centralized planning and oversight role on delegation.

Chairman Carson oversaw the transition from the old CSC to the new PSC, with all its administrative implications centrally and in the regions. He made speeches and public statements about the new regime, and, in particular, about the role of official languages in the staffing of public service positions; the adoption of a selection standard for each occupational group; the setting up of large-scale language training programs; the expansion of service-wide training and career development programs; and a new country-wide appeals system.

Internally, Carson made a distinction between the collegial functions of the three commissioners under the PSEA and his role as chief executive officer responsible for managing the staff and its work.

The rights of women

Although the restrictions on the employment of married women in the federal civil service ended in 1955, there were still obstacles to equality in the workplace. The CSC broke down barriers for women, bringing more of them into the federal workforce and offering them better opportunities for advancement. As was the case with languages, Chairman Carson presided over important changes to attitudes about the place of women in the federal public service. The 1961 *Civil Service Act* forbade discrimination with respect to civil service employment, but only with regard to the person's race, national origin, colour or religion. However, in the 1960s, Canadian women spoke out about discrimination against them (in 1969, a Royal Commission would look into the status of women in Canada and Kathleen Archibald published a detailed study, "Sex and the Public Service," in 1970).

As a result, the *Public Service Employment Act* of 1967 added "sex" to the grounds of prohibited discrimination in relation to the PSC's right to prescribe selection standards; in 1974, "marital status and age" were also added. To ensure these amendments did not become a dead letter, Chairman Carson set up the Anti-Discrimination Branch, whose mandate was both educational and investigative. The PSC also set up the Office of Equal Opportunity for Women in 1971 to coordinate equal opportunity programs for women in the public service.

THE 1970s TO THE 1990s

The PSEA was not yet five years old when demands for change arose. Factors such as the 1973 oil crisis and the Auditor General of Canada's warning that the federal government was losing control of its finances once again led to demands for greater efficiency, while a number of internal and public studies raised fundamental questions about the role of the PSC.

Employment equity

The PSC continued to adapt to changing times and to be influenced by its environment. It was at the forefront of promoting equity and improving access to federal government jobs for people who traditionally had not been well represented within the public service. Within a few years of the establishment of the Anti-Discrimination Branch in the PSC, the principles of affirmative action, employment equity, equal opportunity and diversity built on the idea of the fundamental equality, worth and potential of human beings. The 1984 report of the Commission on Equality in Employment recommended targets, not quotas, as the most effective means of achieving equity in the employment of members of under-represented groups. The PSC adapted its programs as these concepts evolved.

Employment equity programs for women, Aboriginal peoples, persons with disabilities and visible minorities were put in place.

A new factor – the courts

Court decisions have had a major impact on public service management in general and on the PSC in particular. The Federal Court of Appeal, which came onto the scene in 1972, had the power to judicially review decisions such as those of the PSC and its appeal boards.

Over the years, unions, public servants and the PSC were involved in many cases before this Court. In a number of cases, the Court clarified roles and resolved ambiguities. Most cases involved individuals who had been in selection processes. The party attacking the selection decision naturally focused on what he or she considered to be flaws in the process. In some cases, the Court ruled on the correctness of the PSC's selection techniques, regulations or policies. Over the years, these Court precedents guided the PSC and its appeal boards and staffing officers in their work.

Non-partisanship

The *Public Service Employment Act* (PSEA) of 1967 expressed the obligation for deputy heads and public servants to be politically neutral in much the same terms as those of the *Civil Service Act* of 1918: they were not permitted to work for or against a candidate for election or for a political party. However, the PSEA stated that public servants could attend meetings and contribute funds to candidates. Deputy heads were limited to voting. Furthermore, the Act said the PSC could grant employees a leave of absence to stand for nomination or to be candidates for election to a legislature if these political activities did not impair their usefulness in their position.

The PSC granted such leave to run in federal, provincial or territorial elections to varying numbers of public servants. However, it also denied leave in some cases and periodically reminded employees that they could not work for or against candidates for election. In connection with the 1984 federal election, a number of public servants challenged the constitutionality of the provision in the PSEA and the PSC's application of it.

In 1991, the Supreme Court of Canada held that part of the rule in the PSEA was unconstitutional in light of the *Canadian Charter of Rights and Freedoms'* protection of the freedom of expression. The Court said that the Act included too broad a range of public service positions and duties (*Osborne* v. *Canada (Treasury Board)*, [1991]). The Court expressly said that the objective of political impartiality or neutrality for public servants was not at issue; rather, the problem was that Parliament had gone too far in treating all employees the same.

As a result, throughout the 1990s, there was uncertainty about the political rights of public servants. Therefore, during this period, the PSC, at times with the Treasury Board

Secretariat and the Privy Council Office, at times on its own, worked on various proposals to clarify the issue. Resolution was only achieved at the end of December 2005, with the coming into force of a new *Public Service Employment Act*.

Further public service renewal

In December 1989, Prime Minister Brian Mulroney launched a major public service renewal exercise. The main purposes of PS 2000 were to put more authority in the hands of front-line employees and managers and to provide for "different organizational forms to meet differing needs," while preserving the "professional, highly qualified, non-partisan" nature of the public service.

Among other things, the government wanted a less complicated and burdensome staffing and personnel management regime, as well as simplified personnel and administrative controls for centralized agencies such as the PSC.

The action plan for PS 2000 called on the PSC to delegate more of its powers to lower levels; to further simplify its regulations and policies; and to help set up organizations that were different from the normal hierarchical departments and agencies. PS 2000 did not question the basic purpose or functions of the PSC or its need for independence. However, PS 2000 resulted in legislative changes in 1992, under the *Public Service Reform Act,* to the *Public Service Employment Act*, the *Public Service Staffing Relations Act* and the *Financial Administration Act*. The President of the PSC, Robert J. Giroux, played a major role in formulating the changes by appearing before the parliamentary committee studying the bill.

The *Public Service Reform Act* (PSRA) gave the Treasury Board and deputy heads the authority to make and regulate lateral transfers ("deployments"), with the PSC being responsible for investigating complaints regarding deployments. The PSC could now make appointments to an occupational level, rather than just to a position.

The Act removed the probation period for persons appointed from within the public service. Furthermore, the PSC could no longer release or demote employees for reasons of incompetence or incapacity, nor could its appeal boards any longer handle appeals against release or demotion. The PSRA specified the PSC's right to investigate or audit any matter within its jurisdiction. As well, the PSC could, when requested to do so by the Treasury Board or a deputy head, establish and carry out an employment equity program. The Act also enabled the PSC to prescribe standards of competence to measure merit.

Workforce adjustment

Periodically, the government has decided to cut back on the size of the public service. It did so in the 1970s; in greater numbers in 1986, with a five-year plan to abolish 15 000 person-years; and, even more significantly, in the mid-1990s, when it abolished

departmental and agency programs and functions and, therefore, the jobs of employees on strength, and not merely person-years.

Although the government adopted increasingly sophisticated packages (for example, to encourage early retirement), the PSC had a number of responsibilities with respect to affected employees. In conjunction with federal organizations, the PSC could identify alternative positions so that laid-off employees received reasonable job offers, based on their priority rights. It could also identify occupational groups facing shortages and for which employees who might be suitable could be retrained under the Work Force Adjustment Agreement.

As well, if similar positions were abolished, PSC regulations required that employees be laid off in reverse order of merit. This principle meant that there had to be a fair and objective way to measure a person's ability to perform his or her job functions and compare it with the ability of other employees. At times, the application of the principle led to complaints by employees that the process was unfair to them, in which case the PSC appointed an investigator to deal with the complaint and make a decision.

The Public Service Commission's international role

Various countries and international organizations have consulted the PSC for guidance on issues related to public service governance and staffing. The PSC has shared its best practices and polices with other countries to help them modify their public administration systems. Beginning in the late 1980s, under the leadership of Huguette Labelle, the PSC began receiving invitations from other countries or international aid bodies, such as the World Bank and the Organisation for Economic Co-operation and Development. Such requests for assistance did not fall under the normal mandate of the PSC, but both the PSC and the government considered it in the interests of Canada and the country or organization in question to provide as much assistance as possible.

The requests increased, particularly after the dissolution of the Soviet Union, and continued under the presidencies of Robert J. Giroux, Ruth Hubbard, Scott Serson, and the current President, Maria Barrados. In a number of cases, the mission has involved a Canadian delegation going to the host country and the foreign delegation coming to Canada. In some cases, the reciprocal visits have gone on for several years. In some years, upwards of 20 delegations might come to Ottawa. Missions have covered such activities as planning human resources modernization and reform; principles such as merit and political neutrality; and staff development and training.

When a topic was not within the PSC's expertise, it has called upon the resources of other government departments and agencies, universities and unions. The countries to which the PSC has sent delegations include the People's Republic of China, Ukraine and Slovakia.

La Relève

Increasing work demands on individuals, along with cuts to staff and budgets, created strains on the public service in the 1990s. A large number of public servants retired. It became more difficult to retain and motivate good people and attract the new talent that would be needed in the future.

To deal with this critical situation, Jocelyne Bourgon, the Clerk of the Privy Council (the federal government's top public servant), launched the La Relève program in 1996. The PSC intensified its recruitment efforts on behalf of departments and agencies, based on ascertained future needs, rather than merely reacting to a here-and-now situation. The PSC collaborated with the Privy Council Office and the Treasury Board Secretariat in setting up and managing the Accelerated Executive Development Program and a program to pre-qualify assistant deputy ministers and appoint them to level, rather than to specific positions. Other programs set up by the PSC included the Management Training Program to develop recent university graduates to the middle-management level, and the Career Assignment Program, a national program set up by the PSC and the Treasury Board for developing high-quality senior managers.

2003: A NEW *PUBLIC SERVICE EMPLOYMENT ACT*

The 2000 Report of the Auditor General of Canada described the framework for human resources management in the core public service (for which the Treasury Board is the employer) as "unduly complex and outdated" and "cumbersome, costly and outmoded." In 2001, Prime Minister Jean Chrétien committed to modernizing the public service so that it would continue to be "innovative and dynamic."

In 2001 and 2002, the government prepared legislation entitled the *Public Service Modernization Act* (PSMA). The Act, which received Royal Assent in late 2003, began a new era of human resources management in Canada's federal public service. The PSMA and its four supporting pieces of legislation reorganized human resources management functions and responsibilities and fundamentally changed the way federal public sector employees are hired, managed, supported and led.

A critical component of the PSMA was the *Public Service Employment Act* (PSEA), which came into force on December 31, 2005. Under the PSEA, the Public Service Commission (PSC) continues to have statutory authority for the appointment of individuals to and within the public service. The Act permits the PSC to delegate this authority to deputy heads who, in turn, can sub-delegate it to their managers. Deputy heads are accountable to the PSC for the exercise of their appointment authorities. In turn, the PSC is accountable to Parliament for the integrity of the overall appointment system. The PSC is also responsible for safeguarding the political neutrality of the public service.

The PSEA modernizes staffing with a new definition of merit that moves away from the rules-based concept of "best-qualified" to a values-based approach that allows managers to

hire more efficiently and to find the "right fit" for the organization. The Act defines merit in a way that allows hiring managers to select candidates based not only on the essential qualifications for the position, but also, if desired, on current and future asset qualifications, organizational needs and operational requirements relevant to the position. This new approach to merit also provides the additional flexibility of establishing employment equity objectives as an organizational need. The employer sets qualification standards and has the power to define a "promotion" and, therefore, the range of positions to which deployments, which are not subject to merit, can be made.

The PSEA establishes the arrangements for the review of appointment decisions. Through informal discussion, employee concerns can be discussed and resolved at the organizational level as soon as possible after they arise during internal processes. When the authority to appoint is delegated, deputy heads may also conduct their own investigations of internal appointments processes and, as needed, revoke an appointment or take corrective measures.

The PSC retained its authority to investigate and take corrective action in the case of: external appointments; non-delegated internal appointments; and, any appointment in regard to fraud or political influence. The PSC can investigate internal delegated appointments at the request of a deputy head, but can only report its findings; corrective action can be taken only by the deputy head.

The PSEA created the Public Service Staffing Tribunal (PSST), an independent, quasi-judicial body. The mandate of the PSST is to consider and dispose of complaints stemming from an internal appointment, the implementation of a corrective measure ordered by the PSST, the revocation of an appointment or a lay-off. A complaint related to an internal appointment may be submitted to the PSST for abuse of authority in the application of merit or in the choice of appointment process, or for failure to assess a person in the official language of his or her choice.

The PSC enforces the provisions of the new Act regarding political activities, and investigates allegations of improper political activity by deputy heads and employees. The only political activity a deputy head may engage in is voting. Employees are allowed to engage in a political activity if doing so does not impair, or is not seen as impairing, their ability to perform the duties of their position in a politically impartial manner. The PSC reviews requests from employees to seek nomination or candidacy in federal, provincial, territorial and municipal elections and grants permission and leave (and set conditions when applicable) by taking into account such factors as the nature of the activity and the person's duties, as well as the visibility of the employee's position.

ONE HUNDRED YEARS LATER

While the Public Service Commission of Canada has always had a very high degree of independence from the government of the day, it is required to work closely with the government with respect to many aspects of the making of appointments. As well, it must

be able to independently assure Parliament and Canadians that it has taken all the necessary steps to ensure that merit is being safeguarded and that the public service is politically neutral. From 1908 on, these two principles have been the foundation of the professional and non-partisan public service that has contributed so much to our democratic system of government and to the well-being of our country.

The history of the Public Service Commission of Canada has consisted of demands for change, ups-and-downs, criticisms and legislative reform. One hundred years after the founding of the Civil Service Commission of Canada, it is fair to say that political and bureaucratic patronage are no longer the rule – merit is. The PSC – and all parliamentarians and federal public servants – can take pride in this tradition as a second century of professional, non-partisan public service begins.