Submissions by the Canadian Association of Professional Employees on Bill C-62: An Act to amend the Federal Public Sector Labour Relations Act and other Acts

Honourable Members of Parliament,

We would like to thank the members of this Committee for inviting us to appear so that we are able to provide our opinion about Bill C-62.

WHO WE ARE

My name is Greg Phillips, and I am the president of the Canadian Association of Professional Employees (CAPE). CAPE represents some 14,000 public service employees. The large majority of our members are economists and social science workers who advise the government on public policy. We also represent the translators and interpreters, who work every day to preserve and promote our nation's linguistic duality. And, last but not least, we also have the great honour of representing the 90 analysts and research assistants employed by the Library of Parliament.

Accompanying me here today is Peter Engelmann, a partner with the law firm of Goldblatt Partners who has a great deal of experience in labour law and constitutional law, particularly in the context of the federal public sector.

INTRODUCTION

I want to start by saying that CAPE is very pleased that the government is finally taking steps to repeal Bills C-4 and C-59, the blatantly anti-union legislation that was passed by the former government. While it has taken far too long for the government to make good on the promises that were made even before the 2015 election, CAPE looks forward to seeing this bill go through the legislative process as quickly as possible in order to help restore the balance in labour relations in the federal public sector.

As you are no doubt aware, under the guise of "modernizing" labour relations, the former Conservative Government attacked the collective bargaining rights of federal public servants on a number of levels. Bill C-4 came first and was problematic in many respects. It provided

the government with undue leverage in the collective bargaining system in everything from the negotiation of essential services agreements to public service recourse procedures. However, from CAPE's perspective the most egregious changes were to the dispute resolution process. In particular, Bill C-4 took away the rights of bargaining agents to choose between the arbitration or conciliation and strike routes as a process for resolving collective bargaining disputes. In CAPE's case, it took away their right to arbitration, a process that had always worked well for CAPE and its members, and pushed them into the conciliation/strike route. In addition, the former government even compromised the arbitration and conciliation processes by imposing new factors that arbitrators/conciliators had to consider when making a recommendation or award.

Bill C-59 took matters a step further and permitted the government to fundamentally change the longstanding and hard fought sick leave and disability programs of public servants. Most disturbingly, it gave the government power to do so unilaterally, by-passing the bargaining process altogether. CAPE, along with many other federal public sector unions, felt that this legislation denied its members' their fundamental rights under section 2(d) of the *Charter* in that it did not allow for meaningful collective bargaining with regard to these key workplace issues. Therefore CAPE actively participated in a case before the Ontario courts, which challenged the constitutionality of that legislation. Following the important decision of the Supreme Court of Canada in *Saskatchewan Federal of Labour* in 2015, CAPE is confident that this Charter challenge would have been successful in overturning Bill C-59 and likewise Bill C-4.

Needless to say, these changes to the labour relations scheme by the former government led to a combative and unproductive labour relations environment in the federal public service. This has been problematic not just for the members of bargaining agents such as CAPE but for everyone who works in the federal public service. As noted at the outset, CAPE believes that it has taken far too long for the government to take these straightforward steps to "turn back the clock" to the labour relations system that was in place before C-4 and C-59. This lengthy delay of over two years and half years since the election has unnecessarily prolonged this adversarial environment. CAPE is also disappointed that this bill fails to address some of the problems which have plagued the federal public service labour relations regime since even before Bills C-4 and C-59 such as the lengthy delays in getting cases to adjudication.

This would have been an excellent opportunity for the government to tackle this important access to justice issue.

On a more positive note, it appears that this Bill undoes virtually all of the difficulties created by Bills C-4 and C-59. CAPE looks forward to returning to a labour relations system which is not perfect, but is much more fair and balanced.

CAPE also notes that while Bill C-62 is amending the *Public Sector Equitable Compensation Act* (PSECA), it is only a housekeeping provision which restores the procedures applicable to arbitration and conciliation that existed before December 31, 2013. CAPE is disappointed that the government is not seizing on this opportunity to fulfil its commitment to completely repeal PSECA and to move forward with a pro-active pay equity scheme immediately. PSECA is a regressive piece of legislation which is a major step backwards from the concept of equal pay for work of equal value and significantly interferes with the rights of federal public sector employees by denying them human rights protections for systemic gender discrimination in pay. CAPE is concerned that this will be another instance where there are unacceptable delays which will prejudice its members and calls on the government to take concrete steps as soon as possible.

Thank you for your listening