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President's Message

June 2006

Making Significant Progress !

What a first year !

As your President, the first year was spent working to resolve our financial situation. However, with the support of the National Executive, our Finance Committee, Local Leaders, and especially you the members, we have moved forward and are strengthening our financial situation. In fact, we expect to eliminate our deficit this fiscal year. My thanks to all who contributed to this great effort.

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In This Issue

The First Annual National Executive Committee Planning Session

IMPROVING SERVICE TO THE MEMBERSHIP

This year's Planning Session was held on site, at the CAPE National Offices on Queen Street. During the course of the retreat, the National Executive and CAPE Management closely reviewed the manner in which we currently operate, and explored numerous options regarding improving the ways in which CAPE conducts its affairs. Virtually all aspects of the operation of the Association were examined.

After a lengthy exercise of identifying the strengths and challenges of the organization, the National Executive made several commitments:

- Enhance our communications – with our membership, with the Employer, with Government and with other bargaining agents.
- Examine CAPE's governance and structure – review the constitution, establish more locals, examine the manner in which the NEC operates.
- Examine the ratio of professional staff to members, and address any needs that might be identified.
- Examine CAPE's services and identify what services should be added, changed or deleted.
- Enhance and encourage membership participation.
- Examine CAPE's Policy and Decision Making Process.
- Outline the growth potential of CAPE.

Each of these issues was discussed and solutions were suggested. The National Executive came away from the retreat with a number of good ideas for the short, medium and long-term development and operations of CAPE.

ACEP Association canadienne des employés professionnels

CAPE Canadian Association of Professional Employees

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Communicating More with Members

We have improved communications with our members through the development and implementation of an approved communications strategy. This plan, which was prepared by our active and enthusiastic Communications Committee, along with comments provided by you, our members, has resulted in members being better informed about the operations of the Association, the issues of importance to their work, and to their relations with the employer.

So far, we are encouraged by your positive feedback. We will continue to work to improve the volume and quality of our communications.

I am currently exploring opportunities to provide members with electronic web-based options which will support on-line election voting and online input to collective bargaining surveys.

Improving Service to Members

On several occasions, I have proudly stated that we have an excellent staff, including Labor Relations professionals who are among the best in the labor relations community. However, I have also stated that we have the lowest ratio of staff to members, that is, one staff person serves many, many more members than their counterparts working for other federal public service bargaining agents.

To address this issue, I have taken the responsibility to increase the staff compliment in three critical areas, in order to improve workload operations.

First, to address the administrative workload, we created the position of Finance Officer Assistant. Second, to bolster the LRO team, we created the position of Director of Labour Relations to provide strengthened management support to our LRO team. Finally, we created the position of Executive Director, who is responsible for developing and implementing strategies for advocacy and negotiations with the Employer.

Involving our Members More

One of my priorities as President has been to endeavour to increase membership participation in our organization. This is a perennial challenge for us and for most unions. Towards this end, we have made progress in the past year by establishing three new Locals at Elections Canada, Library and National Archives, and Natural Resources Canada.

We have formed powerful subcommittees that address the needs and concerns of the membership, including our Communications Committee, Constitution and By-Laws Committee, Young Members Advisory Committee, and the Equal Opportunities and Diversity Committee.

Role of Local Leaders

In our organization, Local Leaders play a diverse and vital role. In addition to directly serving their members at the local level, they are called upon to provide input to discussions leading to the development of our biennial budget. Similarly, they are consulted on proposed amendments to the Constitution and By-laws before such amendments are presented to the membership at Annual General Meetings.

In addition, I have reached out to the Local Leadership to seek advice and direction, and have received a wealth of information and guidance. They are the pride of the Association and I would like to take this opportunity to commend them for their commitment, dedication, dependability and service to their fellow members.

Proactive Advocacy

Under my Presidency, we have adopted a strategy of proactive advocacy, that is, taking the necessary steps to address what we see as concerns on the horizon. For example, we have met with the President of the Treasury Board and discussed our concern with any suggestion by the Government to move the TRs from the National Capital Region. It was a productive meeting. His reassurance on this matter leads me to think that such a move is not being contemplated in the foreseeable future.

We have also met with the President of the Public Service Commission to discuss issues close to the hearts of our members – language training, career development, the staffing process, and so

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forth. I have found these discussions to be fruitful, and am proud to act as your representative throughout.

Enhancing our Visibility

Meetings such as described above are one way to increase our visibility. Another way is being active on the National Joint Council. While I am still learning the inner workings of this extremely important and powerful body, I am pleased to have been part of the Public Service Health Care Plan Negotiating Team.

This experience has led me to be part of the Pre-Partners Committee, which is responsible for developing such documents as the Letters Patent, necessary for the establishment of the Board of Directors for the Corporation that will eventually operate the Public Service Health Care Plan Benefits Authority.

I have attended a number of events where CAPE has been acknowledged. As an example, I attended the Fourteenth Triennial National Convention of the PSAC.

Collective Bargaining

While this topic will have coverage elsewhere in this issue, suffice it to say that it's been a busy year for Collective Bargaining.

The Library of Parliament Collective Agreement was ratified in early January of this year. The TR Financial Incentive Plan negotiations were completed at the end of March, 2006. At the time of writing, we are preparing for a ratification vote on a collective agreement for the TR Group, and the EC Collective Bargaining has just begun.

To all the volunteers who have devoted time to these exacting exercises, be assured that your work is very much appreciated by the membership.

Professional Representation

Our Labor Relations Officers continue to provide the best possible representation for our members. You will read more about their accomplishments later in this issue.

It is worth mentioning that our Research Officer, Hélène Paris, played a key role in a collaborative effort between unions and the employer in making certain that maternity and parental benefit changes brought about by the Quebec Parental Insurance Plan were negotiated into not only CAPE's collective agreements, but the collective agreements of all federal public service bargaining agents.

The Year in Review

Looking back, it would be an understatement to characterize the year as an extremely busy one! Yes, it has been busy, but nevertheless, it has also been productive given the short spate of time and the near financial crisis the organization found itself in.

On the Horizon

As we move forward, let me present to you a couple of interesting and important ideas you will be hearing more about as we embark on our number one priority – improving service to the membership:

Annual NEC Planning Session

This year, the NEC held a retreat at CAPE premises to seriously look at how we can improve service to the membership. A very useful exercise that produced a number of good ideas. I look forward to working with the NEC collaboratively on the ideas so as to improve service to our members.

CAPE Advocacy Team (CAT)

For the first time, the Association is planning to establish a CAPE Advocacy Team. This CAT will develop strategies to engage the new government on any of its policies and legislation that could impact on our members negatively. I am excited that with this Team, we will be effective in our advocacy on behalf of our members.

Special TR Issues

We have been working on addressing the following TR specific issues.

i. Traducteur "au noir", or a "phantom translator" – this is a very serious and unacceptable issue that has been going on for a while.

ii. Departments hiring own TRs – I will contact the Treasury Board to remind them of their obligation to enforce the Directive that Departments should not be hiring their own translators.

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Audit Committee

Given the unethical behavior of the likes of Enron and Arthur Anderson, your NEC has, for the first time, considered it expedient and thus approved the establishment of an audit committee that would have an oversight function for your finances to ensure fiscal transparency and probity.

Year of Elections

Several positions on the National Executive Committee are open for elections – President, TR and EC/LoP Vice-Presidents, five EC Directors and one LoP Director, all for a two year term. I strongly urge members to take an active interest in the affairs of your Association. Be a candidate and/or encourage your colleagues to do so.

I've said it before and I'll say it again: It is only through your participation that the Association is able to remain a vibrant and productive organization.

Collective Bargaining in the Federal Public Service – Circa 2007

CAPE has recently completed the negotiation of a new collective agreement for its members at the Library of Parliament. At the time of this writing, it is preparing for a ratification vote for a collective agreement for its TR members. Concurrently, it is beginning a new round of negotiations for its EC members. Collective Bargaining is a central and ongoing part of the organisation's activities. Moreover, negotiating contracts is also a defining activity of the Canadian Association of Professional Employees: CAPE as an entity before the law is defined in the Public Service Labour Relations Act *as a* bargaining *agent. Its purpose in life, so to speak, is to negotiate, and then to ensure that the contracts that it has negotiated are respected.*

The purpose of the following article is to explain the conditions in which the Association must negotiate wages and working conditions for its EC and TR members, more specifically for the members who work for an employer identified as the Treasury Board of Canada. The first part of the article will deal with the specific nature of public service bargaining and underscores the limitations of bargaining with an employer that is political and that has the power to pass legislation. The second part of the article will explain the general parameters of what the public sector employer tries to achieve at the bargaining table. The third part of the article will present the bargaining agent's response.

The Public Service Employer and the Bargaining Table

It has been written before, by CAPE and many other observers, that collective bargaining in the public sector does not fit the traditional image of negotiating collective agreements in the industrial sector or even more generally in the private sector.

The first distinctive feature of public service bargaining is the absence of profit as a major issue. In contrast to its private sector counterpart, the public sector employer does not exist for the purpose of making profits for the

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Collective Bargaining, cont'd from p.4

owners of a corporation or company. It exists in order to carry out public policy in accordance with the will of a government, which is presented as the will of an electorate.

An important consequence of the nature of the employer's political perspective on collective bargaining, in contrast to a profit perspective, is instability. Every four years, often within a shorter span of time, fundamental changes can occur in the direction of a public service and even in its structure. This ongoing instability makes public management inherently cost ineffective. This does not mean that public sector managers are ineffective, quite the contrary. Private sector managers could learn much from public sector managers who need to develop means to ensure continuity and the effectiveness of operations within a maelstrom of constant directional change. But it does mean that the objective forces of the market, so to speak, make themselves felt only indirectly on the public sector employer at the bargaining table through a filter of politically defined policies.

A second distinctive feature of public service bargaining is the matter of a bargaining process where one of the two parties to the process can change the rules of the game in mid-stream. When employer and employee cannot agree at the bargaining table in the private sector, events work themselves out according to the rules set in a piece of legislation, a labour statute, that was put together by a third party, legislator. But, in the case of public service bargaining, the rules are defined by one of the two parties: the employer. The public service employer is also legislator.

If one party can force the other party to go back to work with an imposed collective agreement, if one party can legislate another party back to work, the entire bargaining process is skewed.

There is legitimate and good faith bargaining in the public sector. There are strikes that pressure the employer, and there are arbitral decisions that address the matters that are presented to arbitration boards. However, at the end of the day if one party can force the other party to go back to work with an imposed collective agreement, if one party can legislate another party back to work, the entire bargaining process is skewed.

This is even true about bargaining where the choice of impasse resolution process under the *Public Service Labour Relations Act* is arbitration. Certainly in recent times, arbitral decisions have tended to shy away from anything that could be interpreted as ground breaking. The provisions in the Act that set the Board's responsibilities have tended to be interpreted narrowly. Arbitration decisions have focused on "trends", and "trends" have been the order of the day. Yet, it is the employer who has set the trend outside the hearing room, in the skewed universe of employer *cum* legislator.

Policy not Profit

For both employees and the employers the priority at the bargaining table has been the wage adjustment that is negotiated. Other issues are "costed out" in relation to wage adjustments. They can be bargained for or away, for a modicum more money or for less money. But the significance of the wage adjustment in the overall management of the public service is not the immediate cost of wages as a portion of the cost of operations or even less as a portion of government expenditures. The significance is the effect of public service wage adjustments on wage adjustments in the private sector, and ultimately on the rate of inflation in general. The significance is of a political or policy nature.

Successive federal governments have for some time now pursued (certainly with a great deal of consistency since the early nineties), a policy of dampening the growth of wages in the private sector by means of controlling wages in the public sector. The purpose has been

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Collective Bargaining, cont'd from p.5

to control inflation and to create a more stable market not only for Canadian investment but also to attract more foreign investment. Supported by provincial governments that have followed a similar wage strategy with a lesser degree of consistency, federal governments of the two political parties that have been in power have successfully pursued a policy of wage controls for the purpose of creating conditions for a low, stable and predictable rate of inflation. Wage policy has been only one of many tools added to monetary policy in order to control inflation. But, it has been the one policy that has had a direct effect on public service collective bargaining.

As a result, Treasury Board negotiators have carried wage adjustment mandates to the bargaining table that were in line with Finance Canada's prediction of changes to the rate of inflation. Beyond impasses that may have been reached at the table, the mandates have been protected by the threat of back-to-work legislation and a narrow interpretation of the Act.

Bargaining Agent Response

Faced with negotiating within the constraints set by government wage policy, public service bargaining agents have been given quite a challenge at the bargaining table. The bargaining agent objective of more money has moved beyond an emphasis on wage adjustments to include a variety of economic proposals that existed in the past but that were tangential to adjustments. Furthermore, there has been a renewed emphasis in recent rounds of bargaining on the leave provisions of collective agreements.

What kind of economic proposals have been pushed to centre stage? Firstly, public service bargaining agents have increasingly emphasized pay scale restructuring as a means to address "pay" issues. Restructuring has taken many forms over the recent past, including the addition of an increment here, or the deletion of an increment there, or the wholesale transformation of pay lines. The distinctive feature of pay restructuring is that it has a lesser general impact than wage adjustments, while carrying the potential of a positive impact on some if not many members of a bargaining unit.

Secondly, bargaining agents have proposed, sometimes successfully, one-time economic gains such as signing bonuses. Again, more money in the pockets of individuals, but a smaller impact over time as such bonuses are not permanent features of wage cost to the employer. Thirdly, when temporary market conditions create a situation where recruitment or retention has become a problem for the employer, bargaining agents have successfully argued for temporary allowances. In short, while constrained by the policy directed wage mandates of Treasury Board, bargaining agents have endeavoured to improve the economic situation of some or most or all of their members with proposals of significant individual gain but of lesser impact on the general scheme of things.

Then there is the matter of leave provisions. It could be argued that the most important improvements to collective agreements made at the bargaining table in recent rounds of bargaining with Treasury Board have been to leave provisions. Leave of various types have been incrementally improved with increases to the amount of leave allowed. Improvements have also been made by bargaining into agreements expansion of the conditions under which different forms of leave can be taken. These improvements are very important - almost as important as pay increases, as survey after survey has demonstrates that leave, whether annual leave, bereavement leave or one of many other types of leave won by public service bargaining agents rank second only to wages as priorities for public service employees.

In short, directed by the expressed interests of their members, bargaining agents have focused mostly on creative pay proposals and on improving leave provisions at the bargaining table. It should be expected that these matters will continue to be the top priorities brought forth by bargaining agents for Treasury Board's consideration at the bargaining table.

In conclusion, if we were to allow for some speculation, we

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would suggest that the employer's response to the bargaining agents' response will be to make some concessions in the matters of pay and leave, but to look to other areas for any significant concessions. It may be time for bargaining agents to renew focus on empowering members in the work place. Collective agreements include many provisions that do give public service employees control over some aspects of their work life. But, we may be moving into an era when such provisions become more central at the bargaining table. We may see greater emphasis on establishing a new labour-management relationship in the work place. We may see a move to self-management of leave provisions by employees, as employees are perceived and treated more like professionals. We may see improvements to career oriented provisions such as entitlement to training and career development. Entitlement to language training which in many instances is key to career development may become the next big issue at the bargaining table.

The bargaining agents' objective of more money is no more than the simplest form of expression of the objective of empowering members with greater resources. More money means more control over the vagaries of personal life for each member. To address wage constraints the bargaining agents' response has been to approach the bargaining table with renewed imagination: bargaining agents have taken a multidimensional approach to improving the economic provisions of collective agreements. They have also focused on a secondary form of resources – time, and leave provisions have come front and center at the bargaining table. Without neglecting the priority status of money and time, over the next decade we may witness bargaining agents adding new energy to the longstanding objective of empowering members in the work place.

Consultation and the New EC Classification Standard

For approximately 4 years SSEA cum *CAPE has been involved in consultations with the employer in regards to the matter of the employer's development of a new EC classification standard. Treasury Board, then in turn the Public Service Human Resources Management Agency of Canada (PSHRMAC) have refused to use the enabling provisions of the new Public Service Labour Relations Act in order to allow CAPE to come to the table as an equal partner to the development of the new standard. The following article tries to explain what was at stake when CAPE and PSHRMAC were close to breaking off talks on classification.*

The following text is divided into five sections. The first section deals with the distinction that must be made between a bargaining relationship of equals and consultation. The second section describes the events that led from UCS (Universal Classification System) to EC classification reform. The third section is devoted to a presentation of events that led from the employer's apparent proposal for co-development of the EC standard to the reality of consultation on the matter. The fourth section describes CAPE-PSHRMAC consultations on the matter of the new classification standard. Section five is the conclusion. The article is intended to provide insight into CAPE's efforts to advocate on behalf of SI and ES employees across the public service in an area where it has no legal power or authority: classification.

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The labour-management relationship in the federal public service

There are two types of working relationships that can be established between a bargaining agent and the employer in the federal public service. The first type of relationship has an impasse resolution process where fundamental disagreements are referred to an independent third party for resolution. The best example of this type of relationship in law is the relationship established at the bargaining table which allows for arbitration of impasses. This type of relationship is a relationship of equality before the law, of relative equality in practice, of separate and autonomous decision making, of equal responsibility for making the relationship productive. It is a relationship where both parties are treated as equals, where the final decision is not made, by default, by one of the two disagreeing parties. A fundamental disagreement is addressed in a way that allows the relationship to continue; this type of relationship continues even when there are major disagreements or even conflict. One party may not be satisfied with the arbitrator's decision. But, the dissatisfaction does not end the relationship. The availability of mechanisms to work out impasses and the right to refer an impasse to an arbitrator creates continuity and, most importantly, equality.

A second type of relationship which does *not* purport to be a relationship of equals, is a type of relationship where decision-making authority is defined as the prerogative of one and only one of the two parties to the relationship. It is a type of relationship where the other party can only voice concerns and hope that the party in authority will act upon the concerns.

Consultation is a legitimate process whereby management endeavours to anticipate major problems in the work place by calling upon employee representatives for a different perspective on matters.

It is a type of relationship where the relationship breaks down whenever there is a disagreement, as the "less powerful" party can only act upon major disagreements by withdrawing from the relationship. There is no impasse resolution process on which equality can rest because there is no intention to create equality in the relationship. The purpose of the relationship is to consolidate the full authority of one party over a specific issue or area of intervention by allowing it to decide how and to what extent it will use information or comments provided by the other party.

In labour relations this second type of relationship is called consultation. Management or the employer consults with bargaining agents, uses the knowledge and expertise of bargaining agents to the extent that it deems useful to serve the purposes that it chooses and defines. Consultation is a legitimate process whereby management endeavours to anticipate major problems in the work place by calling upon employee representatives for a different perspective on matters. However, bargaining agents become simply "advisors" in this kind of process.

Sections 9, 10 and 11 of the new Public Service Labour Relations Act enable the employer to co-develop work place improvements with bargaining agents. However, the legislation deliberately omitted any reference to an impasse resolution process; it neither prohibits nor imposes an impass resolution process on co-development initiatives. It would seem that the intent was to leave to management the discretion of deciding to opt for one of two co-development models. It could either choose a consultation model of co-development, where it would retain decision making authority and simply use bargaining agents in order to flesh out problems that it could not identify from a management perspective. Or management could opt for a bargaining model of co-development, where decision

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Bill C-2, The Federal Accountability Act: Protection for public-sector employees who disclose government wrongdoing

As promised during the last federal election campaign, the Conservative government's first order of business was the introduction of its Federal Accountability Act*. For the federal public service, the* Act *provides a whistleblowing regime that will protect federal public service employees who expose wrongdoing and mismanagement.*

The *Federal Accountability Act – Bill C-2*, amends the Liberals' whistleblower Bill, Bill C-11, (*The Public Servants Disclosure Protection Act*) that was passed, but not proclaimed, when the Liberal government fell in November 2005. The Liberal government had first introduced whistleblowing legislation in 2004, in the form of Bill C-25, but Bill C-25 died when the June election was called.

The proposed *Act* will make the Public Service Integrity Officer an Officer of Parliament with an expanded mandate. Edward Keyserlingk was named Public Service Integrity Officer in November 2001 when the Treasury Board first introduced its *Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace*. The policy provides for a neutral third party review and investigation of wrongdoing if needed, as well as for protection from reprisal.

In the wake of the sponsorship scandal, many called into question the effectiveness of the existing disclosure mechanism, as federal public service employees appeared to be reluctant to report instances of unethical or improper behaviour. The Public Service Integrity Commissioner, after two years of experience with the whistleblowing regime, concluded in his 2002-2003 Annual Report that major structural reforms were required, including whistleblowing legislation.

The *Federal Accountability Act* will give federal public-sector employees direct access to the Public Service Integrity Officer to report wrongdoing in the work place and to complain if they have suffered reprisal for alleging wrongdoing. The *Act* will give the Officer the power to authorize free access to legal counsel for advice for public-sector employees who are considering making a disclosure of wrongdoing, serving as a witness, or alleging a reprisal. The Officer will have the authority to reward public-sector employees who expose wrongdoing with a special recognition award of up to $1,000.

The Officer will screen complaints, investigate the matter as necessary, and attempt to conciliate a settlement between the parties to the complaint. If there is no settlement, the Officer may decide to refer the matter to a new *Independent Public Servants Disclosure Protection Tribunal*. The Tribunal, composed of judges or former judges, will have the power to decide whether reprisal occurred and to order action to remedy the situation and ensure that those who took reprisal are disciplined.

The *Act* will include specific penalties for offences under the *Public Servants Disclosure Protection Act*, including tougher penalties for those who willfully impede investigations of wrongdoing. These offences will be punishable by fines of up to $10,000, imprisonment for up to two years, or both.

Where CAPE Stands on Bill C-2

Soon after the introduction of Bill C-2, the federal unions came together to urge Parliament to proclaim Bill C-11, the *Public Servants Disclosure Protection Act*, before resuming with its examination of Bill C-2, the *Federal Accountability Act*.

The unions recognize that Bill C-11 is not perfect. CAPE pointed out to the parliamentary committee charged with examining Bill-11 that the legislation must establish a

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truly separate and independent agency to investigate wrongdoings. The cornerstone of the legislation must be the establishment of a body responsible for investigating allegations of wrongdoing and allegations of reprisal which is beyond a shadow of a doubt independent of persons or organizations that would have an interest in the outcome of investigations.

In its original form, Bill C-11 assigned the responsibilities of investigation to the Public Service Commission (PSC), one of the central agencies of the public service that is identified by public service employees as representing the interests of management. Furthermore, it assigns to the other central agency representing management interests, Treasury Board, the responsibilities of investigating wrongdoing allegations made by employees of the Public Service Commission.

CAPE argued that it was not likely that public service employees would be convinced of the neutrality and independence of these two organizations. And it is as unlikely that public service employees will be inclined to report wrongdoing to either the Public Service Commission or the Treasury Board. This change was eventually incorporated into Bill C-11.

CAPE also insisted, unsuccessfully, that the application of the legislation be expanded in order to cover public service employees working on Parliament Hill. In its current form, Bill C-11 includes only a very small number of public service employees working on Parliament Hill. For example, the proposed legislation does include translators and interpreters, because they are employees of the Translation Bureau which is part of Public Works and Government Services. However, the legislation excludes employees of the Senate, employees of the House of Commons and most importantly to the Canadian Association of Professional Employees, it excludes employees of the Library of Parliament.

The exclusion of public service employees who work in the environment of Parliament will work to reinforce the cynicism of those Canadians who may not be convinced that their politicians are committed to ensuring ethical practices not only in the public service itself but also in the nexus of politics to public service. Moreover, there are no reasonable grounds for excluding the employees of the Library of Parliament from access to the office of a Public Service Integrity Commissioner.

In a way, Bill C-11 is itself a test of integrity for all parties involved – politicians, government officials and union officials. The resulting act will be evidence of our collective commitment to ethical practices in public administration.

Consultation..., cont'd from p.8

making authority is shared and where impasses are referred to a third party.

CAPE has sought agreement on several occasions from employer representatives, both from central agencies and departments, to use a bargaining model of co-development. These efforts have been unsuccessful. Considering that the legislated changes from the Public Service Modernization Act to the Public Service Labour Relations Act will be reviewed in 2008, the matter of how the employer uses Sections 9 to 11 are more than academic. A good example and one of great consequence to CAPE members is the employer's invitation to bargaining agents to co-develop new classification standards, including the EC classification standard.

From UCS to classification reform

The project of developing an EC classification standard which would replace the ES and SI standards took form when it became evident that the fundamental contradiction of a universal classification standard for the federal public service could not be worked out by the employer. The fundamental contradiction was

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Public Service Employee Survey (PSES) Research Advisory Committee (RAC)

The Public Service Employee Survey 2005 was administered in November 2005 by Statistics Canada on behalf of the Public Service Human Resources Management Agency of Canada (PSHRMAC). Data from the questionnaire is currently being compiled by Statistics Canada, and the results should be made public in early summer 2006. A total of 106,495 people out of 180,824 responded to the survey, which represents a response rate of 58.9%.

The Research and Analysis Directorate of the PSHRMAC extended an invitation to public service departments, agencies and bargaining agents to participate in the Public Service Employee Survey Research Advisory Committee (RAC). CAPE accepted to serve on this Committee.

RAC meetings will be co-chaired by Ruth Martin, Director of Research and Analysis at PSHRMAC, and Doug Rimmer, ADM, Programs and Services Sector at Library and Archives Canada. The RAC's activities will consist of two distinct phases. The first phase will identify and prioritize themes or issues for research that can be undertaken by PSHRMAC's Research and Analysis Directorate on the basis of the 2005 PSES results. The second phase will focus on developing an action plan to address key challenges identified in the course of this research. The RAC should also serve as a forum for raising awareness of departmental survey follow-up initiatives.

A comprehensive report, presenting the research findings as well as the recommended action plan, will be published by the PSHRMAC.

Consultation..., cont'd from p.10

between internal pay equity and external pay inequity. The intent of UCS was to create one single standard that would (1) ensure pay equity within the federal public service, (2) provide to the employer and bargaining agents a tool that would allow pay comparisons with the private sector for the purposes of collective bargaining. There were two objectives: pay equity, and pay comparability. However, pay equity was not and is not yet a significant organizing principle of pay relativity in the private sector. Thus, trying to achieve pay comparability with the private sector became quite problematic. In fact, it became evident that the relative absence of pay equity in the private sector made UCS impossible. This became evident only in the later stages of standard development when it came time to work out the details of weights for the sixteen elements of the UCS standard.

Thus, the failure of the UCS project was not due to a lack of competence or commitment or an example of bureaucratic failure. It would be difficult to match the high level of competence and commitment of the UCS team, and in fact of all those involved in the UCS project. It was simply that there was a fundamental contradiction in UCS objectives. In passing, it should be noted that SSEA had raised the matter of the contradiction in the earlier stages. The response from the employer was to recognize that it would be a challenge but that it was a challenge that needed to be met for a universal standard to exist…

Exit UCS. Enter group specific standards. Enter the EC standard. In the immediate wake of the UCS project, in May 2002 Treasury

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Consultation..., cont'd from p.11

Board announced that it would pursue the objective of classification reform by developing group specific standards. It also announced that it had identified the first few standards to be recast. Among the chosen few were the ES and SI standards which were to be replaced with a single EC standard.

CAPE was not prepared to mislead its members and observers into believing that it had any control over something that was controlled entirely by the employer.

Treasury Board invited the bargaining agents representing employees of the professional groups that would be affected by classification reform to co-develop their respective standards with the Board. In June 2002, SSEA responded by inviting Treasury Board to meet and discuss the contents of a protocol for co-development and to begin outlining the game plan for developing the EC standard. But the Board was not ready. In August 2002, SSEA received a letter explaining that the following few months would be used by Treasury Board to set up the logistics for classification reform. Priority was to be given to the FS standard, which was supposedly easier to update. CAPE would go next.

At an update meeting in the Fall of 2002, CAPE was advised that Treasury Board would be meeting with departments to discuss problems with the existing ES and SI standards. CAPE was not invited. CAPE's request to be present at the meetings was denied by the Board with the explanation that department officials would not feel comfortable discussing problems of the two existing standards if CAPE officials were in the room.

Further to these meetings between department officials and Treasury Board, departments carried out organizational reviews from December 2002 to the Fall of 2003. The purpose of the reviews was to produce monographs that would inform Treasury Board of the organizational issues relevant to the ES and SI groups across the public service. The monographs were to establish the relativity of ES and SI positions to positions of other occupational group classifications.

PSHRMA, which had taken over responsibility for classification from Treasury Board, shared the monographs from the principal ES and SI user departments with CAPE in December 2003. The combined results of the monographs were not surprising to CAPE. To a great extent, the monographs confirmed observations that SSEA *cum* CAPE made during the UCS project, and at the bargaining table on the matter of pay. These observations included the breakdown of relativity between the PM-06 classification and the ES-05 classification; the problematic position of the SI-03 level; the general erosion of comparability of the CS and MA to SI and ES groups; the overlap of the SI-07/ES-06 level and SI-08/ES-07 level, and the relativity of the SI group to the HR and LS groups.

The monographs were provided to CAPE, on the condition that they be kept confidential to the national office. The condition of confidentiality complicated CAPE's task of confirming any department information that seemed to contradict what the Association knew about the respective departments. The national office was forced into a complicated system of seeking information almost surreptitiously from its local officers. PSHRMAC lifted the confidentiality ban only much later when the very same local officers were being consulted by department management on EC standard development issues, and CAPE raised the incongruence of the disjointed consultation process. By then, the development process had moved out of what was called the discovery phase and had moved into the next phase, the drafting phase.

EC classification standard development: defining a relationship

At that time, in 2004, the entire matter of process and of the nature of the relationship between CAPE

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CAPE Labour Relations Officers Work for You

CAPE currently has one of the lowest ratio of Labour Relations Officers to Members of the federal public service bargaining agents. Despite this, our members' satisfaction at the service they receive is high. What this means, however, is that over the course of any given month, CAPE Labour Relations Officers handle enormous workloads, and consequently are compelled to work in the most effective and efficient manner possible. Such is your professional staff. Part of the workload requires that Labour Relations Officers consult with department officials on matters that relate to all the members of a department; another part of the workload involves providing information on rights and entitlements to members, as well as advice. Yet, another part of the workload, possibly the most important in terms of direct effect on the memberships working conditions, is the individual representation. These are some of their more recent cases:

Some Grievances are Viable

A Labour Relations Officer filed four (4) grievances against management's decision not to allow any retroactive pay period following a classification review. At the second level hearing, a settlement was reached which gave the members retroactive pay in the form of acting pay, retroactive to January 2005.

A member contacted a Labour Relations Officer regarding problems surrounding work plans and training. Before the matter could be addressed, the employer indicated that the employee had an attendance problem, and demanded that the employee provide reasons for the absences. The member, who works a variable work week, had no need to provide an explanation for the absences. A discrimination complaint was filed by the Labour Relations Officer on behalf of the member. After several meetings with the employer, the matter was settled in an amicable manner and the complaint was withdrawn.

Some Grievances Take Longer than Others to Resolve

Following a long standing classification grievance involving a member, CAPE could get very little in the way of cooperation from the Human Resources Division. The Labour Relations Officer finally had to intervene at the Deputy Minister level, who then compelled Human Resources to initiate a classification review. The grievance was allowed, and was upheld retroactive to 2001.

In another dispute involving a job description, the member wanted a copy of the job description and classification documents related to the member's substantive position. Management was not forthcoming. On the recommendation of the Labour Relations Officer, the member made a formal request for a copy of the job description and classification point rating by factor. Management did not supply the documents. A grievance was filed. Management supplied the documents before a hearing was scheduled. After reviewing the documents, the Labour Relations Officer filed Job Description and Classification grievances on behalf of the member.

Not all Appeals are Viable

A CAPE member filed an appeal against a selection process and then filed allegations without contacting her Labour Relations Officer. Once this was done, the member contacted CAPE and asked the Association for representation before the Appeal Board at the Public Service Commission. The Association agreed to review her submitted allegations in accordance with the disclosure material. Following the Labour Relations Officer's review, and in consultation with the other

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Labour Relations Officers and the Director of Labour Relations, it was determined that the allegations could not be substantiated and, therefore, the Association decided it would not represent the member at the appeal hearing.

Not all Grievances, Either

A member wanted to claim entitlement to reimbursement for certain real estate fees under the NJC Relocation Directive. The relevant documents were received from the member and were reviewed by the Labour Relations Officer. The Labour Relations Officer reviewed the NJC Relocation Directive and determined that the fees in question were excluded by the wording of the NJC Directive. As such, no grievance was filed.

And Some Grievances are Just Plain Common Sense

The member had been acting in a position with a higher classification level for more than two years, the acting appointments being renewed every six months. The member went on sick leave and applied for Disability Insurance benefits. The department calculated that the member was eligible for DI a few days prior to her acting appointment expiring, and Sun Life calculated benefits on that basis. Over a year later, it was established that the member's thirteen week qualifying period for DI ended a few days after the end of the acting appointment. Since the acting appointment had not been extended, Sun Life determined that the member had been overpaid by more than $ 10,000.00, and began the process of recuperating the funds. The member and CAPE contacted the department requesting that the acting appointment be extended, as it would most probably have been had the member been at work and not off sick. The matter was resolved at the first level of the grievance procedure, rendering the issue of the overpayment moot, much to the satisfaction of the member.

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and PSHRMAC came to a head. CAPE representatives were hopeful from the start in 2002 that Treasury Board then PSHRMAC would be prepared to accept a bargaining model of co-development of the EC standard. With hindsight, this expectation may appear naive. But SSEA *cum* CAPE had demonstrated its willingness to establish a professional dialogue with the employer on UCS; the Public Service Modernization Act was the talk of the town, including the enabling section on co-development; and, SSEA's very public position on the bargaining model of co-development was clear and known to the employer. If a bargaining model was definitively not a possibility, then CAPE would have expected an invitation to consult, not to co-develop. But, Treasury Board, then PSHRMAC kept saying publicly that it was co-developing a standard with CAPE and departments.

After several weeks of discussion during which telephone calls, meetings and rejected draft terms of reference made it abundantly clear that there was no common ground between CAPE and PSHRMAC, talks ground to a halt. CAPE explained to PSHRMAC that it was willing to address the employer's concern regarding third party referral of impasses. In 2003, CAPE had successfully worked out the terms of reference for a co-development protocol at Industry Canada. Referral of impasses was not to a third party. Accepting that matters that would be co-developed within a department were matters that normally would have been the object of consultations, CAPE led other bargaining agents to a position where impasses would be resolved by the chief administrator of the department, the Deputy Minister. CAPE proposed a similar model to PSHRMAC which was instantly rejected. Then CAPE explained that, short of such an agreement, the Association was prepared to be consulted on the development of the standard, that it would provide comments, but that it would not call such consultations "co-development". CAPE asked also that the employer stop calling the process "co-development".

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ERGONOMICS – Everyone has an Obligation

Did you know that there is a Treasury Board standard for keyboards? And why is that important? Because in today's work environment, keyboards and a host of other office equipment, their setup and the physical organization of the work place and work stations are important to the well being, safety and security of office workers.

The overwhelming majority, if not all of CAPE members, work in an office environment where information technology is used. Accordingly, the ergonomic design of your office and/or workstation is important, all the more so with the increased utilization of information technology.

What are my rights?

You have a right to a work place that is safe and secure. This includes having at your disposal machinery, equipment and tools that are secure, safe and that meet ergonomic standards.

As a federal public servant, you are covered by Part II of the Canada Labour Code (http://www.hrsdc.gc. ca/en/lp/lo/fll/part2/legislation/code.shtml). This part of the code deals with Occupational Health and Safety. It prescribes your rights and obligations as well as the employer's rights and obligations. The code provides that:

- 125. (1) Without restricting the generality of section 124, every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity,
- (*t*) ensure that the machinery, equipment and tools used by the employees in the course of their employment meet prescribed health, safety and ergonomic standards and are safe under all conditions of their intended use;
- (*u*) ensure that the work place, work spaces and procedures meet prescribed ergonomic standards; (emphasis added)

It is your employer's legal obligation to provide you with machinery, equipment and tools and a work place that meets ergonomic standards – that's the law!

As an employee, do I have obligations as well?

Yes you do. We recommend that you consult Human Resources and Skills Development Canada's pamphlet on the *right to refuse dangerous work; your rights, obligations and the procedure to follow are explained in detail:* (http://www.hrsdc.gc.ca/en/lp/lo/ohs/publications/4.shtml). Your obligations are also delineated by section 126. of the Code: http://www.hrsdc. gc.ca/en/lp/lo/fll/part2/legislation/code.shtml.

So how do I ensure that my prescribed ergonomic standards are met?

The first step is to have the machinery, equipment and/or tools that you use and your work place evaluated. Most departments and agencies have procedures in place to respond to requests by employees to have such an ergonomic evaluation carried out. We recommend that you discuss this with your supervisor and request, preferably in writing, that a professional ergonomic evaluation of the machinery, equipment and/or tools that you use and your work place be carried out.

Once the evaluation has been carried out, you and your supervisor will be able to act on the recommendations contained in the evaluation. Your employer should purchase the equipment and/or physically re-arrange your work station and workplace as per the recommendations contained in the ergonomic evaluation report. You may have to modify some of the

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work procedures that you use. Sometimes, once all of this is done, there is a need for a follow-up evaluation to ensure that the changes brought about are satisfactory. It is important, even at the first step, to document, preferably in writing, your requests, the employer's response and/or reply, etc.

What if my supervisor refuses to have a professional ergonomic evaluation carried out? What if he or she refuses to implement the recommendations contained in the ergonomic evaluation report? What if he or she does not act diligently?

Before starting any formal recourse as provided for in Part II of the Canada Labour Code, we recommend that you contact your departmental Occupational Health and Safety Committee and seek its intervention. You should request to be put in contact with an employee representative who is a member of that committee. He or she will intervene on your behalf.

If the matter is not dealt with to your satisfaction through an informal intervention of your departmental Occupational Health and Safety Committee, we recommend that you contact your CAPE Labour Relations Officer (LRO). Your LRO will determine with you the best course of action, which may include having recourse to the Internal Complaint Resolution Process provided for in section 127.1 of Part II of the Canada Labour Code. Prior to initiating a formal recourse, your LRO may attempt to resolve the matter through informal means.

What about my right to refuse to work in case of danger?

The Code does provide you with the right to refuse to work in very specific situations. If you have reasonable cause to believe that a condition at work is a danger to you or that the use of a machine or thing at work presents a danger to you or to another employee, you may invoke that right. *If you are contemplating invoking your right to refuse dangerous work or if you have already done so, we strongly recommend that you contact your Labour Relations Officer.*

Conclusion

The employer has obligations, you have rights and obligations, and CAPE can assist in defending your rights to an ergonomically safe and secure work place. If you have questions relating to this issue, please contact your LRO.

* The Canadian Government Keyboard Standard for Information Technology Equipment incorporates the Canadian Standards Association's keyboard standard (http://www.tbs-sct.gc.ca/its-nit/standards/tbits05/crit05_e.asp).

Consultation..., cont'd from p.14

The matter of nomenclature may appear trite to the casual observer. However, to a labour relations practitioner and to the members of the EC bargaining unit, it was and remains an important issue. At the time, and to some extent still today, the word co-development carried the connotations of equality, power sharing and common responsibility. Thus, if CAPE had accepted to allow calling consultation talks "co-development", it would have accepted equal responsibility for the content of a standard over which it had no control whatsoever. CAPE was not prepared to mislead its members and observers into believing that it had any control over something that was controlled entirely by the employer. The employer wanted full control. It is CAPE's position that it should also accept full responsibility and accountability.

By late July 2004, talks were breaking down. PSHRMAC advised CAPE that it would need to consult all bargaining agents in order to get

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Spring Stewards' Training – a Resounding Success

This Spring's Stewards' Training was a great success, with a total of 75 participants in 6 different programs, including Stewards' Training *in both official languages,* Know your EC Collective Agreement *in both official languages,* Know your TR Collective Agreement, *in French and* Occupational Health and Safety *in English. (Those courses where registration was less than five, were cancelled, including the French* Occupational Health and Safety *program, and the English* Know your TR Collective Agreement *program.)*

73 CAPE members were trained by CAPE's Professional Services Division to better represent the membership whether at informal consultations, or in formal grievance processes. Congratulations!

And for the first time, the CAPE administrative staff was invited to attend, to allow them a more detailed understanding of the labour relations environment in which CAPE officials work. While several expressed an interest, operational requirements dictated that only two could attend. 75 participants!

When asked why the participants decided to take the courses, some of the responses included:

- "Since I have accepted the responsibility of being a steward, I felt it was necessary to inform myself about the role and responsibilities."
- "To take on shop steward duties with more confidence."
- "To better serve CAPE members as a steward."
- "To strengthen my knowledge of what is involved in being a steward."
- "To become more involved and assist my fellow colleagues with labour relations problems."
- "To understand my role and responsibilities as a member of the Occupational Health and Safety Committee."
- "To have a better idea of the OHS Committee and to be familiar with members concerns."

What Members had to say about the course:

- "Awesome!"
- "Superb presentation skills"
- "Both facilitators were excellent – very knowledgeable and good at holding interest."
- "Excellent course – good job!"
- "Much appreciated – I would have been lost without it!"
- "Very impressed with the level of knowledge and the assertiveness of addressing issues"
- "Thanks very much for offering these training courses! They were very informative and useful."
- "Excellent job!! Thanks – I learned a lot"

CAPE is very proud of their Local Leadership, and is well served by them. We encourage all of our members to take a more active interest in the Association, whether as a member of a Committee, or a Local Executive, or as a Local Leader.

Consultation..., cont'd from p.16

common agreement on terms of reference for classification standard co-development. CAPE could see where this was going as CAPE was the only bargaining agent which had taken, since 2002, a strong unequivocal stand on co-development. PSHRMAC's move to get agreement from other bargaining agents seemed to be a manouevre to isolate CAPE and bear pressure on the Association.

The parties agreed to disagree and accepted that the classification reform process would be based on consultations, and that the consultations would be called consultations.

CAPE reiterated its position and refused to participate in the joint consultations. Because most bargaining agents were not involved in a classification review exercise at the time, and because the Public Service Alliance of Canada had moved to a position similar to CAPE's on the matter of co-development, PSHRMAC's initiative was less than successful.

By the end of the Summer 2004, PSHRMAC was completing version 1(one) of the EC standard and was no closer to a protocol for a consultation model of co-development. The dialogue between CAPE and PSHRMAC had soured, after long and sometimes heated discussions that underlined the importance of what was at stake.

Then, as it became clear that CAPE's input would be necessary if PSHRMAC were to avoid major problems with the standard, the parties agreed to disagree and accepted that the classification reform process would be based on consultations, and that the consultations would be called consultations. The parties established a clearly defined relationship for the purposes of developing the EC standard. PSHRMAC said no to the bargaining model of co-development. CAPE kept the door open by accepting consultations as long as they were called consultations.

EC classification standard and consultations

A first draft of an EC classification standard was submitted to CAPE on September 21, 2004. A meeting of CAPE and PSHRMAC representatives was held on October 7. CAPE representatives provided comments and shared concerns regarding version 1 (one) of the EC standard. Several comments made their way into the development of version 2 of the standard later that Fall. There would be 7 versions of the standard by May 2006. PSHRMAC testing between versions often confirmed changes suggested by CAPE. However, CAPE's input was limited to commenting on versions of the standard without having access to the testing data or analysis. The process could have been more effective. But relative inefficiency was the cost PSHRMAC was prepared to bear in order to ensure employer control over the development of the standard.

The Association took the position that simply "allowing for" an impasse resolution process was not enough; the employer would never have an incentive to move from consultation to a true dialogue of equal partners. Sadly, we were right.

In November, PSHRMAC invited CAPE and department officials to form the EC Group Advisory Committee the purpose of which would be to review the development of the standard and related matters and provide advice to PSHRMAC. A Treasury Board representative was added to the committee because the new standard would require bargaining new pay scales, which is the responsibility of Treasury Board. The Committee first met on December 12, 2004.

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Over the next year and a half, several meetings of the EC Group Advisory Committee were called to review various aspects of the development of the new standard, including testing, communication to employees, updates on progress of the various stages of the development process, updates on training, and progress of work description writing. Periodically, the committee was advised that a new version of the EC standard had been written in response to comments or testing results. By September 4, 2005, PSHRMAC was up to version 4 of the standard. Committee members were not always provided with the newer versions of the standard at meetings, which resulted in less time to review and comment. Version 4 was the last version that was provided in a timely fashion. In fact, CAPE has been provided with each version with less and less time to provide comments. This would not be a problem if each new version of the standard was simply the object of fine tuning. This has not been the case; in fact, there have been significant changes since version 4. Moreover, version 7, the final version, is the first version to include all the point ratings for the elements which is the only way of getting a clear idea of how well the various versions work. In sum, the consultation process has involved general updates with the occasional new standard to review within a shorter and shorter time frame.

Officials from CAPE's locals have also been involved in consultations with department officials, mostly on organizational matters of group relativity and work streams. A good example is the work carried out by CAPE's local at Statistics Canada in conjunction with Statistics Canada's classification experts. Soon, departments will be deeply involved in writing new work descriptions, and will need the involvement of EC employees and local officials.

CAPE has sought agreement on several occasions from employer representatives, both from central agencies and departments, to use a bargaining model of co-development. These efforts have been unsuccessful.

To the credit of PSHRMAC it has included some of CAPE's comments along the way and has demonstrated a willingness to listen. Unfortunately, there have been important recommendations that have been ignored. PSHRMAC has been as forthcoming with information as one could expect within a consultation process. But, it has been only consultation. PSHRMAC has had the final say from beginning to end.

Conclusion

In the Spring of 2002, Treasury Board announced its decision to move away from the development of a universal classification standard to the development of group specific standards, including a standard for the EC group. From the outset, CAPE endeavoured to get agreement from the employer to involve the Association in a process of true co-development where both parties would be equal partners. Treasury Board's refusal, then PSHRMAC's refusal, limited CAPE's ability to contribute to the development of the EC standard.

Will there ever be true co-development in the federal public service, whether of a classification standard or of a work place policy? When the Public Service Modernization Act was still in its embryonic stage and the employer was "consulting" bargaining agents on the matter, SSEA had raised its objections to the manner in which it was decided to write co-development into the new legislation. SSEA argued that the legislation would need to include as part of the definition of co-development a requirement for an impasse resolution process with referral to an independent third party. The Association took the position that simply "allowing for" an impasse resolution process was not enough; the employer would never have an incentive to move from consultation to a true dialogue of equal partners. Sadly, we were right.

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