Professional Dialogue™

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Why are we unionized after all?

"What a question!" you will say. Have you thought about it lately? A former colleague of mine liked to point out that unions are of daily concern only to those who are active in them. They are something you want in case of need. If you don't need them, you don't want to hear about them. She was wrong.

We're now in the year 2009 and it seems that all the major fights took place during the last century: the 40-hour work week, the right to weekend rest, the right to retire, holidays, sick leave, maternity leave,

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The Fryer Report: A Plan of Action Working Together in the Public Interest - 2001

The Advisory Committee on Labour Management Relations in the Federal Public Service released its final report on June 13, 2001. Entitled Working Together in the Public Interest, *- "the Fryer Report" represented the culmination of months of consultation and reflection on the dilapidated state of labour relations in the federal Public Service. The Committee was a promising entity, that looked for total commitment and buy-in of all members. The membership of the committee was a perfect balance of the interested parties – both union and management sides, and included many noteworthy labour relations experts besides Mr. Fryer himself. The Committee set itself immediately to the task of evaluating how well the system of labour-management relations created by the* Public Service Staff Relations Act *served Canadians.*

While there were elements in the Fryer Report that caused concern for bargaining agents, taken together the recommendations represented a potentially much improved structure for labour relations. The more promising recommendations contained in the Fryer

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ACEP Association canadienne des employés professionnels

CAPE Canadian Association of Professional Employees

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parental leave, medical and dental care. Above all, do not think that any one of these rights was voluntarily and readily granted to us by our employers. Others before us had to make demands and, in certain cases, go on strike to extract these concessions from employers.

Today, these union struggles seem distant. Today's reality is entirely different. Over the past several years, we have been witnessing deteriorating employer-bargaining agent relations. Sound negotiation doesn't seem to be a priority for the current government. Legislation enacted in the area of relations between the employer and its employees seems to have only one goal: the progressive erosion of the rights acquired over the course of union history in Canada. Rarely have we seen an employer enact budgetary implementation legislation and taking advantage of the situation to directly attack its employees' rights. In the same breath, they put an end to years of efforts and colossal investments to achieve a new classification standard; they also attack the right to negotiate freely and the right to be represented by one's union in the event of an equal pay complaint.

It is therefore no accident that we must now appear before House and Senate committees to assert your rights, or even before the courts, to contest the sharp turn taken by our politicians, with the aggressive connivance of certain high-ranking public officials. If our relations must be redefined, we will take steps to assert your point of view.

By giving an overview of our recent history, the current issue of Professional Dialogue aims to help you better understand the context of relations between CAPE and the employer. We hope that it will give you a feeling that unions are not a necessary evil but are in fact an essential service in increasingly difficult circumstances. Happy reading!

CAPE President,
Claude Poirier

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report included: recognition in the labour legislation of collective rights in the Federal Public Service; recognition that all matters that arise in the work place require union-management interaction; co-development of classification and staffing; an impasse resolution process for co-development initiatives; streamlining of individual rights recourse processes; access to a third party for all recourse actions; union access to policy grievances (for example, unions would not need to wait and depend on a member to step forward in order to file a grievance on the interpretation of the collective agreement); portability of benefits between Treasury Board (TB) and separate employers.

A major issue was the dispute resolution process suggested for collective bargaining. It was anticipated by most parties that the recurring suspension of binding arbitration was an indicator that binding arbitration would never return to Public Service bargaining. The Fryer report suggested that the proposed Public Interest Dispute Resolution Commission (PIDRC) should have the power to impose a settlement on the parties, similarly to an arbitration panel.

Thus, the Fryer report addressed mainly the deterioration of union management relations, which had been further damaged by the employer's unilateral changes to the *Public Service Staff Relations Act* and to the *Public Service Employment Act* since the inception of collective bargaining and union rights in the Federal Public Service in 1967. These changes over time had skewed the relationship of employer and bargaining agents to the extent that it had become dysfunctional, serving neither the interest of the unions nor the interest of the employer. Layer upon layer of focused quick fixes, addressing very specific problems, had created a burdensome set of rules that paralyzed managers and frustrated union representatives. For the Fryer committee, positive change meant avoiding this one-sided and short-sighted approach to change that had plagued the process since 1967.

By giving an overview of our recent history, the current issue of Professional Dialogue aims to help you better understand the context of relations between CAPE and the employer.

It is important to note that the Fryer report followed a period during the 1990s when collective bargaining was suspended and 50,000 jobs were cut from the core Federal Public Service; labour relations appeared to be at their lowest. A few years earlier, in 1997, the Public Policy Forum (PPF) undertook to establish a partnership with labour relations specialists from a variety of sources from within and outside the federal government environment, with the goal of examining what they had previously identified as the origins of many of the problems in the relationship between employer and bargaining agents: the *Public Service Staff Relations Act (PSSRA)*. The PPF's report was a major reason that the employer and unions were brought together to discuss labour relations. The Advisory Committee on Labour Management Relations in the Federal Public Service, chaired by John Fryer came into being in large part as a result of the PPF's report.

When Mr. Fryer met with bargaining agents in the presence of Frank Claydon (Secretary, TB) and Marcel Nouvet (Chief HR Officer, TB) in June 2001, he stated unequivocally that the precondition of positive change was that the employer share power with bargaining agents. According to Mr. Fryer, the employer needed to gain the trust of bargaining agents by addressing the inequitable balance of power defined in the *PSSRA*.

In total, the report presented thirty-three recommendations (which can be found in the final report, here: http://www.tbs-sct.gc.ca/report/fryer/wtpi-teip-1-eng.asp#rec). The recommendations were bound together in the report as an indivisible plan of action. Both John Fryer and unions expressed serious concerns over any selective implementation of the recommendations. Treasury Board reviewed the recommendations, consulted minimally with unions, and com-

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municated their final view on the report to the Task Force on Modernizing Human Resources Management in the Public Service - "the Quail Task Force", which was responsible for integrating this view into its change mandate.

At that time, we wrote: "What becomes of the Fryer recommendations will likely be determined by the Task Force on Modernizing Human Resources Management in the Public Service, headed by Ranald Quail…" and indeed, any cautious optimism we may have felt at that time was to be severely tested…

Task Force on Modernizing Human Resources Management in the Public Service - 2002

While the printers were getting Part II of the Fryer report ready for public release, we learned that the employer had struck a Task Force on Modernizing Human Resources Management in the Public Service which was to be led by Ranald Quail, former Deputy Minister of Public Works and Government Services Canada.

The mandate of this Task Force was to recommend a modern human resources management policy, legislative and institutional framework in the hopes of updating the system and making the Federal Public Service an employer of choice. The Task Force planned to table legislation in Parliament by the summer of 2002. It was clear that the "vision" of this Task Force was not to be limited by the existing legislative framework or the precedents that governed human resources management. In fact, the goal of the Task Force was to propose new legislation to govern HR management in the Federal Public Service. The legislative framework as it then existed consisted of the *Public Service Employment Act*, the *Public Service Staff Relations Act* and the *Financial Administration Act*. All of these *Acts* were to come under the scrutiny of the Quail Task Force.

Union officials met with members of the Task Force on April 10 to express concerns that while the employer had adopted an aggressive approach to these reforms, there were to be no employee representatives on this Task Force. Ostensibly, this meeting was held to advise the bargaining agents of the trajectory that the Task Force would take.

Legislation enacted in the area of relations between the employer and its employees seems to have only one goal: the progressive erosion of the rights acquired over the course of union history in Canada.

Unions requested broader participation and the appointment of union officials to the Task Force and its Advisory Committee. Additional talks took place in early June, and on June 19, with the Clerk of the Privy Council, Mel Cappe, his officials and Ranald Quail. Unfortunately, none of these talks led to

the appointment of union officials to the Task Force or the Advisory Committee or even to some format of meaningful consultation. These talks did, however, clarify that the employer would give unions an opportunity to address the committee and/or present reports to the committee up to August 31, 2001. In addition, the Task Force would accept input from unions and management at the National Joint Council Symposium to be held in September of that year. But, the Task Force set limitations to its "consultations": only one representative per bargaining agent at meetings; no specialists from the union side; documents were distributed for the duration of the meeting then collected at the end. Many questions were left unanswered.

The Task Force set for itself auspicious goals, and in the end it announced the following changes:

Staffing

The Quail Task Force announced plans to modernize the staffing system, including shifting the focus away from selecting the best qualified candidate to a more competency based approach. The principle of relative merit would take a back seat to the principle of absolute merit - and human resources management was to be reformed to reflect this. In the view of the Task Force, managers lacked sufficient authority to manage human resources effectively. In addition, the staffing system was slow, costly and unresponsive. The Task Force stated its intentions of redesigning this system.

Recourse

The Task Force described the options for recourse within the Public Service as fragmented, complex and confusing. It had already acknowledged, as had the Fryer report, that the future redress mechanisms may very well be integrated and streamlined into a single process for everything pertaining to human resources management. This meant that the avenues of recourse, including those available through the *Public Service Staff Relations Act* and the *Public Service Employment Act*, would have to be integrated into a single, public service-wide system. This would require some significant legislative changes.

Labour Relations

The Task Force acknowledged that the relationship between unions and the employer had been undermined by a system that allowed unilateral government interventions, such as pay freezes, suspension of bargaining and arbitration. The goal of the Task Force was to develop a labour relations model that would encourage a more cooperative employer/union relationship.

Values

The Task Force made known its intention to shift away from the current rules-based process-oriented system, and to sponsor a values-based human resource management regime.

In sum, it can be said that the principal concern of the Task Force was putting together legislation that would be accepted by Deputy Ministers. So it was with minimal consideration of the views and concerns of the unions that the Task Force on Modernizing Human Resources Management in the Public Service issued its report. As expected, what followed were rapid changes in legislation to implement the recommendations of the Task Force.

The *Public Service Modernization* Act and the new *Public Service Labour Relations Act* - 2003

On September 2, 2003 CAPE President Bill Krause appeared before the Senate's Standing Committee on National Finance and presented the Association's view of Bill C-25, the *Public Service Modernization Act (PSMA)*, which was intended to "modernize employment and labour relations in the public service".

One of CAPE's founding organizations, the Social Science Employee's Association (SSEA) had appeared before the House of Commons Committee on Bill C-25 earlier that year. For this reason CAPE was subsequently called to appear before the Senate's Standing Committee on National Finance on Bill C-25, to share the concerns which we had expressed before the House of Commons Committee.

There were many concerns. But CAPE focused on the most far reaching for the membership and recommended 11 amendments to

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the *Public Service Modernization Act*, seven to that portion that created a new *Public Service Labour Relations Act*, and 4 to the changes proposed to the *Public Service Employment Act*. There were recommended amendments to the sections pertaining to consultation and to co-development. There were amendments recommended to sections dealing with the arbitration process and the exclusion process. There were recommendations against changes proposed by the *Bill* to the staffing process. A good example is the matter of co-development. CAPE argued that the emaciated form that the concept of co-development took in the *Public Service Modernization Act*, which flowed from the Report of the Task Force on Modernizing Human Resources Management, was a smoke screen. The process of shared responsibility and shared power in the development of policies, espoused by the Fryer Committee, was reduced to just another form of consultation. But what was most offensive was that this new form of consultation would require large commitments of resources from bargaining agents, with no sharing whatsoever of the decision-making power on contentious issues. The *PSMA* made it more difficult and more costly for bargaining agents to protect employees' rights and promote their interests. The underlying theme of the *PSMA* was engagement without power.

Of major concern to CAPE and to its members were the changes proposed to the staffing system: the *PSMA* raised concerns about the prospects of career development within the public service. Not only did the *Bill* propose to eliminate the employer's obligation to review its internal resources before staffing from outside the public service, it moved from the principle of appointing the most meritorious to appointing the competent. In other words, it established a system whereby competitions would become a rarity and the bulk of appointments would be made on the basis of individual rather than relative merit. So, who would be allowed to have a fair chance to build a career in the public service? Rather than use objective criteria to encourage promotion of the best qualified, it appeared that C-25 would rest the entire appointment system on subjective notions such as the idea of "best fit".

CAPE tried to convince the members of the Senate Committee that the new *Public Service Labour Relations Act* that was encrusted in the *Public Service Modernization Act* and the proposed changes to the *Public Service Employment Act* were not going to improve relations. They were realigning relations so that any progress that unions had made for themselves over the previous 36 years would be eliminated completely.

In spite of CAPE's efforts and the efforts of other bargaining agents including the Public Service Alliance of Canada and the Professional Institute of the Public Service of Canada, the *PSLRA* received Royal Assent in November 2003 with none of the amendments proposed by unions to the *Bill* authored by the employer. The imbalance of power that had been noted by the Public Policy Forum and by the Fryer Committee did not disappear. In fact, it was highlighted by the preparation of the *Bill* by the Task Force, the debates on Parliament Hill and the lack of union effect on the legislation. Moreover, the new labour law provisions contained in the *PSLRA* accentuated that very imbalance in power.

Fast Forward: The *Budget Implementation Act,* the *Expenditure Restraint Act* and the *Public Sector Equitable Compensation Act - 2009*

Restructuring the balance of power in order to accentuate and enshrine in legislation the employer's overriding power is only one way that employer cum legislator imposes its will. Similarly to what it did in the 1990's with the suspension of bargaining, Treasury Board decided to strike down the right to bargain yet another time in 2009, with a little more subtlety this time, with the *Expenditure Restraint Act (ERA),* part 10 of Bill C-10 or the *Budget Implementation Act.* If the *ERA* wasn't enough, the *Public Sector Equitable Compensation Act (PSECA)* or part 11 of Bill C-10, was thrown in for good measure.

The *ERA* was put together in such a way that, while it did not prohibit bargaining of all matters, it effectively defined the salary increases of unionized public servants for a period of five years without the opportunity to negotiate. No collective agreement or arbitral award may provide as a result of the *ERA* for increases to rates of pay that are more than:

2.5% for fiscal year 2006-2007;
2.3% for fiscal year 2007-2008;
1.5% for fiscal year 2008-2009;
1.5% for fiscal year 2009-2010;
1.5% for fiscal year 2010-2011.

Rarely have we seen an employer enact budgetary implementation legislation while profiting from the occasion to directly attack its employees' rights.

And, to add insult to injury for CAPE in particular, the *ERA* renders moot an understanding regarding the salary impact of the implementation of the EC conversion on CAPE's EC members. CAPE had reached an understanding with the employer that further negotiation of EC pay scales would take place, as required, once the impact of EC conversion became clearer. This agreement goes back to 2003, when it was understood by CAPE and Treasury Board that the EC conversion would eventually require negotiating rates of pay for a conversion. The 2006 round of collective bargaining was to be the EC conversion round with bargaining of EC rates of pay. But, in 2006 the parties could not bargain because the relevant data had not yet been finalized by the employer.

At that time CAPE threatened to take the employer to the Public Service Labour Relations Board because the employer had advised the Association that it was not in a position to negotiate the rates of pay for the EC conversion. The result was a one year collective agreement that would allow the employer time to better prepare itself to negotiate the EC conversion rates of pay.

In the following round of bargaining, in 2008, CAPE tabled a conversion pay proposal. Treasury Board offered its "final" offers to all bargaining units, and has since contended that the EC pay conversion issue did not exist beyond 2001. To settle the matter to its own satisfaction it passed the *Expenditure Restraint Act* that makes no provision for pay restructuring as a result of classification conversion for CAPE. It *does*, however, make this provision for the Canada border services, allowing a restruc-

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turing of rates pay as a result of the CBS's classification conversion.

The *Budget Implementation Act* passed without amendment in the House of Commons.

Up to this point in our history with the employer, we found ourselves affected to the same degree as many, if not all, other federal government bargaining agents. But now, the EC group has been singled out as the only group going through a conversion without a right to bargain the restructuring of rates of pay. In this particular case we have the unpleasant distinction of being the first bargaining agent to undergo a classification conversion, while not addressing the matter of pay at the bargaining table.

Prior to the legislation being passed, CAPE made representation at the House of Commons before the Standing Committee on Finance. CAPE President Claude Poirier appeared before the Committee on February 23, and argued that the EC conversion should be treated the same as the classification conversion at the Border Service Agency. Mr. Poirier provided the Committee with a proposal for an amendment that would exempt EC classification conversion from constraints. It was the view of the Acting Chair of the Committee that CAPE's proposed amendment would introduce new elements to Bill C-10 and as such was not receivable.

Over the past several years, we have been witnessing deteriorating employer-bargaining agent relations.

The next day, Treasury Board official Hélène Laurendeau stepped into the breach and stated: *"I had a very quick look at the amendment and I can confirm to the committee that there was no oversight on how the groups were described. There may be some claims by various groups, but the ones that are described currently in the Restraint Act are properly described. The exceptions addressed the Border Services Agency only, because they had a classification reform that needed to be implemented."*

After second reading in the Senate, Bill C-10 was referred to the Senate's Standing Committee on National Finance. CAPE sent a request to appear before the committee. The Committee chose not to invite any witnesses except a selection of government officials, including Hélène Laurendeau. CAPE was not invited to appear. The *Bill* received Royal Assent on March 12.

The Poirier-Toews Correspondence - 2009

In the interim, a correspondence was established between CAPE President Claude Poirier and the President of the Treasury Board Vic Toews in January 2009. CAPE's priority was to address what was at the time the matter of an anticipated legislated prohibition on bargaining rates of pay for the EC conversion. The letters present succinctly both CAPE's position and that of the Treasury Board. The exchange began with a letter from the President of CAPE dated January 15, the response from Vic Toews dated February 13, to which President of CAPE responded in a letter dated March 23, 2009. In this last missive, M. Poirier did not mince words:

> *"Mr. Toews, I regret that you declined my request to meet early in January and that your letter reached us in an untimely manner. We would have been able to seriously discuss, in a timely fashion, the negotiation of pay scales for the EC conversion. You would have been better informed of the facts. You would have subsequently been able to ask your advisers more pointed questions. You could have added EC conversion to the list of pay scales to be*

revised pursuant to the Expenditure Restraint Act. We would have been able to avoid a grave injustice caused in large part, it seems, by a very serious error, for which you are ultimately responsible, regardless of the source of your information.

It seems obvious to us that the content of the Expenditure Restraint Act was drafted as directed by Treasury Board, as it is Treasury Board who is responsible for the negotiation of collective agreements. Likewise, it seems obvious to us that you deliberately chose to not exclude EC pay scale negotiation from the control measures. On the other hand, you deliberately chose not to apply these controls to the negotiation of pay scales for the conversion of employees at the Canada Border Services Agency.

Hélène Laurendeau, your representative, chose her words very carefully when she appeared before the House of Commons Standing Committee on Finance. Ms. Laurendeau told the Committee that Canada Border Services Agency employees were exempted because their job classification would be revised during the control period and that Treasury Board had not forgotten any exemptions when the Bill was drafted. She never directly addressed the question about the EC conversion, the object of the amendment which she was there to explain. What does Ms. Laurendeau have to say about the EC job classification reform? Was this another error on your watch?

Ultimately, Mr. Toews, you are responsible for what Ms. Laurendeau says, as well as the unfair consequences of the Act relative to the EC group. In my view, the rationale provided in your letter for your position seems today an after-the-fact rationalization that borders on bad faith and dishonesty…"

The BC Health Services Decision and the Future of Labour Relations in the Federal Public Service - 2007

On June 8, 2007 the Supreme Court of Canada released its landmark decision in *BC Health Services*, where the Court recognized for the first time that the right to collective bargaining is constitutionally protected by the freedom of association guarantee in s. 2(d) of the Canadian Charter of Rights and Freedom. As the Court concluded, the right to collective bargaining cannot be reduced to a mere right to make representations. Bargaining agents must be able to bring to the bargaining table matters of importance in the work place. The necessary implication is that if prohibited matters cannot be adopted into a valid collective agreement, then the process of collective bargaining becomes meaningless with respect to them.

As a result of the Court's decision, CAPE has concluded and argued that restrictions imposed by the *Public Service Labour Relations Act* on bargaining violate the guarantee of freedom of association contained in the Charter. It argued that Treasury Board can no longer refuse to bargain matters of importance to public service employees simply because it deems that they are covered by the *Act's* prohibitions. Nor can the employer legislate unilaterally changes to the very nature of its relation to bargaining agents.

Historically, federal public sector employees have strongly opposed restrictions on their ability

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to bargain over pensions, classifications and staffing, and on their inclusion in negotiated collective agreements. In fact, they were often forced to fight in order to contain the employer's arbitrary broadening of the definition of the restricted areas at the bargaining table.

During the most recent round of bargaining, despite the Supreme Court of Canada ruling, the government still refused to bargain in respect of critical issues, such as pensions and job classification systems, and instead purported to rely on the existing legislative restrictions. As a result, the Professional Institute of the Public Service (PIPSC) and CAPE decided that a legal challenge was necessary to vindicate the constitutional rights of their members.

In May of 2008, PIPSC and CAPE jointly launched a constitutional challenge seeking to invalidate provisions contained in the *Public Service Labour Relations Act* prohibiting federal employees from negotiating protections and improvements in a variety of areas, including pensions, employee classifications and staffing.

The EC group has been singled out as the only group going through a conversion without a right to bargain the restructuring of rates of pay.

In their respective affidavits, the unions argue that the legislative restrictions at issue fundamentally interfere with their ability to engage in protected associational activity and that Government has substantially interfered with the ability of PIPSC and CAPE members to engage in collective bargaining by enacting these limitations. At issue most specifically are Sections 7, 113, 150 and 161 of the *PSLRA*.

Section 7 of the *PSLRA* deals with classification. It reads: *Nothing in this Act is to be construed as affecting the right or authority of the Treasury Board or a separate agency to determine the organization of those portions of the federal public administration for which it represents Her Majesty in right of Canada as employer or to assign duties to and to classify positions and persons employed in those portions of the federal public administration.* Section 7 of the *PSLRA* directly infringes on collective bargaining by removing from the bargaining table any issues concerning the organization of the federal public service, the assignment of duties and the establishment of classifications, and instead leaving this to unilateral employer determination.

Section 113 prohibits, among other things, bargaining terms and conditions that have been or may be established under the *Public Service Employment Act* and the *Public Service Superannuation Act.* So staffing and related matters are out; and so is everything that could be related directly or indirectly to pensions. Imagine for a moment a different regime, one that respected Charter rights, a more rational regime. Imagine CAPE arguing at the bargaining table that EC and TR members tend to join the public service at a later age in life for various reasons that serve the interest of the employer. Imagine CAPE proposing that the manner in which pensionable service is calculated be modified in order to allow its members to benefit from the pension plan as much as a person joining the public service at age 18. Whether such a proposal were to make its way into CAPE negotiated collective agreements is one thing; an other is simply the possibility to bring the matter to the bargaining table and to have a rational discussion that potentially could lead to an improvement in the terms of the pension plan for CAPE members, enshrined in their collective agreements. But for now, this is impossible.

Sections 150 and 161 preclude bringing to conciliation and arbitration the matters of pension, classification and staffing.

Taken together these provisions of the *PSLRA* represent sev-

eral restrictions on the Charter rights of CAPE's members and on the Charter rights of every single federal public service employee. The relation of unions to employer outlined in the *PSLRA* and in its predecessor the *PSSRA* is skewed in favour of the employer. Major areas of work place issues are determined unilaterally by the employer because they are prohibited at the bargaining table. So the *Act* must change: hence the Charter challenge.

Conclusion: Beyond Special Legislation and Court Actions

The Charter challenge launched by CAPE and PIPSC go to the actual conditions that define the relation of employer to bargaining agents in the Federal Public Service. It challenges the structure of the relationship which has existed essentially in its current form from the beginning in 1967. Moreover, recent changes brought about with the *Public Service Modernization Act* were not meant to establish a balance and did not achieve a balance. It exacerbated, if anything, the skewed relationship in favour of the employer, and reinforced the power structure that gives to the employer unfettered control over so many important aspects of the work place. But in addition to the fundamental problem of a relationship that is skewed, every now and then the employer has gone to Parliament and asked that Parliament take extraordinary action in order to address matters regarding the employer's relation to public service employees and their representatives.

Taking a look back in recent time, we see that the *Budget Implementation Act* is only one of several initiatives of the employer to unilaterally impose conditions on public service employees over the past 16 years. Since 1993, the employer has gone to Parliament and has successfully convinced Parliament to legislate in succession the exclusion of public service employees from the right to negotiate, a wage freeze, the suspension of collective bargaining, the suspension of arbitration, the return to work of striking public service employees, the appropriation of the $30 billion surplus generated by the pension regimes of RCMP, Armed Forces and public service employees, the elimination of various protections in the *PSSRA*, a weakening of the redress process on staffing actions, unilaterally set wage adjustments, and the imposition of a pay equity system that fines unions for helping their members. And the list goes on. Treasury Board Secretariat, unable to establish and nurture healthy relations with public service bargaining agents, has used Parliament and legislation to impose its management regime.

The only way to improve relations at this time in our history is to assert rights recognized under the Charter, further to the BC Health Services decision. The "regime" needs to be challenged through strategically selected court actions that will establish in turn a new landscape, a new and balanced relationship. Once a balance is established, it will be possible for bargaining agents and the employer to sit down together and work as real partners, talk through problems, identify converging interests, respect differences and get to solutions that last through the inevitable crises of the public service work place.

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Minutes of all CAPE committee meetings can be found on the CAPE website at www.acep-cape.ca

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