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CAPE ANNUAL REPORT • 2003 - 2004

ACEP
Association canadienne
des employés professionnels



CAPE
Canadian Association of
Professional Employees

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President's Message



After 13 proud years as a union President – first as the President of ESSA, then SSEA, and now as the President of CAPE, I have reached the decision to retire. The 2004 elections promise a newly elected Executive, that will be tasked with taking up the challenge of carrying forward the successes of your Association.

With this in mind, I've taken this opportunity as the departing President to outline the issues that require the strategic focus of the Association and the newly elected Executive at the outset of their mandate. Hopefully, I can make some small contribution to ensuring that the Association continues to provide the membership with the highest level of service, and ensure that the new Executive responds effectively to the changes and challenges that face our organization.

Three Critical Issues...

These are the three primary areas that warrant attention. **Internal issues** relate to Association finances, communications, and functions and services. **External issues** that warrant CAPE's focused attention are Human Resources Modernization, Consultation and Co-development pressures, Government Restructuring, Public Service Health Care Plan Trust, and your Pension plan. Relations with other unions relate to our participation in the NJC.

Of highest priority are your Association's finances. The Association's dues are currently set at \$23 per member per month. At this level the Association will be incurring deficits of approximately \$1.0 million per year. While Association reserves amount to more than \$2.0 million, there is a need to increase dues within the next two years, or radically restructure services to its membership.

When the current operations of the Association are examined, and when the remaining challenges, both internal and external, are reviewed, it would appear that the appropriate action is an increase in dues. The newly elected National Executive Committee would be well advised to engage the Local Leadership and the membership at large in an immediate review of this issue. A series of dues in-

creases should take place and move the Association into a position of annual surpluses by the end of the Association's fiscal year 2006/2007.

It should be noted that a dues increase of approximately \$10 per month could result in small operational surpluses (\$100K - \$200K), sustain the current level of services, and perhaps finance improvements in communications. While this amount may be looked upon as large, given the historical context that this dues level of \$23 (for members of the EC community) was set back in 1990, its real value adjusted for inflation is currently only \$17.45.

Refining financial proposals on the exact amount, timing, and any associated savings or internal economies of operation should be a priority. Indeed, all other strategic issues can only be examined or acted upon if the newly elected Executive Committee acts swiftly in addressing the financial needs of the Association.

We need to continue to develop our website in support of our different communities and activities. Accelerated change within the government affecting human resources management, staffing and restructuring will increase membership demand for information.

Association functions and services must be examined. A policy study of emerging and shifting needs should be undertaken regarding the changing landscape of human resources legislation, demographic change within the membership, and possible government restructuring. This analysis would indicate the direction and extent of membership needs.

External issues will draw on the Association's resources. **The implementation of Human Resources Modernization** will see the most significant change in staffing and recourse that we have ever witnessed. We need to continue to engage the employer in all consultative forums so that the implementation of these changes is understood and communicated to our members, and the appropriate response strategies are developed.

The level of **consultation and co-development** initiatives at both the national and departmental level is ever increasing and represents a serious challenge to the Association's resources. A strategic assessment is required to prioritize and select which initiatives will be selected, and what resources will be allocated.

The Minister of Finance has acknowledged that **government restructuring** may result in layoffs, though not as severe as those of the 1990's. Consultation with senior government officials must be undertaken, and assessment of down-sizing initiatives must be communicated to the membership as quickly as possible.

Negotiations for a new **Public Service Health Care Plan Trust** plan are currently underway, and should these prove unsuccessful all outstanding issues will then turn to mediation/arbitration to arrive at a settlement. While I am currently designated as a Trustee, discussions with other unions and NJC officials must be undertaken to ensure that at the expiration of the current President's term as Trustee (March 2006), a CAPE official is then chosen as a replacement.

The Association must continue to support the pensions litigation action working its way through the legal system. Current expectations are for a trial to commence in early 2006. This area of activity may consume much of the Association's funds for professional resources.

Relations with other unions and the National Joint Council: The NJC Executive is currently composed of three representatives of management and three representatives of labour. The labour representatives are the Alliance, the Institute and the NJC Union President. The Association has made significant contributions to the activities of the National Joint Council. As the representative of more than 10,000 professional employees, the Association must work to have a position on the NJC Executive Committee.

To our members, my colleagues, and my peers, I share the following observations...

It's quite remarkable how our careers and lives fly by in an instant – or so it seems. Some 35 years ago, with pride and respect, I commenced a career serving Canadians. These last 13 years I've been honoured to serve as a Union President, representing the concerns of government employees. Over all these years I've been fortunate to have worked for exceptional managers possessing vision, solid public service values and ethics. My co-workers and staff possessed intelligence, diligence, and a variety of other admirable qualities (not least of all a sense of passion for their chosen work, and laughter). I've been amazed by the resilience you've all shown during difficult times, and the caring support you have given to your co-workers and communities. I am proud to have been your colleague, and I value the lessons you have taught me. There are simply too many of you to name.

While this December 31st will be my last official day of work, I hope that in the new year I will continue to serve you as a volunteer, a trustee of your Public Service Health Care Plan, and a Member of the Pension Advisory Committee. So, while 35 years of service to others is marked by my retirement, I'm happy to be continuing my service to others. It is the best way of saying thanks to all of you.

Sincerest regards,

Elections 2004

Elections to be held for the positions of President and EC/LoP Vice-President to be held in December – Many other positions filled by acclamation.

This year all positions on the National Executive Committee were to be elected to fulfill two-year terms, subject to Article 17.5 of the CAPE Constitution, which reads, in part “... for the election to be held in 2004, up to half of the Director positions within a bargaining unit may be for a period of one year”. The terms of office commence on January 1, 2005. Candidates were given the opportunity to submit biographical information, which has been posted on our Website at www.acep-cape.ca.

Several positions were filled by acclamation:

The **TR Vice-President** is:

Richard Oslund

The **EC Directors** are:

Tom Furmanczyk

Howard Hao

Maurice Korol

Bob McVicar

Janet Mrenica

Anna Sipos

Stan Spak

Clayton Therrien

One of two **TR Directors'** positions was filled by acclamation by André Picotte.

The position of **LoP Director** has been filled by acclamation by Philip Rosen.

An election will be held to fill the position of **CAPE President**.

The candidates are:

José Aggrey

Roland Cornellier

Carl Lakaski

J. Kevin Workman

An election will also be held to fill the position of **EC/LoP Vice-President**.

The candidates are:

Derek Brackley

Michael Monaghan

There were no resolutions submitted.

Voting packages will be mailed out in November, 2004. Ballots must be received by the National Office no later than December 13, 2004, at 1:00 p.m. (Eastern Standard Time).

Do you have questions for the Elections Committee? Send them to the Committee directly, at Elections-Committee@acep-cape.ca.

Collective Bargaining: Past, Present and Future



Past

TR collective bargaining began in early 2003. The TR bargaining team was led by Luc Pomerleau, TR V-P of CAPE and former President of CUPTE. The employer's team, with the exception of the negotiator, had little experience in collective bargaining. After an initial period that was less productive than was expected, negotiations moved more swiftly in the Fall of 2003. By early December, most issues had been addressed, with the exception of pay.

The TR negotiating team was able to secure pay adjustments of 2.5% and 2.5% for a two-year collective agreement, expiring in April 2005. This proved to be more than what Treasury Board would offer thereafter at other negotiating tables, as a result of the Paul Martin/Reg Alcock team taking charge in the second week of December, 2003. CAPE had raised the issue of addressing a long standing pay equity complaint with the employer in separate talks. Again in December, Luc Pomerleau was able to settle the pay equity dispute with the result of several thousands of dollars of back pay for many TR members, and a readjustment of pay scales of a few thousand dollars.

A complication arose when the employer decided who would actually pay the pay equity dollars. Treasury Board was prepared to pay all back pay as well as monies owed up to April 2004. However, it imposed upon the Bureau of

Translation the ongoing costs of pay equity starting on April 1, 2004. As a result, the Bureau was saddled with a sudden and substantial increase in its payroll costs which threatened its financial sustainability as a Separate Operating Agency.

Immediately following the settlement at the table of the TR collective agreement and the settlement of the pay equity complaint, negotiation of the Financial Incentive Plan (FIP) began. The TR negotiating team, led again by Luc Pomerleau, was faced with a take-it-or-leave-it proposal from management that was worth only a fraction of the agreement of the previous year. The CAPE negotiating team decided to seek guidance from the membership as it was caught in a dilemma: a majority of members had expressed an interest in renewing the FIP in a survey several months earlier; however, the FIP proposed by management was nothing near the FIP on which the TR membership had expressed an opinion.

While CAPE proceeded with its consultation, management searched for ways and money to make the proposed new FIP more attractive, or less unattractive, depending on the perspective. The two negotiating teams met for intense negotiations. A new deal was hammered out, worth significantly more than the earlier take-it-or-leave-it proposal, but still worth less than the deal of the previous year.

Present

By this time, March 2004, the National Office was also in the midst of negotiating the EC collective agreement. The process had begun in the late Winter of 2003 when a survey was sent to CAPE's EC members. Bill Krause, President of CAPE, headed the EC bargaining committee. For this round of bargaining, the committee was unusually large, two to three times the size of previous bargaining committees. The list of proposals prepared by the committee was long, over one hundred proposals, or about twice the usual number prepared by our EC committees in the past. A bargaining team was struck. The team began meeting with the employer's team in September 2003. However, for the first time since the resumption of collective bargaining in the public service in 1997, our negotiating team had the feeling that the employer's negotiating team did not have a mandate, or a game plan, or a desire to simply make real progress.

After twelve full days of negotiations over a period of approximately seven months, the EC team came to the conclusion that the employer would never agree at the table to a fair settlement; the team decided to refer a selection of outstanding issues to arbitration. The parties were unable to come to agreement over the choice of an arbitrator. In the end, the Public Service Staff Relations Board chose the arbitrator: Professor Ken E. Norman from the University of Saskatchewan. Hélène Paris, CAPE's Research Officer, who played a crucial role both in the preparation of proposals and at the bargaining table, and legal counsel for CAPE worked over the summer preparing the brief for the arbitration hearings scheduled for September 27, 28 and 29. The brief was reviewed by the bargaining committee on September 14. At the time of writing, we were awaiting the arbitral decision – usually a decision takes four to six weeks to write and make public.

Future

As the FIP is renegotiated every year and as the TR collective agreement with Treasury Board was for a duration of two years, a new round of negotiations was initiated in late September 2004 with a call for TR volunteers. A new FIP must be negotiated before April 1, 2005, while the TR collective agreement expires a couple of weeks later, requiring a notice to bargain within the three-month period preceding the expiry date. In addition, the collective agreement of our members at the Library of Parliament expires in June 2005. Notice to bargain must be given within the two-month period prior to the expiration date. Preparation should begin in December 2004. Then, in the Fall of 2005, CAPE will begin preparations for the next round of bargaining for our EC members.

Thus, in the Fall of 2005 CAPE will be in the thick of negotiations with the Library of Parliament and with Treasury Board for its TR members. It will also be preparing for EC collective bargaining and the negotiation of a new FIP.

It is anticipated that the current President of CAPE will delegate the role of negotiator for TR collective bargaining, FIP bargaining and Library of Parliament collective bargaining to the Director of Professional Services, Claude Danik. The Director was involved in the negotiations of the TR collective agreement and the FIP. He had also been the negotiator for Library of Parliament members in 2002-2003, and assumed the responsibilities of negotiator at the EC table in April 2004. It will be up to the new President to decide, according to the choices afforded by the Constitution, who will negotiate the EC collective agreement which will expire in 2006.

Whistleblowing Legislation

CAPE was approached in August of 2004 by two members of Parliament who expressed an interest in the Association's position on whistleblowing. For the purpose of clearly communicating CAPE's position, a position paper was prepared by the National Office and presented to the National Executive Committee. The paper, entitled CAPE Position Paper on Disclosure Protection Legislation, was approved by the National Executive on September 9, 2004. CAPE President, Bill Krause and Vice-President, José Aggrey, as well as the Association's Director of Professional Services, Claude Danik, were mandated by the Executive to meet with the Honourable Mauril Bélanger and the Honourable David Kilgour for the purpose of presenting the position paper. The full position paper can be found on the CAPE website at www.acep-cape.ca.

Bill C-25, The Public Servants Disclosure Protection Act was introduced in the House of Commons on March 22, 2004 but died on the Order Paper when the June election was called. The legislation was inadequate in many ways and did not successfully address concerns raised by most commentators. It is anticipated that the legislation will be re-introduced in the Fall of 2004.

In a way, the legislation itself is a test of integrity for all parties involved – politicians, government officials and union officials. In its current form, the legislation proposed in the previous Parliament is not only weak; it is dangerous. It creates a false impression of safety

which has already fed cynicism across the public service. It must either be changed or killed.

The body responsible for investigating allegations of wrongdoing, and for investigating allegations of reprisal must be independent of persons or organizations that would have an interest, one way or another, in the outcome of investigations. It must be empowered, firstly, with the authority to investigate allegations fully with complete access to information under the usual safeguards of confidentiality within the public service; secondly, with the authority to pursue an investigation beyond the public service where

evidence may warrant; thirdly, with the authority to compel with enforceable recommendations the appropriate parties of the public service to take action. The body must also be accessible to public service employees who must be able to communicate directly, freely and openly their concerns, questions and allegations.

CAPE supports the 34 recommendations of the Working Group on the Disclosure of Wrongdoing reporting to the Privy Council on January 29, 2004, including: a new “Office” should be created that would incorporate the functions of the existing Public Service Integrity Office and would act as an independent investigative body for matters relating to the disclosure of wrongdoing. The new “Office” should be created as an agent of Parliament, accountable to Parliament either directly or through a Minister.

CAPE supports the positions taken by the Public Service Integrity Office (PSIO) on the required legislation for true disclosure of wrongdoing in the public service, including: that the legislation ensure effective protection of identities and other types of confidential information; that information gathered or generated by the Commissioner should be made inaccessible in order to protect the integrity of the investigation process.

Whistleblowing legislation must be approached in a manner that clearly serves the greater public interest. It must also include safeguards for the people who take personal risk in revealing wrongdoing by persons in authority or even by colleagues. Finally, it must encourage only legitimate revelations made in good faith, and be careful not to paralyze the decision-making process of the public service.

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Employment Equity



Over the course of the past year, much of the Association's work on matters of employment equity has been carried out in the public service work place. Consultations have progressed within departments, where local representatives have made representations on behalf of equity communities. Individual representation in instances where members have filed complaints or have approached management to address issues of accommodation have been carried forward mostly with success by the Association's Labour Relations Officers.

At the level of public service wide consultations with the employer, however, the Association feels that it has been less successful in making progress. *Ad hoc* bilateral meetings with Treasury Board representatives have not proven to be an effective medium to seek progress on equity issues.

As a result, it was decided to join the Public Service Alliance of Canada and the Professional Institute of the Public Service of Canada as a bargaining agent representative on the Joint Employment Equity Committee of the National Joint Council. The Joint Employment Equity Committee (JEEC) provides a national forum where the Treasury Board Secretariat, the Public Service Commission, departments

and the bargaining agents can consult and collaborate on the preparation, implementation and revision of the public service wide employment equity policies.

CAPE's plan for the coming year is threefold. Firstly, it will develop and deliver a new training module to members interested in becoming employment equity representatives. Secondly, it will endeavour to improve internal communication of developments on employment equity issues by setting up a more formal exchange of information between local representatives through the Association's Employment Equity Committee. Thirdly, the Association will actively promote the equity interests of its members at the JEEC.

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The Public Service Modernization Act

The Social Science Employee's Association (SSEA) appeared before the House of Commons Committee on Bill C 25 in March 2003 prior to the formation of the Canadian Association of Professional Employees (CAPE). It was subsequently called to appear before the Standing Committee on National Finance on Bill C 25, to share the presentation and concerns which it had expressed before the House of Commons Committee. In the interim, however, CAPE had been formed. On September 2, 2003 Association President Bill Krause appeared before the Standing Committee on National Finance and presented the Association's view of Bill C 25. Claude Danik, Director of Professional Services, and Peter Engelmann, legal counsel from Engelmann Gottheil, assisted.

After an exhaustive review of the proposed legislation, CAPE concluded that reforms of labour management relations included in the bill were positive in many areas but needed improvements. CAPE was unable to give much value to the bill's reform of the staffing process which appears to invest in managers an authority to make appointments without the "hassle" of fairness and consideration of public service employee career aspirations.

Unfortunately, the House of Commons Committee that received the Association's brief, (chaired by Reg Alcock, currently the President of Treasury Board), was not inclined to make changes. On the other hand, the Senate Committee did give consideration to our concerns regarding the proposed new staffing regime. But in the end the Liberal majority on the committee voted down changes proposed by Progressive Conservative members.

The Public Service Modernization Act received Royal Assent on November 7, 2003. The implementation phase of the PSMA will take approximately two years. Implementation of changes to the labour relations regime, found in the new Public Service Labour Relations Act, should occur in early 2005. Once the legislation received royal assent, a consultative committee was struck to allow bargaining agents to make observations on the matter of the Regulations that would be added to the Public Service Labour Relations Act – that part of the Public Service Modernization Act that is devoted to labour relations. Regulations serve to make principles established in legislation workable, often they are as important as the legislation itself. CAPE, PSAC and PIPSC were involved in the deliberations of the committee. There were no major breakthroughs, though none were realistically expected considering the changes that were discussed.

It is expected that the new Public Service Employment Act will come into force in the Fall of 2005. Before it comes into force, there is considerable work to be done in terms of developing new staffing policies to reflect the intent of the legislation. Several working groups and committees were put together to review various aspects of the new staffing regime with the intent, for example, of preparing new staffing policies. CAPE is involved in these committees in spite of the major weaknesses imposed on staffing by the new legislation. The Association has not abandoned hope that the various elements of the new staffing regime that are unfair can be ameliorated through “refinement” and qualification of the staffing processes.

The results so far are less than spectacular. The role of bargaining agent representatives on these committees, including CAPE representatives, remains a role of consultant. We have been bringing to the table, on a weekly or monthly basis, our observations and recommendations. We have been greeted with nods and smiles. However, as the employer has no intention to commit to real co-development, the new staffing regime will be whatever the employer decides to impose.

The following illustrates the work done in these committees.

Appointment Framework Committee

The Public Service Commission is currently developing a new staffing framework designed to guide departments as they develop their own staffing policies and to provide direction to Human Resources professionals and managers as they put the new PSEA into action in their daily management of human resources.

Back in May 2004, the Public Service Commission Advisory Counsel (PSCAC) established a working committee called the *PSCAC Appointment Framework Committee* to consult with stakeholders in developing the new staffing

framework. The committee is composed of representatives from the Public Service Commission, the Public Service Human Resources Modernization Agency, the Human Resources specialists in several departments and bargaining agents. The Association, along with PSAC and PIPSC, is participating on the working committee.

The new staffing regime will consist of ten (10) policies that have been reviewed by members of the PSCAC Appointment Framework Committee. These policies are based on the premise that merit and non-partisanship must be applied in accordance with the core values of fairness, transparency, and access. The framework will guide managerial decision-making in the appointment process as staffing authorities will be delegated to the lowest level possible.

Staffing Models/Tools Working Group

In light of the new Public Service Employment Act which provides latitude for departments and agencies to tailor their staffing programs to their organizational needs and their business realities, the Human Resources Modernization Agency has created a working group on Staffing Models/Tools.

The Working Group on Staffing Models/Tools is mandated by the DM Sub-Committee on Staffing and Staffing Recourse to identify and/or develop generic staffing models and various tools to assist organizations in implementing the new provisions of the PSEA. The intent is both to explore the flexibility of the new system and to provide departments and agencies with some best practices that can be considered in implementing staffing within their organizations.

This Working Group is not a joint committee and was designed specifically for the purpose of developing staffing tools for managers and human resources representatives. In other words, the Working Group is an Employer committee. Bargaining agents representatives were invited

to attend some meetings. Therefore, participants are generally management and human resources representatives and members of the DM Sub-Committee on Staffing & Staffing Recourse. Meetings are held once every two weeks in which staffing tools are reviewed by participants.

As central agencies, PSC & PSHRMA will be providing direction on certain aspects of staffing in the public service through broad policy frameworks and individual policies. The Working Group plays a complementary role as the intent is to provide models, options and tools for staffing officers.

Pre-Qualified Pools Working Group

The PSCAC Working Group on Pre-qualified Pools (PQP) was established in 2001, prior to the new legislation. Its mandate was to examine the implications of using the pre-qualified pools as staffing models. The mandate was later expanded, with the group monitoring departmental pilots of pre-qualified pools. Since its establishment, the Working Group has had a unique opportunity to pull together and consider a variety of approaches to PQP's. Its primary focus is to review the PQP proposals from departments.

The PQP process is a staffing process where individuals are identified as meeting or not meeting the pre-established standard of competence for a series of similar positions. These individuals are considered fully qualified and eligible for appointment from the pool. There is no ranking or relative merit, instead individual merit is used.

Since August 2002, the Public Service Commission has authorized the establishment of PQPs on a pilot basis to five departments. In addition, there are two departments that are examining the possibility of obtaining this authority. All PQP proposals from each departments were presented and largely debated before the PSCAC - PQP committee members. Through the consultation process, the Association raised numerous concerns, particularly in the areas of recourse and selection of candidates from the pool. As of August 2004, only one pilot project was completed, the remaining six are still outstanding.

It is anticipated that the Public Service Commission will grant a general delegation of the authority to conduct PQPs to departments shortly. The spread of PQPs, based on individual merit, is a major step in the implementation of the staffing regime defined in the new Public Service Employment Act.

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Classification Reform

Most of you will recall the employer's decision in the Spring of 2002 that the objective of a "universal" classification system was not attainable and the announcement by the President of the Treasury Board that the Universal Classification Standard (UCS) project would be morphed into what would be called henceforth the Classification Reform initiative.

We soon discovered that classification reform would not be universal. It would be tailored to specific occupational groups. Three groups were singled out as being among the "early candidates". The EC (ES/SI) group represented by SSEA was one of these three groups. "This is the right decision for employees, taxpayers and the government," said the Employer. "It will allow us to engage departments and unions in practical solutions that support managers and employees, as well as our broader initiatives to modernize human resources management."

CAPE expected Treasury Board to base the new standards for the various occupational groups on the universal standard. We encouraged the employer to proceed with the EC Group because we also expected, two and one-half years ago, that the standard could be conversion-ready in the latter part of 2003. We thought that was achievable, but obviously the employer could not move that fast, and it did not happen.

Then, late in 2003 we came to learn, through a third party, that the employer was aiming to produce a first draft of a new classification

standard for the EC Group by March 31, 2004. The first draft is a major milestone in the process and we were surprised we were not told of this until we chased the employer down. As a result, our confidence in the employer's oft stated desire to intimately involve CAPE in the creation of a new standard had been severely undercut.

It was further lowered when we recently learned that the employer has put together a "preliminary draft standard". Regrettably, we have had almost no input regarding the content. Throughout the whole classification reform process, we have been constantly pressing the employer to co-develop a standard for the EC Group. We know that co-development (the process allows third party mediation of any disputes that arise during development and both parties have responsibility for the end product) of a standard would not guarantee a perfect product. The employer would continue to have the final word on the matter, which means that CAPE may have continued to have reservations about the standard's final configuration. Nonetheless, given the UCS experience, we were, and

We were advised that any input we do give will be considered before the standard is completed but, given the position the employer has taken to date, we have no great expectations our representations will be well received.

still are, convinced that co-development is the only way to ensure any new standard will be as close as possible to what our members need. Still, the employer has continued to adamantly refuse real co-development.

Not long ago they provided us with a document purporting to be a discussion paper which outlines their view of co-development. Frankly, it was so far from our position on co-development that unless it is entirely re-written during upcoming consultations we won't dignify it by including the word co-development anywhere in our descriptions of the document. As we said in our response to the PSHRMA (Treasury Board's successor for Classification Reform), "...it is a model, now rather dated, for consultation."

At the time of writing this update, the "preliminary draft" was not available and so we cannot give you any indication of its content nor our position. What we can tell you is it appears that our quest for co-development has been futile: during a meeting in early September, the employer advised us that they will push ahead regardless of the position we take following our initial review of the standard. We were advised that any input we do give will be considered before the standard is completed but, given the position the employer has taken to date, we have no great expectations our representations will be well received.

CAPE is striving to achieve a standard which will be completely capable of easily rating the work our members perform. It will be able to rate all elements of their work using the tools and parameters that are applicable. It will be capable of distinguishing between the levels of skill, effort, responsibility and conditions under which the work is performed, without the need for subjective interpretation of the work that has been so much a part of the process in the past.

We believe that all of our goals for the reform process are worth stating clearly so there can be no doubt as to our position:

- ▶ to ensure that the existing relativities between bargaining units in the public service are maintained;
- ▶ to ensure the work of our members is properly valued;
- ▶ to ensure a standard capable of properly valuing the future work of our members;
- ▶ to allow and support appropriate and fair levels of compensation.

Additional information on the progress of Classification Reform can be found on our Website at www.acep-cape.ca.

Production Objectives - 2.67

On the 13th of April, shortly after a new production goal of 2.67 was announced by management of the Bureau of Translation, representatives of the Translation Bureau Local met with management representatives of the Translation Bureau. At this meeting, Management tried to explain why the goal had been increased substantially, and confirmed that an individual production evaluation plan would be established, the production objectives being individual.

At the time of the meeting, CAPE's National Office undertook an examination of the jurisprudence in order to ascertain how it could best intervene on behalf of members who rightfully were incensed by the magnitude of the increase to the production goal. It concluded that the employer may exercise its right to establish production objectives in the manner that it chooses, which confirmed the results of a similar analysis undertaken by CUPTE some years ago. However, it was brought to the employer's attention by CAPE that the right to impose production objectives carries with it the requirement to explain and justify. As well, it was explained that CAPE's position was that the established objectives must be attainable, and might be the subject of a challenge – notably in relation to the particular billing and production conditions that exist in certain areas.

Accordingly, members were advised that recourse must be undertaken individually. Pro-

duction objectives must be individual and attainable, and as such must take into account individual circumstances, for example, the context of certain services or the state of health of the member (the employer's duty to accommodate, union activities, etc.). Members were invited to communicate with the Association for advice and assistance. General advice regarding how to proceed in order to challenge the 2.67 was posted on the CAPE Website.

In May, CAPE also created a confidential address on its web site to gather arguments and information regarding individual production objectives and to measure the magnitude of members' dissatisfaction. The Association received more than 200 e-mail messages, telephone calls and letters taking issue with various aspects of the production objectives. Some were addressed immediately with advice and information. Other issues were addressed by filing grievances. However, the grievances

were put on hold when talks with management were initiated in early June.

On June 14th and again on July 5th, representatives from the Translation Bureau Local met with management to discuss the issue of performance objectives. Various options were put on the table. Discussions led first to optimism, then to pessimism, and finally to cynicism as it became clear that management was simply going through the motions of consultation. Management, which retains complete decision-making authority in this matter, changed nothing. The objective remained unchanged. The Bureau also insists on maintaining objectives expressed in days.

Members were reminded to contest the objective if they felt that they were unreasonable in their specific circumstances, or if their acquired rights defined in the collective agreement were not respected.

When talks fell apart, grievances held in abeyance were re-activated. Later in the Summer, CAPE began preparation of a complaint to the Canadian Human Rights Commission as well as various other actions. At the time of writing, these actions were still in the preparatory stage.

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Consultations



The Association's principal role as a bargaining agent is to negotiate collective agreements for each of its three bargaining units (EC, TR and AN/RA), and to ensure that employers of its members interpret and apply the respective agreements properly. At the bargaining table and through the authority of its collective agreements, CAPE meets with the employer to negotiate or to litigate at least in principle on an equal footing.

However, CAPE and the employer meet in various other fora, where the Association and other bargaining agents play only a consulting role. In the arena of consultation committees and working groups, equality is replaced with an asymmetrical relationship, where bargaining agents are used as consultants for decisions that are taken by management within the rationale of management interests. For bargaining agents, the justification of bargaining agent participation in such fora is twofold: firstly, consultation committees and working groups are a good source of information that allows bargaining agents to serve their members more efficiently; secondly, there is a belief that the little influence that can be exercised on consultation committees can be used to move management away from the most ill-advised courses of action that it may be considering. In terms of costs and benefits, it is not clear that the benefits justify the resource commitments required of bargaining agents to keep the myriad of consultation committees and working groups going. However, with the new Public

Service Labour Relations Act about to come into effect, we may no longer have a choice.

Over the past year, CAPE has been a participant at many dozens of departmental consultation committee meetings. We were present at Transport Canada, the Department of Foreign Affairs, C.I.D.A., Human Resources and Skills Development Canada, the Public Service Human Resources Management Agency of Canada, the Translation Bureau, Public Works and Government Services, Health Canada and Statistics Canada just to name a few. Each department and separate operating agency has an organization-wide consultation committee that meets two, three or four times a year to discuss various workplace issues. In addition, there are Safety and Occupational Health Committees, Employment Equity Committees, and many more committees focused on a specific aspect of the work place. CAPE works on these committees with other bargaining agent representatives and with the management representatives who will ultimately be making the decisions.

Issues vary but tend to follow general developments in the public service environment. For example, organizational restructuring, development and training programs, classification reviews, staffing policies and terms of reference for consultation have been important issues in several departments over the past year.

In addition to its involvement in multilateral consultations with departments, CAPE has also met with department officials in bilateral discussions on issues specific to its members or on issues that are of particular importance to its members. For example, the Association met on several occasions with employer representatives of the Bureau of Translation on the issue of performance objectives. There were also many meetings with management at Health Canada regarding the new Public Health Agency of Canada.

The Association was also involved in public service-wide consultations principally with Treasury Board, the Public Service Commission and the new Public Service Human Resources Management Agency of Canada. Though on some matters, such as the development of a new EC classification standard, CAPE has been involved in bilateral talks, CAPE met with these central agencies mostly through the multilateral discussions that occur at the National Joint Council, the Public

Service Commission Advisory Council, and within the various working groups and committees that are discussing the implementation of the Public Service Modernization Act.

The Association is involved in several committees that operate under the aegis of the National Joint Council (NJC), including the Work Force Adjustment Committee, the Dental Care Plan Board of Management, the Joint Compensation Advisory Committee and the Official Languages Committee. NJC committees are the only committees in the federal public service that can claim that the product of their work is co-developed by management and bargaining agent representatives. The committees function in a manner that resembles interest based bargaining, with parties bringing to the table issues to be examined in detail by the committee. Impasses can potentially go to a third party if both the employer and bargaining representatives on the NJC Executive Committee agree. The employer's ability to veto referral to a third party weakens the process from a bargaining agent perspective. However, the process re-establishes some degree of equality from which flows a more effective exchange of ideas.

CAPE was also involved in the work of the Public Service Commission Advisory Committee's Steering Committee, the PSCAC com-

In addition to its involvement in multilateral consultations with departments, CAPE has also met with department officials in bilateral discussions on issues specific to its members or on issues that are of particular importance to its members.

mittee reviewing mobility in the public service, and the committee reviewing various pre-qualified pool pilot projects.

The Association is also a member of the Public Service Modernization Act Union-Management Advisory Committee (UMAC), which has been created as a forum of discussion of the implementation of the new legislation. The UMAC is composed of seven bargaining agent representatives and seven management representatives at the Deputy Minister or Assistant Deputy Minister level. CAPE is also involved in the work of several of the sub-committees and working groups that report to the Deputy Minister Human Resources Management Advisory Committee (DMHRMAC). The DMHRMAC provides advice to Treasury Board, the Public Service Human Resources Management Agency of Canada, the Public Service Commission and the Canada School of Public Service on the matter of implementing the new legislation.

In short, a large part of the Association's advocacy of membership interests plays itself out

in consultation fora. A considerable amount of time is devoted to preparing for meetings, attending meetings and reporting on meetings. More resources than ever are needed to co-ordinate actions and ensure consistency in our representations on all committees.

The growth of consultation has been exponential over the past three to four years, and cannot be expected to subside for quite some time to come. SSEA, CUPTE and now CAPE have felt the growing pains, more so than organisations that have more resources and more flexibility in the allocation of resources. There is no denying that a new era of labour relations is upon bargaining agents in the public service. What this means for CAPE is that the organisation needs to find the appropriate resources to meet the needs of its membership. However, the Association must be careful that it not simply *react* to the new environment. The Association must work to *transform* the new environment into a meeting of equal partners. The Association must continue to advocate real co-development as the appropriate process for consultation.

The growth of consultation has been exponential over the past three to four years, and cannot be expected to subside for quite some time to come. SSEA, CUPTE and now CAPE have felt the growing pains, more so than organisations that have more resources and more flexibility in the allocation of resources.

CAPE Labour Relations Officers – Their Accomplishments

While not all representations made by the Professional Services Division's Labour Relations Officers on behalf of our members end in success stories, there have been a few accomplishments over the course of the past year that are worth sharing...

- ▶ A member complained that he was subjected to **personal harassment** by a senior officer of the department. The member attempted to resolve the problem via the internal complaint mechanism, without success. A grievance was filed. After several meetings at the executive level of the department, the parties came to a resolution of the complaint and the department prepared a letter of apology to the member. Part of the problem in the workplace was the lack of recognition of the **classification** issue. As part of the settlement, the employer conducted an audit of the position, which resulted in the reclassification of the position to a higher level. The member will most likely enjoy the salary increase and a retroactive payment of more than \$10,000.00.
- ▶ A member is off work and receiving **long term disability benefits**. Due to the nature of the illness, it was difficult for this person to manage their personal affairs. This resulted in the denial of a claim for prescription drugs in the amount of \$1,400.00, due to the failure to maintain health care benefits coverage since the beginning of the leave. After CAPE's intervention, additional medical information was presented to the department representative, the claim was reviewed and allowed and benefits were reinstated.
- ▶ The **administration of union dues** when our members change groups appears to be a problem for many. In this particular case, the member was promoted to our group from a group previously represented by PSAC. The employer took well over a year to deduct the proper amount of dues. Because of the delay, our member was owed \$370.00. After many unsuccessful attempts to recover this amount, a grievance was filed. We made representation at all three levels of the grievance procedure to resolve this problem, and the grievance was denied at each level. This case was finally resolved after the intervention of a representative from Treasury Board, prior to the adjudication hearing. The department was ordered to reimburse the \$370.00 to the member.
- ▶ The Association successfully represented a member who obtained a mediated settlement worth \$25,000.00, resolving matters stemming from a grievance against the employer on the grounds that the **accommodations and disability needs** of our member were being violated in accordance with the collective agreement and the Canadian Human Rights Act. The monetary settlement that the department agreed to included wages, accommodation instruments, and professional development training.

► The Association successfully represented a member who filed a grievance regarding entitlements to **acting pay** and issues surrounding classification, despite numerous attempts by the member to resolve this matter over a four year period. The department conceded on the acting grievance, and as a result of negotiations between the Association and the department the department awarded our member acting pay at the higher level for a period of 15 months.

► The Association, on behalf of six appellants, was successful in convincing the Appeal Board at the Public Service Commission that the unequal treatment of candidates during the written assessment portion of the competitive process offended the **merit principle**. The Appeal Board also concluded that the different constitution of selection board members during the written and oral assessment violated the merit principle in accordance with the *Ali Hannat*, Federal Court decision (2004) CF 592. In that case, the Association, which referred Mr. Hannat's appeal to judicial review in 2003, was successful in persuading the Federal Court that the department erred in law regarding the manner in which the appeal process was conducted. In the present case, The PSC will be issuing corrective measures that will require the department to commence the entire selection process with new assessment tools. All unsuccessful and successful candidates will be required and entitled to a new competitive assessment which will lead to a new eligibility list.

► The employer held a competitive process in which one member was unsuccessful because they did not meet the performance objectives, and five others were unsuccessful because they did not have the relevant experience. The members filed an **appeal**. Three appeals were allowed. The appeal board ordered a new evaluation of the members relative to the **performance objectives or to their work experience**. The PSC initially wanted to nullify the entire competitive process, but the Association through its representation was successful in convincing them to proceed with a new evaluation of the three successful appellants.

► A member was **not considered for an acting assignment** because they were working on a special project. The member filed an appeal. During a mediated intervention, the Association's position was that the member's chances of advancement would be diminished given that the employer had the intention of staffing the position on a permanent basis. The employer agreed to appoint the member on an acting basis for a period equivalent to the period worked by the person already acting in the position. The member thus agreed to withdraw the appeal.

► Upon return from maternity leave, a TR member was advised that her **Financial Incentive Plan payment would be delayed** from 5 to 6 months for various reasons. Intervention and several follow-ups on the part of the Association shortened this delay to two months.

The Association successfully represented a member who obtained a mediated settlement worth \$25,000.00, thus resolving matters stemming from a grievance against the employer on the grounds that the accommodations and disability needs of our member were being violated in accordance with the collective agreement and the Canadian Human Rights Act.

Update on Federal Litigation Challenging Bill C-78

The case challenging the federal government's confiscation of the surplus in the federal public service, Canadian Forces and RCMP Superannuation plans continues to move forward. We are now nearing the end of the examination for discovery process, the process where there is an opportunity to review each other's documents and to ask questions of representatives put forward by the opposing party.

The federal government provided our legal counsel, Fiona Campbell of Engelmann Gottheil, with several thousand documents relevant to the pension issues from Treasury Board, the Department of Finance, DND, the RCMP and elsewhere. Counsel have reviewed these documents and found many that are helpful in understanding how the surplus grab came about.

For the oral discovery, the federal government's representatives were Sharon Hamilton, the retired Director of the Pension Policy Branch at the Treasury Board and Richard Neville and John Morgan, both with Comptroller General's Branch at Treasury Board. Mr. Neville and Mr. Morgan were there to talk about the government's accounting policies relevant to this case. The examination of these witnesses was completed in January 2004, although it may still be necessary to follow up on questions the representatives refused to answer or information their counsel has promised to provide, but has not yet provided. The examination for discovery of the government's witnesses was quite helpful and information was obtained regarding events leading up to the passage of Bill C-78 and the accounting policies that may be useful in the trial.

The next step is the examinations for discovery of the unions' and associations' representatives. Fortunately, counsel for the federal government is not insisting on examining representatives of all of the unions and associations involved, but is willing to examine one representative for each action. In CAPE's case, Association President Bill Krause, or Claude Danik, Director of Professional Services, will likely be the representative. It is expected that these discoveries will take place in November of 2004 and will be quite brief.

Once the discoveries have been completed, there are few procedural steps left to take. A mediation will have to take place and will likely be scheduled in early to mid 2005. This may be a good chance to see if any settlement is possible. Similarly, before we get to trial, the parties have to attend at a settlement conference before a judge. At this point trial dates will be set. It is expected that the trial will take place in late 2005 or early 2006.

In the interim, Engelmann Gottheil are preparing for trial, by among other things, working with experts who may be able to testify on the equality, accounting and actuarial issues. In addition, they are continuing to prepare legal arguments.

CAPE National Executive

To contact any member of CAPE's Committees or Local Leadership, call our National Office at 613-236-9181 or 1-800-265-9181.

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Donna Martin

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Sarina Daviduck
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Michael Dewing
Library of Parliament

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Deborah Fiander
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Luc Pomerleau
Public Works and Government
Services Canada

Philip Rosen
Library of Parliament

Nancy Schruder
Public Works and Government
Services Canada

Anna Sipos
Foreign Affairs Canada

Donna Martin
CAPE
Manager of Administration
Services

Training Opportunities at CAPE for Association Representatives

While the Stewards' Training and Occupational Health and Safety Training for the fall of 2004 will be complete at the time of printing, the Association has developed the following policy regarding the on-going training and development of its representatives. Should you be interested in attending a program, or should you simply like further information, please contact Liana Griffin, Professional Services Assistant, by e-mail at lgriffin@acep-cape.ca, or by phone at 613-236-9181 or 1-800-265-9181.

Stewards' Training: the Standard Course

The standard Stewards' course will be given over a period of two days.

Only members who have agreed to be stewards or who are giving serious consideration to becoming stewards may take the course.

Only stewards who have not taken the course in the past five (5) years are eligible to take the course.

Updates to the manual will be copied to all stewards who have been trained by CAPE. They will be sent to the stewards one month before the scheduled date of a training session.

Starting in 2003, there will be two sets of training sessions scheduled every year, normally one in May, the other in November; separate sessions will be provided in French and English.

Stewards' Training: Collective Agreement

A one-day course will be given every year, normally in May, for the purpose of familiarizing stewards with the collective agreement that applies to their members.

Only members who have agreed to be stewards or who are giving serious consideration to becoming stewards may take the course.

Only stewards who have not taken the course in the past five (5) years are eligible to take the course.

Updates to the manual will be copied to all stewards who have been trained by CAPE. They will be sent to the stewards one month before the scheduled date of a training session.

Occupational Health & Safety Training

A one-day course will be given every year, normally in November, for the purpose of familiarizing CAPE representatives on OSH Committees with their role as occupational and health representatives.

Only OSH representatives or members who are giving serious consideration to becoming an OSH representative may take the course.

Only OSH representatives who have not taken the course in the past five (5) years are eligible to take the course.

Updates to the manual will be copied to all OSH representatives who have been trained by CAPE. They will be sent to the representatives one month before the scheduled date of a training session.

Collective Bargaining Committee Training

Training for collective bargaining comes from experience, but requires some knowledge of the juridical and strategic issues that set the framework for negotiations.

At some time during the three month period which precedes notice to bargain for a group represented by CAPE, the Association will offer members of the bargaining committee a half-day course on the legal framework and the strategic issues of bargaining.

Local Leadership

National Capital Region Representatives

To contact any member of CAPE's Local Leadership, call our National Office at 613-236-9181 or 1-800-265-9181.

Agriculture and Agrifood Canada (Local #507)

President	Luc Tanguay
Vice-President	Chris Legget
Secretary/Treasurer	Roy Blais
Stewards	Maurice Korol Margaret Zafiriou Ruth Guitard
Health & Safety Representative	

Canadian Human Rights Commission

Steward	Donna Duvall
---------	--------------

Canadian International Development Agency (Local #517)

President	Ghislain Dussault
Vice-President	Rebecca Mellett
Secretary / Treasurer	Pierre Bernier
Steward / Contact	Josée Patry

Canadian Radio-Television & Telecommunications Commission

Stewards	Hermina Harris Christian Maranda
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Environment Canada (Local #505)

Directors	Tom Furmanczyk Marie Jetten
Stewards	Adam Auer William Smith
Health & Safety Representative	Tom Furmanczyk

Foreign Affairs & International Trade (Local #516)
(Foreign Affairs Canada
International Trade Canada)

President	Archie Campbell
Vice-President	Anna Sipos
Directors	Karen Diechun Charles Lasalle Taber MacLennan Susan Poole Nancy Stewart Bill Wilson
Stewards	Archie Campbell Taber MacLennan Carla Mosso Anna Sipos Nancy Stewart Bill Wilson

Committee Representatives

By-Laws

Susan Poole
Anna Sipos

Collective Bargaining
Employment Equity

Taber MacLennan
Sylvie-Aimée Anseme Baha
Archie Campbell
Christine Pendragon
Anna Sipos

Health & Safety Representatives

Gilles Couturier
Margaret Gilbert
Taber MacLennan
Nancy Stewart
Bill Wilson

Membership

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Charles Lasalle
Susan Poole

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Social Development Canada)President
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Christian Strano
Samson Tadesse

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Barry Maloney

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Steve Rozak
Nancy Stewart
Steve Rozak

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Baj Hafex
Marnie McCall
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Roseanne Kelly
Paula McLenaghan
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Phyllis Doherty
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Judith Eyamie

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Directors David Goetz
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National Parole Board

Steward Linda Goldberg

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Public Works and Government Services Canada

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Employment Equity Officer Clayton Therrien
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International Trade Raymond Dubuisson
Labour and Household Survey Analysis Doreen Duchesne
Manufacturing, Construction & Energy Don Grant
Prices Gordon Davies
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Standards Anne Catalano
Transportation Antoine Chrétien

Status of Women Canada (Local #510)

Directors Beck Dysart
Patricia Ellen McLachlan
Maria Shin

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President Luc Gervais
EC Representative Jacqueline Fauvelle
Regional TR Representative Claude Poirier
Francophone Translators Representatives Suzanne Dumas
André Picotte
English Translators Representative Stephen Mullen
Interpreters Representative Teresa Beauregard
Terminologists Representative Marie-Thérèse Mocanu
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Criminology Karine Circé
Stephen Mullen
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Courts <i>Multilingual</i>		Québec	
DG INT Europes-Asia Americas and Middle-East <i>IPTD</i>	Richard Oslund Zoubair Rubio Bruno Lobrichon	Toronto Vancouver Ville Saint-Laurent (Météo) Winnipeg	
Parliamentary Committees Debates Parliamentary Documents	Danielle Zanibellato Isabelle Rochon Lionel Perrin Isabelle Rivard	Transport Canada (Local #506)	
Parliamentary Interpretation	Carol Card Lucette Carpentier	Directors	Phil Carrière Jeff Harris Janet Lynn MacNeils Brian S. Oliver

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Jason Brisbois
Sandra Clark
Sarina Daviduck
Lorrie Henke

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Mardie Campbell
Philip Davies
Michael Haberl
Dale Komanchuk
Roberta Robertson
Dennis Siska
Rodney Smelser

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Brad Morrison
Stan Spak
Jodi Turner

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Secretary/Treasurer
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Paul C. Cahill
Gail Kenny
Bonnie Gauvin

Nova Scotia (Local #201)

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Ben Black
Colette Morash
Wendy Stonehouse
Christine Sutherland

Ontario

Burlington
Steward

Tom Muir

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Vice-President
Treasurer
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Marcelene Holyk
William Bailey
William Bailey
Cathy McCoy

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Director	Jenn Brand
Steward	Cherill Baynham

Sault Ste-Marie

Steward	Mercedes Aquilina
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Steward	Caroline Ranger

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President	Bruno Levesque
Stewards	Clermont Belzile Frederick Lessard

Saskatchewan Local #701 (Northern Region)

Directors	Michelle Baldwin Deqiang Gu Melanie Kelly Linda Lazarescu-King Joyce Olson Lori Warring Patricia Yeudall
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Saskatchewan (Southern Region)

Steward	Rob Raisbeck
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Yukon

<i>Whitehorse</i>	
Department of Justice	
Occupational Safety and Health	Darlene Mataseje

*Membership Distribution**

Department	EC	TR	AN/RA	Total
Statistics Canada	2,265			2,265
Public Works and Government Services Canada	258	1,115		1,373
Health Canada	1,029			1,029
Social Development Canada	473			473
Indian and Northern Affairs Canada	438			438
Agriculture and Agrifood Canada	380			380
Natural Resources Canada	342			342
Industry Canada	335			335
Justice Canada	334			334
Finance Canada	328			328
Human Resources Development Canada	318			318
Transport Canada	232			232
Library and Archives Canada	199			199
Environment Canada	188			188
Foreign Affairs and International Trade	177			177
Fisheries and Oceans Canada	176			176
Correctional Service Canada	168			168
Privy Council Office	123			123
Canadian Heritage	121			121
Canadian International Development Agency	98			98
Elections Canada	92			92
Library of Parliament			82	82
National Defence	68			68
Public Safety and Emergency Preparedness Canada	66			66
Citizenship and Immigration Canada	62			62
Public Service Human Resources Management Agency	53			53
Public Service Commission	51			51
Royal Canadian Mounted Police	42			42
Immigration and Refugee Board	38			38
Human Resources and Skills Development	36			36
Indian Residential Schools Resolution Canada	34			34
Courts Administration Service	33			33
Infrastructure Canada	22			22
Veterans Affairs Canada	22			22
Western Economic Diversification	22			22
Status of Women Canada	18			18
Atlantic Canada Opportunities Agency	17			17
Canadian Radio-television and Telecommunications Commission	15			15
Canada School of Public Service	13			13
Canadian Human Rights Commission	13			13
Transportation Safety Board of Canada	12			12
Treasury Board of Canada Secretariat	12			12
Canadian International Trade Tribunal	11			11
Federal Office of Regional Development (Quebec)	11			11

Membership Distribution cont'd....

Department	EC	TR	AN/RA	Total
Passport Office	11			11
Privacy Commissioner of Canada	10			10
Patented Medicine Prices Review Board	10			10
Canadian Environmental Assessment Agency	9			9
Canadian Dairy Commission	7			7
Canadian Space Agency	7			7
Canadian Grain Commission	5			5
Prairie Farm Rehabilitation Administration	5			5
Commissioner of Official Languages	4			4
Canadian Firearms Centre	3			3
Office of the Information Commissioner of Canada	3			3
Canadian Artists and Producers Professional Relations Tribunal	2			2
Commissioner for Federal Judicial Affairs	2			2
Law Commission of Canada	2			2
National Farm Products Council	2			2
National Parole Board	2			2
Canadian Center for Management Development	1			1
Canada Labour Relations Board	1			1
Copyright Board of Canada	1			1
Military Police Complaints Commission	1			1
NAFTA Secretariat	1			1
Commission for Public Complaints Against the RCMP	1			1
TOTAL:	8,835	1,115	82	10,032
Associate Members				39
TOTAL:				10,071

*Based on the most recent information provided by Treasury Board.

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