

**PARLIAMENTARY EMPLOYMENT
AND STAFF RELATIONS ACT**

FOURTEENTH ANNUAL REPORT

OF THE



**PUBLIC SERVICE STAFF
RELATIONS BOARD**

1999-2000

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AND
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IN MEMORIAM
Norm Bernstein
1936 - 2000

The importance of his contribution to our work at the Board as Director of Mediation Services over the last 11 years has been significant. He will be sorely missed both as a colleague and a friend.

The Honourable Stéphane Dion, P.C., M.P.
President of the Queen's Privy Council
for Canada and Minister of Intergovernmental
Affairs
House of Commons
OTTAWA

Dear Mr. Minister,

It is my pleasure to transmit to you, pursuant to section 84 of the Parliamentary Employment and Staff Relations Act, the Fourteenth Annual Report of the Public Service Staff Relations Board covering the period from 1 April 1999 to 31 March 2000 for submission to Parliament.

Yours sincerely,

Yvon Tarte
Chairperson

**PARLIAMENTARY EMPLOYMENT AND
STAFF RELATIONS ACT
Public Service Staff Relations Board
1999 – 2000**

Chairperson: Yvon Tarte *Vice-Chairperson:* P. Chodos

Deputy Chairpersons: M.-M. Galipeau, E. Henry, J.W. Potter

Full-Time Members: J.C. Cloutier, G. Giguère, R. Simpson,
J.-P. Tessier, J.B. Turner

Part-Time Members: A.E. Bertrand, F. Chad Smith,
S. Kelleher, Q.C., J. Korbin, D. MacLean,
K. Norman, C. Taylor, Q.C.

PRINCIPAL STAFF OFFICERS OF THE BOARD

<i>Secretary of the Board and General Counsel:</i>	J.E. McCormick
<i>Director, Mediation:</i>	N. Bernstein
<i>Assistant Secretary, Operations:</i>	G. Brisson
<i>Assistant Secretary, Corporate Services:</i>	J. Dionne

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
Organization and Functions of the Board.....	1
PROCEEDINGS BEFORE THE BOARD	2
Determination of Membership in Bargaining Unit	2
Application under Section 38.....	2
Complaint under Section 13	3
Adjudication Proceedings	3
Arbitration Proceedings.....	4
MEDIATION	6
TABLES	
1 Bargaining Units and Bargaining Agents under the Parliamentary Employment and Staff Relations Act	7
2 Adjudication References 1 April 1995 - 31 March 2000.....	9
3 Adjudication References Brought Forward and Received - 1 April 1995 - 31 March 2000	11

INTRODUCTION

ORGANIZATION AND FUNCTIONS OF THE BOARD

The Parliamentary Employment and Staff Relations Act (the Act) provides that Part I of the Act (Staff Relations) is to be administered by the Public Service Staff Relations Board, a quasi-judicial statutory tribunal established under the Public Service Staff Relations Act. The Board consists of a Chairperson, a Vice-Chairperson, not less than three Deputy Chairpersons and such other full-time members and part-time members as the Governor in Council considers necessary.

Proceedings before the Board under the Parliamentary Employment and Staff Relations Act may include applications for certification, complaints of unfair labour practices, designation of persons employed in a managerial or confidential capacity, and interest arbitration. The Board also deals with the adjudication of grievances concerning the interpretation or application of provisions of collective agreements, major disciplinary actions, and grievances relating to any form of termination of employment other than a rejection on probation on an initial appointment. Grievances relating to demotion, appointment and classification may also be referred to adjudication; however, these are not to be determined by a Board member, but rather by an outside adjudicator selected by the parties, who will bear equally the adjudicator's remuneration and expenses. The Board also acts through its mediation and conciliation services to assist the parties when they are unable to resolve their disputes. In this way settlements may be reached without resort to formal proceedings before the Board or the number of issues in dispute may be reduced.

PROCEEDINGS BEFORE THE BOARD

During the year under review, the Board dealt with 58 cases, including seven carried over from the previous year. The Board also received two requests for arbitration under section 50 of the Act.

DETERMINATION OF MEMBERSHIP IN BARGAINING UNIT

Under section 24 of the Act, the employer or an employee organization may ask the Board to determine whether an employee or class of employees is included in a bargaining unit.

One such application was filed by the Communications, Energy and Paperworkers Union (CEP), the bargaining agent for all employees in the Technical Group. The CEP asked the Board to determine whether employees previously classified in the Electronic Sub-group (ELT) and reclassified by the House of Commons in June 1999 to the Administrative Services Sub-group (ADS) formed part of the Technical Group represented by the CEP. The Board held several days of hearings in this matter and these are scheduled to continue during the next review period (Board file 447-HC-4).

APPLICATION UNDER SECTION 38

The CEP filed an application under section 38 alleging that the employer had failed to bargain with it in good faith. The employer had reviewed job descriptions of the employees in the ELT Sub-group and had eventually reclassified these employees in the ADS Sub-group without involving the union.

After the parties had requested the assistance of a mediator in this matter, a settlement was reached prior to the hearing date (Board file 448-HC-6).

COMPLAINT UNDER SECTION 13

Section 13 of the Act requires the Board to examine and inquire into an alleged failure to observe any prohibition contained in sections 6, 7 or 8; to comply with any regulation respecting grievances made by the Board pursuant to section 71; and to give effect to any provision of an arbitral award or to a decision of an adjudicator with respect to a grievance. Where the Board upholds a complaint, it has authority under this section to order remedial action. If such action is not carried out, section 14 provides that the Board shall make a report to Parliament.

One such complaint was submitted to the Board during the year under review. The CEP stated that the employer had violated subsection 6(1) of the Act by interfering with the administration of an employee organization. The parties reached an agreement in this case with the assistance of a mediator (Board file 461-HC-13).

ADJUDICATION PROCEEDINGS

Section 63 of the Act provides for three kinds of adjudicable grievances. Paragraph 63(1)(a) refers to grievances arising out of the application or interpretation of collective agreements or arbitral awards. Such grievances cannot be referred without the approval and support of the bargaining agent. Paragraphs 63(1)(b) and (c) refer, respectively, to disciplinary actions resulting in suspension or a financial penalty and to termination of employment, other than rejection on probation in respect of an initial appointment. A member of the Board acting as an adjudicator hears all grievances referred to above.

The Board also processes grievances referred under paragraphs 63(1)(d), (e) and (f) of the Act. These cases include grievances concerning demotion of employees, denials of appointment and classification; they are heard and determined by an adjudicator selected by the parties.

During the year, 59 grievances under section 63 were processed, including seven carried over from the previous year. Of these cases,

39 grievances were filed by the employees of the Library of Parliament relating to a letter of understanding dealing with pay equity. A hearing is scheduled in the next fiscal year (Board files 466-LP-285 to 323).

Of four grievances mediated through the Board's grievance mediation pilot project, two were settled (Board files 466-HC-281 and 282). Unfortunately, the session was unsuccessful in the other two cases and these will be heard in the next review period (Board files 467-SC-190 and 191).

During the year, eight grievances filed under different sections of 63(1) were consolidated after the House of Commons and CEP agreed to have these grievances heard by an outside adjudicator. An adjudicator was appointed and a decision was rendered.

Four grievances (Board files 467-HC-197 to 200) have been held in abeyance pending a decision in the hearing of the section 24 determination of the bargaining unit (447-HC-4).

Of the remaining four grievances, two were heard and a decision has been rendered. The remaining two cases have been scheduled for hearing in the next review period.

ARBITRATION PROCEEDINGS

Binding arbitration is the only method available for the resolution of interest disputes; there is no right to strike under the Act. The Board has received two notices to bargain for two bargaining units of the Library of Parliament.

The Board received two requests for the establishment of arbitration boards. The first request was filed in April 1999 by the Library Technicians Sub-group in the Research and Library Services Group. An arbitration board was established and an arbitral award was issued with an expiry date of 31 March 2001 (Board file 485-LP-17).

The second request, filed by the Administrative and Support Group of the Research and Library Services Group, was received in May 1999. An arbitration board was also established and an arbitral award was issued with an expiry date of 30 June 2001 (Board file 485-LP-18).

Following the implementation of the arbitral award in the Library Science (Reference and Cataloguing) Sub-groups, the parties were unable to reach an agreement on the scheduling of outstanding issues relating to the administration and implementation of the 1820-hour work year and requested the assistance of the arbitration board. After both parties had met and reached an agreement, a supplementary award was issued (Board file 485-LP-15).

MEDIATION

Under the Act, arbitration is the only method of resolving collective bargaining disputes. Where appropriate, the Mediation Services of the Public Service Staff Relations Board provide conciliation and mediation services to assist the parties in resolving disputes prior to an arbitration hearing. During 1999-2000, Mediation Services were not called upon to render such assistance.

Also through its Mediation Services, the Public Service Staff Relations Board provides a grievance mediation program. Mediation was sought on one occasion but the parties were not successful in reaching an agreement.

1

Bargaining Units and Bargaining Agents under the Parliamentary Employment and Staff Relations Act

Bargaining Unit	Bargaining Agent
(HOUSE OF COMMONS AS EMPLOYER)	
Technical Group	Communications, Energy and Paperworkers Union of Canada
Protective Services Group	House of Commons Security Services Employees Association
Procedural Sub-group and Analysis/ Reference Sub-group in the Parliamentary Programs Group	Professional Institute of the Public Service of Canada
Operational Group (except part-time cleaners classified at the OP A level)	Public Service Alliance of Canada
Reporting Sub-group and Text Processing Sub-group in the Parliamentary Programs Group	Public Service Alliance of Canada
Postal Services Sub-group in the Administrative Support Group	Public Service Alliance of Canada
(SENATE OF CANADA AS EMPLOYER)	
Legislative Clerk Sub-group in the Administrative Support Group	Professional Institute of the Public Service of Canada
Protective Service Sub-group in the Operational Group	Senate Protective Service Employees Association
Operational Group (except for employees in the Protective Service Sub-group and part-time cleaners in the General Services Sub-group)	Public Service Alliance of Canada

Bargaining Unit

Bargaining Agent

(LIBRARY OF PARLIAMENT AS EMPLOYER)

Library Science (Reference)
and Library Science (Cataloguing)
Sub-groups in the Research and Library
Services Group

Public Service Alliance of
Canada

Administrative and Support Group

Public Service Alliance of
Canada

Library Technician Sub-group in the
Research and Library Services Group

Public Service Alliance of
Canada

Research Officer and Research
Assistant Sub-groups in the
Research and Library Services Group

Social Science Employees
Association

2

Adjudication References 1 April 1995 - 31 March 2000

	Interpretations [Para. 63(l)(a)]	Discipline [Paras. 63(l) (b) & (c)]	Party & Party [Sec. 70]	Sub- Total	Paras. 63(l) (d), (e) & (f)	Total
1999-2000	43	3	0	46	6	52
1998-1999	1	2	0	3	8	11
1997-1998	1	1	0	2	2	4
1996-1997	3	2	0	5	1	6
1995-1996	5	2	4	11	21	32

Cumulative Totals 24 December 1986 — 31 March 2000

	282	43	9	334	197	531
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3

Adjudication References Brought Forward and Received 1 April 1995 — 31 March 2000

Fiscal Year	Brought Forward	Received	Overall Total	Dispositions Total
2000-2001	55			
1999-2000	10	52	62	8
1998-1999	6	11	17	7
1997-1998	3	4	7	1
1996-1997	50	6	56	53
1995-1996	39	32	71	21
