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## **Standing Committee on the Status of Women**

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**EVIDENCE**

**Tuesday, May 12, 2009**

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**Chair**

**The Honourable Hedy Fry**

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## Standing Committee on the Status of Women

Tuesday, May 12, 2009

• (1225)

[English]

**The Chair (The Honourable Hedy Fry (Vancouver Centre, Lib.)):** The committee will now begin its study on the Public Sector Equitable Compensation Act.

Today we have witnesses from the Professional Institute of the Public Service of Canada and witnesses from the Public Service Alliance of Canada: Mrs. Isabelle Roy and Mr. Geoffrey Grenville-Wood from the Professional Institute of the Public Service of Canada; and Mrs. Patty Ducharme and Mrs. Andrée Côté of PSAC.

Thank you so much for coming.

You know you have 10 minutes per witness group to present, so that means you will share your 10 minutes, and then we will open up to questions from the committee.

I will begin with Mrs. Roy and Mr. Grenville-Wood.

[Translation]

**Ms. Isabelle Roy (Legal Counsel, National Office, Professional Institute of the Public Service of Canada):** Good day and thank you for having me here.

My name is Isabelle Roy. I am the Legal Counsel for the Professional Institute of the Public Service. With me today is my colleague Geoffrey Grenville-Wood, General Counsel with PIPSC's Legal Department.

I will give my opening statement and my colleague will help me to answer any questions you may have later on during the round of questions.

[English]

I also want to point out that we have prepared a summary of the presentation, but we intend on filing a complete brief with the committee a little later this week. We just haven't had the opportunity to have it translated.

[Translation]

The Professional Institute of the Public Service of Canada represents approximately 57,000 professionals across Canada's public sector, the vast majority of whom work in the federal public service. Our members work in departments, agencies, Crown corporations, museums, archives, laboratories and field research stations.

Our members are directly affected, or one could even say targeted, by the Public Sector Equitable Compensation Act. It is our

contention that the Act constitutes an unwarranted and unnecessary attack on the Charter rights of federal public service employees and the unions representing them.

Today, we would like to analyse and comment on this legislative measure.

[English]

I want to point out that last February, before the House of Commons Standing Committee on Finance, the institute was, again, a witness. It stated its position at that time, that the proposed pay equity legislation, which formed part 11 of Bill C-10, the Budget Implementation Act, was too deeply flawed and should not be allowed to become law only by virtue of its inclusion in a broader and entirely unrelated omnibus piece of legislation.

We recommended at that time that the government develop stand-alone legislation dealing with pay equity and allow the issue to receive the thoughtful and considered debate and discussion it warranted. By adopting the Budget Implementation Act without any amendment to part 11, the government has demonstrated that it is not at all interested in improving the pay equity regime in the federal public sector.

[Translation]

In April 2009, PIPSC filed a notice of application with the Superior Court of Justice of Ontario to have it declare the Public Sector Equitable Compensation Act as well as the Expenditure Restraint Act unconstitutional and therefore invalid.

My remarks today and the written brief that will follow are made without prejudice to any rights claimed or views stated in the context of this constitutional challenge.

Pursuant to the Act's preamble, women are entitled to receive equal pay for work of equal value. That is an empty, and cynical promise, in that the provisions of the Act are aimed at ensuring that there is no possible, feasible way of achieving this objective.

[English]

The PSECA violates subsection 15(1) of the charter by significantly eroding the substance of the right to pay equity, the processes by which pay equity is implemented and enforced, and the remedies available to public sector employees to correct sex-based wage discrimination. Such actions sanction and perpetuate sex-based wage discrimination, contrary to subsection 15(1) of the charter.

In terms of international law, if we consider over the past century that the right to equal pay has been enshrined in a wide range of binding international instruments to which Canada is a signatory, these instruments have imposed increasingly specific directives for action to be taken by signatory states, which include Canada, in order to achieve pay equity. In particular, these instruments use strong language, requiring government and employers to ensure equality outcomes in practice and mandating regular reporting to monitor compliance.

[Translation]

Canada's international commitments are relevant and convincing when it comes to interpreting the Charter. They are an important indicator of the full scope of the protection afforded by the Charter.

[English]

The act fundamentally erodes the substantive right of public sector women to be free from sex-based wage discrimination. *Inter alia*, it redefines key pay equity concepts and wrests these concepts from their quasi-constitutional human rights underpinnings under the Canadian Human Rights Act. The PSECA redefines the criteria to be applied in addressing the value of work performed. It restricts the pool of employees who will receive protection under the act and then limits the comparators to be considered during an assessment.

In our view, this is all in aid of limiting the women who will be entitled to pay equity adjustments and limiting the pay equity adjustments to which this restricted group of women will be entitled.

Having restricted substantive rights to pay equity, the PSECA restricts pay equity further by fundamentally changing the processes by which pay equity is implemented and enforced.

[Translation]

The Act takes away any recourse public sector women have to quasi-constitutional protections against gender-based wage discrimination. Instead, it imposes inadequate protections against wage discrimination.

• (1230)

[English]

Beyond these significant changes, the PSECA contains serious process flaws that will limit the pay equity protection likely to be achieved by public sector employees and thereby permit sex-based wage discrimination to continue in the federal public service.

These process flaws in the PSECA include the fact that it contains no clear proactive obligation on employers to review pay practices and identify any wage discrimination and the fact that it makes no reference to the requirement to compare female-predominant work with male-predominant work and make the necessary pay adjustments to ensure that comparable work—based on skill, effort, responsibility, and working conditions—is paid the same. It's the fundamental basis of pay equity. Such comparisons are currently required by the CHRA.

The act imposes no obligation on employers to provide unions or employees with all the necessary information to enforce the right to pay equity, including the need to have information about pay and the

skill, effort, responsibility, and working conditions of male- and female-predominant work.

The act makes no provision for the parties to carry out a joint compensation assessment, as is currently the practice under the Canadian Human Rights Act.

The act provides no human rights dispute resolution mechanism for unions and employees to resolve any differences concerning pay equity; if the parties cannot agree on an equitable compensation plan, the only recourse is for the union to pursue interest arbitration or go on strike to enforce the employer's pay equity obligation.

[Translation]

Furthermore, the Act wrests from employees and their union the right to file a complaint under section 11 of the Canadian Human Rights Act with the Canadian Human Rights Commission. Pursuant to this provision, the Commission would have been entitled to investigate a complaint, and that complaint could have been heard by the Canadian Human Rights Tribunal—a specialized tribunal, I might add.

Employees wishing to challenge wage discrimination must now file a complaint with the Public Service Labour Relations Board of Canada, a body with no expertise in the highly specialized area of pay equity. In fact, the Board has only been considering human rights issues for a few years. Also, an employee wishing to initiate a pay equity complaint, a very costly, complex process closely associated with bargaining groups in general, must now proceed without the support of his union and without the support of a specialized commission like the Canadian Human Rights Commission.

[English]

Finally, the PSECA prohibits unions from assisting their members in preparing or processing pay equity complaints. This prohibition, which is backed in the act by criminal sanction, clearly violates both the freedom of expression and the freedom of association that are guaranteed under the charter.

I'm going to talk briefly about the remedial restrictions that are brought about by the PSECA.

**The Chair:** Ms. Roy, you have one minute left.

**Ms. Isabelle Roy:** I'll talk very quickly, as well as briefly, about the remedial restrictions.

I'll leave this, generally, by saying that the PSECA severely restricts the pay equity remedies that are currently available, and it permits and perpetuates discrimination based on sex, in terms of pay equity.

Any adjustments provided by PSECA are subject to the caps on wages that have been implemented as a result of the Expenditure Restraint Act. There are no adjustments provided for under the PSECA. More importantly, the Public Service Labour Relations Board, which is now going to be hearing complaints of this nature, is forced to apply a highly deferential standard in terms of its review, according to the legislation, in its assessment of whether or not there is a pay equity issue.

The PSECA limits the remedies available through interest arbitration by incorporating, by reference, the restrictions on the content of collective agreements that we find in the Public Service Labour Relations Act.

I want to take this opportunity to close now, thank you for your attention, and reiterate the fact that in our view this legislation is wholly unconstitutional.

Thank you.

**The Chair:** Thank you, Ms. Roy.

I'm sure someone will ask you about the rest of what you intended to say.

We'll go to PSAC, Ms. Ducharme or Ms. Côté.

**Ms. Patty Ducharme (National Executive Vice-President, Executive Office, Public Service Alliance of Canada):** Thanks, Dr. Fry.

I'm Patty Ducharme. I'm the national executive vice-president of the Public Service Alliance of Canada. On behalf of the 166,000 members we represent, I would like to thank the Standing Committee on the Status of Women for providing us with this opportunity to share our comments on the Public Sector Equitable Compensation Act.

I am joined today by my colleague, Andrée Côté, who works at the PSAC, and by a host of PSAC members and union officers in the gallery.

• (1235)

[*Translation*]

While I will be making my presentation in English, I will be happy to answer your questions in French.

[*English*]

It was with a feeling of outrage that we witnessed the Conservative government undemocratically implement its plan to strip public sector workers of their fundamental right to pay equity. The law was passed as part of Bill C-10, the Budget Implementation Act. But the government has admitted that an assessment of how much money this piece of legislation would save was never done.

Pay equity is a human rights issue and it should never have been addressed in a budget bill. The federal government has included provisions in this act that will radically reform the law on pay equity for federal public sector workers. PSAC members, 62% of whom are women, will be hit very hard by this new law.

To summarize, this bill will essentially do four things. First, the PSECA will restrict the substance and application of pay equity to the public sector. The legislation will make it more difficult to claim pay equity by redefining the notion of female-predominant job groups to require that women make up 70% of workers in a particular group. It also redefines the criteria used to evaluate whether jobs are of equal value by adding a reference to market forces.

Secondly, the act allows for pay equity to be bargained away. The act transforms pay equity into an equitable compensation issue that must be dealt with at the bargaining table. Pay equity is a

fundamental human right that should not be vulnerable to being traded away at the bargaining table. Even within a negotiations framework, this act provides for a very bad process. There is no obligation on the employer to proactively review its pay practices and to provide the union with relevant information. There is no obligation to proceed with a joint pay equity assessment, and there are no clear definitions of the new terms that are introduced in this act. The act actually specifies that it is possible to delay the equitable compensation of female workers for undetermined periods of time.

Thirdly, the act compels women to file complaints alone, without the support of their union. Under this legislation, if pay equity is not achieved through the bargaining process, as Madam Roy already said, individual workers will not be represented by their union. They would only be permitted to file a complaint with the Public Service Labour Relations Board. It goes on further to insist that there would be a \$50,000 fine on any union that would encourage or assist their own members in filing a pay equity complaint.

Finally, the act prohibits access to the Canadian Human Rights Commission for violations of public sector workers' right to pay equity. This new law removes the right of public sector workers to claim protection under sections 7, 10, and 11 of the Canadian Human Rights Act and prevents them from filing complaints of wage discrimination with the Canadian Human Rights Commission. It has specifically targeted public sector workers, since other federally regulated workers are not covered by these provisions.

Instead of moving forward and ensuring the progressive realization of the right of all women to pay equity, as required by Canadian and international human rights laws, such as CEDAW and the ILO convention number 100, the federal government has adopted regressive legislation that will seriously undermine the human rights of women.

In PSAC's opinion, this act violates several fundamental constitutional rights of working women in the public sector.

First, it is a violation of women's equality rights. The act introduces a new mechanism to address equitable compensation in the public sector that will actually restrict the capacity of women to claim and obtain pay equity. For example, the introduction of the market forces criteria to evaluate whether work is of equal value undermines the ability of women to receive pay equity because market forces have historically and consistently undervalued women's work.

Some workers will be entirely excluded from accessing the new equitable compensation mechanism since workers who belong to a job group comprised of 55% to 69% women are no longer considered to be members of the female-predominant group. These women will be denied the right to participate in any process to address the issue of wage discrimination.

By requiring that unions and employers negotiate pay equity at the bargaining table, the act undermines the established principle that human rights cannot be traded against other terms and conditions of employment or waived by the agreement. This effectively eviscerates the right to pay equity. The downgrading of pay equity as proposed in this act is a violation of the constitutional charter equality rights of working women that are guaranteed to them under section 15.

● (1240)

Second, it is a violation of the rights of freedom of association and freedom of expression. The prohibitions contained in the act against union assistance or encouragement in filing a pay equity complaint constitute a violation of the right to freedom of association that is guaranteed in section 2 of the charter. This prohibition completely restricts the ability of unions and their members to take collective action, and it violates the right of workers to be represented by their unions in important matters that relate to their working conditions. It precludes the unions from accomplishing their most basic duty of representing their members on issues relating to their working conditions, such as wage discrimination.

The prohibition also prevents the unions from expressing any views or advising the workers on anything that might assist or encourage them to file complaints regarding pay equity. This undermines the constitutional right of unions to express opinions and give advice to their members on matters that bear on their members' rights as workers.

The PSAC submits that the PSECA and the Expenditure Restraint Act impose limits on working women's constitutional rights that are simply not justifiable in a free and democratic society. We too have initiated legal proceedings to challenge this discriminatory and unfair legislation in court.

We have also informed the United Nations Commission on the Status of Women of our intention to file a complaint against the federal government. The urgent notice of communications that we sent to the UNCSW on March 5 is appended to your brief. You will note that the PSAC received the support of 40 important trade unions, women's groups, and human rights groups across Canada and in Quebec. It is of note that approximately 100 well-known lawyers and legal academics likewise expressed their opposition to this bill in a letter sent directly to the Prime Minister.

In closing, I wish to say that PSAC is urging this committee to reaffirm its commitment to proactive federal pay equity legislation, as it has done several times in the past. We invite you to strongly condemn the Public Sector Equitable Compensation Act and its discriminatory provisions against women working in the federal public sector. We urge the Standing Committee on the Status of Women to recommend that this act be abrogated and replaced by proactive federal pay equity law, as recommended by the pay equity task force in its report, *Pay Equity: A New Approach to a Fundamental Right*. This would be a first step towards a proactive pay equity law that would make a real difference in the lives of working women.

With that, I'd like to thank you. I'd be pleased to respond to any and all of your questions.

**The Chair:** Thank you very much.

You have 60 seconds left.

We'll begin with the Liberals. Please go ahead, Ms. Zarac.

[*Translation*]

**Mrs. Lise Zarac (LaSalle—Émard, Lib.):** Good day. Thank you very much for coming here today.

I will put the first question, then defer to my colleague.

Ms. Roy, you stated in your introductory remarks that pay equity rights are fully justified. There are two parts to my question.

First, do you feel that the changes to pay equity brought in by the government in its budget, that is in Bill C-10, were justified? Ms. Ducharme has already answered this question, but I would like to know your views on this matter.

The government maintains that the changes will mean pay equity complaints will be handled in a more expeditious manner. Do you agree with that statement?

● (1245)

**Ms. Isabelle Roy:** First of all, as far including this bill in Bill C-10 goes, we agree in every way with the views stated by the representatives of the Public Service Alliance of Canada.

There is no evidence to suggest that linking this bill with Bill C-10 will save any money. Besides, even if that were the case, we are talking about a fundamental human right that should not be sacrificed for a few pennies. There is no proof of any cost savings to be had and even if that were the case, that would not be a good enough reason, in my opinion, to justify the inclusion of this legislation in an omnibus bill.

To answer your second question as to whether the proposed process is more efficient and expeditious, we have indeed heard some comment to that effect. In essence, the bill ties pay equity to the collective bargaining process.

Collective bargaining in the public sector is by no means a speedy process. When the legislation imposing wage restrictions was passed, some groups had been engaged in collective bargaining for several years.

**Mrs. Lise Zarac:** So then, in your opinion, this is not a valid reason.

**Ms. Isabelle Roy:** There is no evidence that with this bill, the process will be more expeditious or more efficient.

**Mrs. Lise Zarac:** Thank you, Ms. Roy.

I will now turn the floor over to my colleague.

[*English*]

**Hon. Maria Minna (Beaches—East York, Lib.):** *Merci*. Thank you very much.

First I want to say that obviously this is not acceptable. We have talked about pay equity around this table. This committee has put forward pay equity reports before. I don't think there's any question in my mind, anyway, and I know in those of my colleagues, that not only is this not going to do it, but it's going to take us backward.

I just wanted to clarify some things, having said that. I don't want to ask the obvious, because I think I know where we stand on the issue as a whole. My question is, simply, how much do you think FETCO or the private sector had to do with respect to this? They're not covered now, but if they were, they would be wanting the exact same thing, as opposed to a proactive pay equity legislation. Do you feel that to some degree the private element has come into controlling this event?

**The Chair:** Ms. Ducharme.

**Ms. Patty Ducharme:** Thank you.

With respect to the Pay Equity Task Force hearings that took place, I believe over a period of five years, there was an incredible number of briefs and information provided to the task force from the private sector. I believe that the private sector really doesn't value the concept of equal pay for work of equal value and has lobbied very hard to ensure that its broad, proactive application will never really see the light of day in Canada. So I expect that given that we are starting with federal public sector workers, the desire in jurisdictions where there is a more broadly spread application of pay equity legislation will be to have lobbies in those sectors to ensure there is no such legislation.

**Ms. Maria Minna:** I will ask a question maybe to all of you. The minister has consistently said in the House that this act resembles the Ontario act. Does the Ontario act tie market forces to its pay equity legislation?

**Ms. Andrée Côté (Women's and Human Rights Officer, Membership Programs Branch, Public Service Alliance of Canada):** Thank you for the question, Ms. Minna.

No, indeed, it does not tie the market force criteria into the legislation. The Ontario legislation is completely different from what's being proposed. It's within a human rights framework. It's a stand-alone, truly proactive piece of legislation; that is, it does impose obligations on the employer to review their pay practices. It imposes a whole procedure to consult with unions, to develop pay equity committees, to identify pay gaps, and to propose a pay equity remedy that will be maintained in time. So it's a complete code on pay equity. Most importantly, it's in a human rights framework.

This has thrown pay equity back to labour relations, as FETCO and other employers have been requesting for a long time, taking it out of a human rights framework.

• (1250)

**Ms. Maria Minna:** So basically there's the fact that the equitable compensation matter is not defined in the act; we don't know what is meant or how it's going to be applied. There's the fact that it's tied to market forces and that it reduces the number of women who actually will be covered. In essence, it not only restricts pay equity to a very small group, but for the group that it does restrict it to, it is actually moving backwards, in reverse, not in a positive way. From everything I've heard and everything I know about it, it actually does not provide pay equity; it does the opposite, because it also caps the amount—as you said, and I didn't appreciate—and the compensation can be withheld.

**The Chair:** You have 30 seconds, Ms. Minna.

**Ms. Maria Minna:** So just to clarify, with all of these together, essentially it is a denial of pay equity; it is not actually providing pay equity. Am I right?

**Ms. Patty Ducharme:** Yes, it reduces the number of people who can actually file complaints and it eliminates their ability to file human rights complaints.

**Ms. Maria Minna:** Thank you, Madam Chair, for now.

**The Chair:** Ms. Demers.

[Translation]

**Ms. Nicole Demers (Laval, BQ):** I'd like to thank the witnesses for joining us.

As members of the Public Service Alliance of Canada, you must feel very alone right now, knowing that women's groups dedicated to defending your rights can no longer defend or support you, that research can no longer be done to gauge the impact of this type of legislation on women in the public sector, and that women can no longer lobby MPs to back their position. You must feel very alone.

As a labour lawyer, Mr. Grenville-Wood, have you ever been in a situation where you could not defend a person in a human rights complaint without facing the possibility of being fined? Has that every happened to you?

**Mr. Geoffrey Grenville-Wood (General Counsel, National Office, Legal Department, Professional Institute of the Public Service of Canada):** I have never found myself in that situation.

This is truly one of the deplorable and unacceptable aspects of this legislation, because we have a duty to defend our members. Sanctions of this nature are really unacceptable. I've never experienced anything like that.

**Ms. Nicole Demers:** Are you worried that other similar intrusive provisions could affect your job, which is to defend employment rights?

**Mr. Geoffrey Grenville-Wood:** I cannot predict what will happen, but as Ms. Roy stated, we have already filed an application with the court to declare the legislation unconstitutional. Constitutionally speaking the legislation is unacceptable in light of our responsibility to represent our members.

**Ms. Nicole Demers:** I am outraged that women now have to negotiate their right to pay equity.

You've explained the situation very clearly to us. I will let my colleague Ms. Guay ask you a question about the situation in Quebec.

**Ms. Monique Guay (Rivière-du-Nord, BQ):** Good day and thank you for joining us.

Women fought very hard for pay equity in Quebec, as you know. They have made substantial gains. There is a big difference between the federal public service and the Quebec public service. Despite everything, they must continue to fight because pay equity is being threatened. Nevertheless, I am convinced that their efforts will prove successful. In any case, we will be supporting them.

This is genuinely an attempt to bring women down. I'd really like to get some more information one day. Although a report has been produced, I'm curious about the figures for women. How much do women earn compared to men? It would be interesting to have that information so that a sound report on the issue can be produced.

What is the percentage of women in the public service? Can you give me a number?

**Ms. Patty Ducharme:** Sixty-two per cent of our members are women.

**Ms. Monique Guay:** I see.

And what about PIPSC, Ms. Roy?

**Ms. Isabelle Roy:** Unfortunately, I don't have any overall figures to give you. I can tell you that some rather large groups are predominantly female. I'm thinking here about the health services group in particular. In addition, we're seeing a trend to more women occupying positions in certain other groups and that's not something we've seen before.

So then, I'd have to say that it all depends on the breakdown for each bargaining unit. We could look into that.

•(1255)

**Ms. Monique Guay:** In any even, we'd appreciate as much information as you can send us.

**Ms. Isabelle Roy:** As I said, we're planning to submit a written brief and these figures could be included in it.

**Ms. Monique Guay:** In order for us to produce a fair report and to assist you, we need a document that is well researched. I think it is completely unacceptable that women are still in this position in 2009.

**Ms. Andrée Côté:** If I might just add to that, it's important to remember that from 1983 and 1999, Treasury Board, as an employer, dragged its heels on the issue of pay equity until the complaint was finally settled. The federal government put up some resistance and while many women in the public service today enjoy the benefits of pay equity, the fight to maintain it goes on.

Our classification system dates back to the 1960s and needs to be updated. A review is desperately needed. We have been promised one, but we've been waiting for several years already.

It is ironic that pay equity is being put back on the bargaining table when the employer has always put up a lot of resistance and dragged its heels on pay equity.

**Ms. Monique Guay:** Thank you.

**Ms. Nicole Demers:** Do we have any time remaining, Madam Chair?

[English]

**The Chair:** You have two minutes.

[Translation]

**Ms. Nicole Demers:** Ms. Côté or Ms. Ducharme, when organizations such as yours that represent large numbers of female federal government employees are under attack, are you not concerned at all that the rights of women in the general population will be targeted next?

Not all women have the ability to defend their rights. Are you not concerned that the situation could deteriorate?

**Ms. Andrée Côté:** Certainly we have some concerns.

This attack on public sector women is taking place at a time when this government has adopted policies that are detrimental to women in society as a whole.

First, in 2006, federal funding for day cares was eliminated.

Next, in the fall of 2006, Status of Women Canada lost its advocacy and research funding.

The Court Challenges Program was abolished. It's indeed ironic that programs that helped us to defend ourselves against unconstitutional laws were abolished. Now, the government has brought in an unconstitutional act that violates women's right to pay equity. Unions and civil society groups will no longer have access to funding for test cases.

So then, yes, I do think that this is part of an overall policy aimed at suppressing some of the gains that women have made over the past 30 years.

**Ms. France Bonsant:** Thank you very much.

[English]

**The Chair:** Thank you very much.

Ms. Mathysen.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** I'm wondering how—

**The Chair:** No, no, I'm sorry. It's Ms. Boucher's turn.

[Translation]

**Mrs. Sylvie Boucher (Beauport—Limoilou, CPC):** I have a question for you, Ms. Roy.

We often read in the newspapers, or hear in the House, that in some areas of the law, it took a very long time for women's rights to be upheld. Someone even said once that it took nearly 15 or 20 years to settle a case.

When you are called upon to defend a women's right to pay equity, what's hardest for you? How much time to you devote to such cases? What does it cost to defend women's rights?

**Ms. Isabelle Roy:** I cannot speak to these specific cases, because I am not familiar with them.

However, I can tell you that in the mid 1990s, PIPSC initiated an action to resolve some pay equity issues involving some of its bargaining units. This action resulted in a number of settlements.

Since it is always important to consider the group when dealing with such questions, I cannot speak to you about individual cases in which the Institute is involved. However, with respect to individual cases that may have arisen further to these settlements, I can tell you that defending the rights of our members is a responsibility that we do not take lightly.

If you look at the recent history of the Institute, you will note that we have launched two constitutional challenges. These challenges will take time and will be costly, but this is money that needs to be spent in order to defend the fundamental rights of our members. In so doing, the union is doing its job and assuming its fundamental responsibility, which, I repeat, is to defend the rights of its members.

• (1300)

**Mrs. Sylvie Boucher:** I have another quick question.

In your opinion, is it solely the responsibility of the government to enforce the Employment Equity Act? Do unions and employers have a responsibility to ensure compliance with pay equity legislation, or is this solely the responsibility of governments?

We are the government, but surely there are other parties—unions, as I mentioned, and employers—that are responsible for enforcing pay equity legislation.

**Ms. Isabelle Roy:** It is important to clarify in this instance that we are dealing with a government that is also acting as an employer. Canada's international obligations are clear. Governments must play a proactive role. It is a role that the government must take seriously and that must be reflected in this legislation.

In other jurisdictions, unions have a duty to defend their members and they discharge that duty.

**Mrs. Sylvie Boucher:** That wasn't quite the question I had in mind.

**Ms. Isabelle Roy:** There are different ways for unions to defend their members outside the very rigid framework of this bill.

**Mrs. Sylvie Boucher:** Would it not be better for governments, regardless of the order, to negotiate with public sector unions—and by this I mean the Public Service of Canada—to ensure that when an offer of employment letter is signed, equity is clearly mentioned, and that they do not have to deal with a complaint three, four or five years down the road?

It would be more proactive for the union and the government, or any other employer, to have pay equity clearly acknowledged on paper, because this can be verified. If a man earns \$55,000 and I do the same job as he does and I also earn \$55,000, when I sign my offer of employment letter, the government and the union will have signed off on it at the same time.

**Mr. Geoffrey Grenville-Wood:** I'd like to say something, Madam Chair.

The key issue here is that the proposed legislation forces unions to negotiate with the government and to use fundamental rights such as the right to pay equity as a bargaining chip to secure other advantages for their members. It forces unions to take an overall approach to collective bargaining. Considerable sums of money are on the table. The employer asks the union to choose between the rights of its female members and those of its other members. This type of choice is unacceptable and that is why we are opposed to the bill.

We are all in favour of negotiating certain aspects of this issue. That is what the province of Ontario is doing, but in their case, pay equity is being negotiated separately, not as part of the overall bargaining process. That is the difference.

**Mrs. Sylvie Boucher:** Thank you.

[English]

**The Chair:** You have one minute left. No?

All right, Madam Mathysen.

**Ms. Irene Mathysen:** Thank you, Madam Chair.

I want to thank you for being here and presenting to this committee. I think it's a very important subject.

We've heard the issue about the prolonged time it's taken in the past for pay equity resolutions and the cost involved. Would those be resolved by adopting the 2004 report from the Pay Equity Task Force?

• (1305)

**Ms. Andrée Côté:** Yes, we think proactive legislation would resolve this issue, because you're addressing pay equity before a complaint. You're actually trying to encourage, if not force, the employer to do the pay equity exercise to evaluate the compensation practices.

Quebec has similar legislation to Ontario. Of employers who did do their pay equity exercise, 85% said in a survey that if it weren't for the legislation they wouldn't have done it. So a proactive pay equity law really does make a difference. Instead of forcing victims of discrimination to file complaints, it forces employers who actually have the control of their pay practices to review them and to comply with the human rights of women.

**Ms. Irene Mathysen:** Thank you.

Ms. Ducharme, you were talking about the five or so years when presentations were made to the task force and your sense that there were those in the private sector who did not ever want to see proactive pay equity. We know there is proactive pay equity in Ontario, in Manitoba, and in other provinces. What has the effect been? Have employers been disadvantaged in those provinces? Has pay equity been a negative?

**Ms. Patty Ducharme:** As far as I know, employers continue to employ—unless they're in the auto sector. People are better paid in those jurisdictions. Women are better paid than they are in other jurisdictions where there is no proactive pay equity legislation, so they have a higher standard of living.

**Ms. Irene Mathysen:** So there are some benefits?

**Ms. Patty Ducharme:** Absolutely. Women are taxpayers.

**Ms. Irene Mathysen:** Under the new legislation, only individuals will be able to bring pay equity complaints forward. They can't have the help of their unions or employers. In fact, there's a \$10,000 fine for employers and a \$50,000 fine for unions. What is your response to these fines?

**Ms. Patty Ducharme:** From an organizational perspective, I think this is mean-spirited and punitive. I think this shows the true sentiment behind the government that wrote this piece of legislation. This isn't about improving pay equity, access to pay equity, or speeding up the pay equity process. It's about stifling the rights of women who work for the federal public sector—their human rights, their ability to access equal pay for work of equal value. It targets unions that have had success in fighting the Government of Canada on behalf of their members.

**Ms. Irene Mathysen:** Bill C-10 uses “equitable compensation” instead of “pay equity”. All provincial pay equity legislation uses the term “pay equity”. What are the implications of calling it “equitable compensation” instead of good old proactive “pay equity”?

**Ms. Isabelle Roy:** When I started my presentation, I started talking about what pay equity means. I wouldn't want to assume what the government was intending by using that title, but we can see from the act that this is not pay equity. It is not achieving it in any way. Perhaps that's the only appropriate thing—that it's not actually called the Pay Equity Act or pay equity legislation. I don't pretend to understand their motivations, but we're certainly a long way from effective pay equity legislation.

**Ms. Irene Mathysen:** There was a question raised about the government's saying that their act was based on the Ontario act. The minister also insisted that it was based on the Manitoba act. It's created a great deal of confusion. With respect to Manitoba, there was some discussion about negotiations for pay equity occurring at the bargaining table. I wonder if you could clarify that. This was the position that the government insisted was the reality—that this was like the Manitoba act and they bargained for pay equity during collective agreements.

• (1310)

**Ms. Andrée Côté:** The only similarity with Manitoba's pay equity law is that the law applies only to public sector workers. There has been a lot of misrepresentation about how this act resembles provincial legislation. In fact, PSAC has produced a two-page document on the differences between this act and the Ontario act. If

we can, we'll provide a copy to the clerk. At this time, we have only the English version, but we'll send you the French version by the end of the day. I'm sure it will respond to a lot of the questions that members have.

**The Chair:** I want to apologize to the witnesses. The meeting was supposed to end at 1 p.m. For various reasons, we've gone over by about five or ten minutes. Many members have had to leave, and I know they didn't leave because they didn't want to hear or participate. It was purely because many people have one o'clock time commitments.

I want to thank you for coming today.

Has someone moved to adjourn?

[*Translation*]

**Ms. Nicole Demers:** Madam, my motion is up for consideration.

[*English*]

**The Chair:** Yes. Nicole, can we do this when we spend the extra half hour on—

[*Translation*]

**Ms. Nicole Demers:** I just want to be sure that it will not be forgotten, Madam Chair.

[*English*]

**The Chair:** —the first order of business? We don't have enough people here to vote.

[*Translation*]

**Ms. Nicole Demers:** We were also supposed to adopt the budget.

**An hon. member:** It has been adopted.

**Ms. Nicole Demers:** That was quick. I'm pleased.

Thank you, Madam Chair.

[*English*]

**The Chair:** We are adjourned.







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