

HANDOUT # 1-1

DO YOU KNOW YOUR GLBT HISTORY ?

1. Before _____ I could have been jailed for being gay.
2. The first officially sponsored trade union conference for lesbian, gay and bisexual unionists was held in Canada in _____.
3. In _____, the Canadian Parliament voted 216 to 55 in favour of preserving the definition of “marriage” as the union of a man and a woman.
4. During the _____, if I worked for the federal government, I could be required to be tested by the “Fruit Machine” to determine if I had “homosexual tendencies”.
5. The PSAC provided free office space and administrative support to which major lgbt campaign?



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History in the Making: PSAC works for GLBT People

HANDOUT # 1-2

DO YOU KNOW YOUR GLBT HISTORY ?

1. Before _____ transgender people had no explicit protection from discrimination under the Canadian Human Rights Act.
2. Until _____ (name of the MP) came out, there was no opening gay or lesbian member of Canadian Parliament.
3. Section 15 of the Canadian Charter of Individual Rights and Freedoms provided GLBT people with the legal basis to challenge discriminatory laws. In 1995, the Supreme Court recognized that sexual orientation was covered by Section 15 in the case of _____
_____(names of the two gay men involved in this case).
4. Until _____ I could be fired in Alberta simply for being gay.
5. Before _____my same-sex partner was not entitled to access my pension as the definition of “spouse” was solely opposite sex.



HANDOUT # 1-3

DO YOU KNOW YOUR GLBT HISTORY ?)

1. Before _____ when the Canadian Human Rights Act was amended, I could be fired for being gay or lesbian if I worked for the federal government or in any federally regulated industry.
2. In _____, PSAC adopted a major policy paper on “Sexual Orientation” committing the union to continue support for lesbian, gay and bisexual members.
3. Three hundred gay men were arrested in the largest mass arrests in Canadian history since the War Measures Act arrest in 1981, in _____ (city), in the _____ (name of event).
4. Employers were not required to provide benefits to the same-sex partners or the children of lesbian and gay employees until _____.
5. In the Comstock case, our union defended a challenge by a member who argued that she be allowed to withhold her dues because the PSAC took positions which violated her Charter rights to freedom of religion and freedom of conscience. What were the positions she objected to?



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HANDOUT # 1-4

DO YOU KNOW YOUR GLBT HISTORY ?

1. The law giving same-sex couples the legal right to marry was passed in _____.
2. _____ provinces and territories had already recognized same-sex marriages before the federal legislation was passed.
3. Before _____ (name of province) amended its Human Right Code, there was no protection in any human rights legislation anywhere in Canada which prohibited discrimination on the basis of sexual orientation. (Bonus question: does anyone know the year?)
4. Until union member Dale Akerstrom of the _____ (name the union) filed a human rights complaint, gay and lesbian employees of the _____ (name employer) did not have access to family benefits.
5. _____ was the first province to allow same-sex couples to bring a joint application for the adoption of their children in a case brought forward by four lesbians in 1995.

HANDOUT # 2-1

GLBT HISTORY - ANSWERS

1. Before **1969** I could have been jailed for being gay.

This was the occasion of Trudeau's famous quote: "Take this thing on homosexuality. I think the view we take here is that there's no place for the state in the bedrooms of the nation. I think that what's done in private between adults doesn't concern the Criminal Code."

Everett Klippert, who had been charged and sent to prison indefinitely under the homosexuality prohibition in the Criminal Code, was not released until 1971.

2. The first officially sponsored trade union conference for lesbian, gay and bisexual unionists was held in Canada in **1997**.

The first Canadian Labour Congress Solidarity and Pride Conference was held in Ottawa in 1997. The CLC Solidarity and Pride Working Group was established in 1995 and from the very beginning included representatives from the PSAC. The Group was expecting 100 delegates; over 300 attended. The Conference opened with a five minute standing ovation after the words: "Welcome to the Solidarity and Pride" Conference".

3. In **1999**, the Canadian Parliament voted 216 to 55 in favour of preserving the definition of "marriage" as the union of a man and a woman.

This was Parliament's response to a Supreme Court decision in "M v H" – a case which involved a lesbian couple from Toronto – which declared that the definition of "spouse" as a person of the opposite sex was unconstitutional. This decision was short-lived!



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4. During the **1960s**, if I worked for the federal government, I could be required to be tested by the “Fruit Machine” to determine if I had “homosexual tendencies”.

The “Fruit Machine” was an attempt to devise a machine or a battery of psychological tests that could scientifically detect homosexuals. “Homosexuals” were considered vulnerable and therefore unreliable as government employees and therefore should not be hired or should be fired.

Employees were required to answer questions and view images. Gender inappropriate responses indicated that the employee was homosexual. Sample questions included:

- I like mechanics magazines.
- I think I would like the work of a librarian.
- I would like to be a nurse.
- I very much like hunting.

For obvious reasons, the “Fruit Machine” was unreliable.

For more information, see “The Canadian War on Queers” by Gary Kinsman and Patrizia Gentile.

5. The PSAC provided free office space and administrative support to the **Coalition for Equal Marriage**.

The Campaign for Equal Marriage was a broad coalition led by Egale. It included many faith groups, social worker, public health, psychological and human rights organizations and unions, including the CLC, the PSAC and most of the major unions in the country.

HANDOUT # 2-2

GLBT HISTORY - ANSWERS

1. Before **2013** transgender people had no explicit protection from discrimination under the Canadian Human Rights Act.

A private member's bill introduced by NDP MP Randall Garrison, passed the House of Commons and Senate in the spring of 2013. The House passed the Bill in March 2013 by a 149 to 137 majority. The NDP, Bloc Quebecois, Green Party and the Liberals – with the notable exception of Justin Trudeau who was absent with the vote was held – voted in favour. Eighteen Conservatives, including 4 Cabinet members supported the Bill. Harper did not. In June, the Senate passed the Bill at first and second reading, but adjourned before third reading. Unfortunately the bill was not adopted, since Prime Minister Harper prorogued Parliament last September.

2. Until **MP Svend Robinson** came out, there was no open gay or lesbian member of the Canadian Parliament.

In 1988, Svend Robinson, of the New Democratic Party, went public about being gay, becoming the first Member of Parliament to do so. Robinson was first elected to the House of Commons in 1979. In 2000, the BC riding of Burnaby-Douglas (though its borders have changed) elected Robinson for the eighth time.

3. Section 15 of the Canadian Charter of Individual Rights and Freedoms provided GLBT people with the legal basis to challenge discriminatory laws. In 1995, the Supreme Court recognized that sexual orientation was covered by Section 15 in the case of **Jim Egan and Jack Nesbit** (the two gay men involved in this case).

In 1995, the Supreme Court issued its ruling in the case involving Jim Egan and Jack Nesbit, two gay men who sued Ottawa for the right to claim a spousal pension under the Old Age Security Act. While the Court



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ruled against Egan and Nesbit, all nine judges agree that sexual orientation is a protected ground and that protection extends to partnerships of lesbians and gay men. This was an important ruling for the future as sexual orientation was now considered to be a protected ground under Section 15 of the Charter.

The Canadian Labour Congress, with the support of affiliates like the PSAC, intervened in this case to support Egan and Nesbit.

4. Until **1998** I could be fired in Alberta simply for being gay.

Delwin Vriend, a lab instructor at King's University College in Edmonton, was fired from his job because he is gay. The Alberta Human Rights Commission refused to investigate because Alberta's human rights act did not cover sexual orientation discrimination. Vriend took the government to court. In 1998 the case went to the Supreme Court which unanimously ruled that the exclusion of homosexuals from Alberta's human rights law was a violation of the Charter. The CLC intervened to support Vriend in this case. The Court said that the act had to be interpreted to include gays and lesbians even if the province didn't change it.

The Alberta government decided not to use the notwithstanding clause despite pressure from conservative and religious groups. A coalition of human rights activists, including PSAC members in Alberta mobilized against the use of the notwithstanding clause.

Alberta's human rights legislation was not amended to specifically cover sexual orientation until 2009. However, the same Bill 44 included a "buried clause" that gives parents the option of pulling their children out of class when lessons on sex, religion or sexual orientation are being taught.

5. Before **1998** my same-sex partner was not entitled to access my pension as the definition of "spouse" was solely opposite sex.



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Nancy Rosenberg and Margaret Evans, employees of CUPE along with CUPE as the employer, challenged the Income Tax on the basis that it discriminated against employees who had same-sex partners. In *Rosenberg v. Canada*, the Ontario Court of Appeal ruled unanimously that the Income Tax Act's definition of "spouse" must be extended to permit the registration of pension plans which extend equal benefits to those in same-sex relationships. The Canadian government did not appeal this decision and pension plans now must provide coverage for gay and lesbian employees.

HANDOUT # 2-3

GLBT HISTORY - ANSWERS

1. Before **1996** when the Canadian Human Rights Act was amended, I could be fired for being gay or lesbian if I worked for the federal government or in any federally regulated industry.

In Haig and Birch v. Canada, the Ontario Court of Appeal in 1992 ruled that the failure to include sexual orientation in the Canadian Human Rights Act was discriminatory. Federal Justice Minister Kim Campbell responds to the decision by announcing the government would take the necessary steps to include sexual orientation in the Canadian Human Rights Act. However, it took four more years before the amendment passed Parliament.

2. In **1994**, PSAC adopted a major policy paper on “Sexual Orientation” committing the union to continue support for lesbian, gay and bisexual members.
3. Three hundred gay men were arrested in the largest mass arrests in Canadian history since the War Measures Act arrests in 1981, in **Toronto**, in the **Bath House Raids**.

More than 300 men were arrested following police raids at four gay bath houses in Toronto, the largest mass arrest since the War Measures Act was invoked during the October Crisis. The next night, about 3,000 people marched in downtown Toronto to protest the arrests. The



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protests continued for several days. This is considered to be Canada's 'Stonewall.' The President of the Toronto Labour Council denounced the raids as did Margaret Atwood, who famously asked: "What do the police have against gay men being clean?"

4. Employers were not required to provide benefits to the same-sex partners or the children of lesbian and gay employees until **2000**.

The Liberal government introduced Bill C-23, the Modernization of Benefits and Obligations Act, in response to the Supreme Court's May 1999 ruling in *M v H*. The Act gave same-sex couples who have lived together for more than a year the same benefits and obligations as common-law couples. The CLC and many affiliates, including the PSAC made submissions in support of the Bill during Parliamentary hearings.

In total, the Act amended 68 federal statutes relating to a wide range of issues such as medical and dental benefits, old age security, income tax deductions, bankruptcy protection and the Criminal Code. The definitions of "marriage" and "spouse" were left untouched but the definition of "common-law relationship" was expanded to include same-sex couples.

5. In the Comstock case, our union defended a challenge by a member who argued that she be allowed to withhold her dues because the PSAC took positions which violated her Charter rights to freedom of religion and freedom of conscience.

She was objecting to the union's support of same-sex marriage equality and its zero tolerance policy against homophobia and heterosexism.



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The Federal Court of Appeal rejected the legal challenge of a longtime public servant, Susan Comstock, a devout Catholic who wanted her \$800 annual union dues diverted to her church to protest the union's support for gay marriage and its zero tolerance against "homophobia" and "heterosexism." She unsuccessfully argued that forcing her to pay dues to the Public Service Alliance of Canada violated her Charter of Rights guarantee to freedom of religion and freedom of conscience.

John Gordon, then PSAC President described its support of same-sex marriage as a "fundamental human right." Members who disagree do not have to sign union cards, but that does not absolve them from paying dues, which are mainly used for collective bargaining. "The evidence does not show how her freedom of religion and conscience was compromised by this policy," Justice Frederick Gibson wrote. "The fact that she opposes the union's political or social causes does not force her to act in a way contrary to her beliefs or her conscience." The Catholic Civil Rights League, which took up Comstock's cause and supplied her lawyer, denounced Canadian courts and tribunals for being "generally favourable to homosexual activists."



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HANDOUT # 2-4

GLBT HISTORY - ANSWERS

1. The law giving same-sex couples the legal right to marry was passed in **2005**.

Bill C-38, titled Law on Civil Marriage, passed a final reading in the House of Commons on June 28, 2005, sailing through in a 158-133 vote, supported by most members of the Liberal party, the Bloc Québécois and the NDP.

Conservative Leader Stephen Harper vowed if his party formed the next government, the law would be revisited. He did so in his first minority government in 2006, but the legislation was defeated, with 12 Conservatives voting against the motion.

Canada became the fourth country in the world, after the Netherlands, Belgium and Spain, to officially recognize same-sex marriage.

Legalizing same-sex marriage came after years of lobbying by the Campaign for Equal Marriage. The CLC, the PSAC and many other unions and individual members presented briefs before Parliamentary committees and lobbied MPs in support of the legislation.

2. **Eight** provinces and territories had already recognized same-sex marriages before the federal legislation was passed.

Gay and lesbian couples had taken the issue to the courts and won in eight provinces before the federal government changed the definition of marriage to cover everyone in the country. New Brunswick, the Northwest Territories, Nunavut, Alberta and Prince Edward Island were



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the only jurisdictions in Canada that didn't recognize same-sex marriages when the legislations was passed.

3. Before **Quebec** amended its Human Right Code in **1977**, there was no protection in any human rights legislation anywhere in Canada which prohibited discrimination on the basis of sexual orientation.

In 1977 Quebec included sexual orientation in its Human Rights Code, making it the first province in Canada to pass a gay civil rights law. The law made it illegal to discriminate against gays and lesbians in housing, public accommodation and employment.

4. Until union member Dale Akerstrom of the **PSAC** filed a human rights complaint, gay and lesbian employees of the **federal government** did not have access to family benefits.

In 1996, Akerstrom won a human rights complaint concerning access for his same-sex partner to the supplementary death benefit and the Public Service Health Care Plan. The Tribunal agreed that Treasury Board discriminated against Mr. Akerstrom and ordered that the application of the definition of spouse be extended to include same-sex partners.

5. **Ontario** was the first province to allow same-sex couples to bring a joint application for the adoption of their children in a case brought forward by four lesbians in 1995.

An Ontario Court judge found that the Child and Family Services Act of Ontario infringed Section 15 of the Charter by not allowing same-sex



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couples to bring a joint application for adoption. He ruled that the four lesbians have the right to adopt their partners' children. Ontario became the first province to make it legal for same-sex couples to adopt. British Columbia, Alberta and Nova Scotia followed suit, also allowing adoption by same-sex couples.

Adoption by same-sex couples is now legal in every territory and province in Canada.

(Most of the references are from “CBC Timeline – GLBT Canadian History”, Wikipedia, “The Canadian War on Queers” Gary Kinsman and Patrizia and an “interview” with Sue Genge, CLC Pride Rep for 15 years).

PSAC Works for GLBT Rights!

PSAC is a proud ally in the struggle for the advancement of the human rights of gay and lesbian, bisexual and transgender people in Canada. Eradicating homophobia and transphobia in the workplace and bargaining and lobbying for the full protection of our GLBT members' human rights are ongoing priorities for the PSAC.

PSAC defends the human rights of all our members, because *We are ALL Affected* by discrimination and inequality.

PSAC promotes respect for GLBT members in our union

- **Recognizing the rights of GLBT members**

In 1981, the PSAC Equal Opportunities Committee (EOC) was given a mandate to address a wide range of issues, including those related to sexual orientation.

The PSAC Policy on Human Rights, adopted in 1988, included sexual orientation as a prohibited ground of discrimination.

Lesbian and gay issues were included at the first human rights forum held at the 1991 PSAC national convention. Resolutions directed the union to develop a policy on sexual orientation and to add same-sex couples to the union' superannuation policy.

In 1992 PSAC adopted Policy 28A on AIDS and HIV and the National Board of Directors (NBoD) adopted Policy Paper 12 – Superannuation - recommending same-sex spouses be entitled to pension plan survivor benefits.

At the 1994 national convention delegates adopted Policy 31 on sexual orientation that committed the union to educate and promote gay and

lesbian rights through steward training, grievance handling; to negotiate same-sex benefits and rights and stronger “no discrimination” clauses; and to engage in political action with other organizations and coalitions.

In September 1994, the NBoD adopted a resolution objecting to Treasury Board’s discriminatory treatment of gay and lesbian members that demanded the employer change its policy and immediately grant leave and benefits arising from same-sex relationships.

In 1998, National President Daryl Bean called for an inquiry into the purge of homosexuals from the government during the “cold war” in the 1950s and 1960s. The PSAC position was based on a study by Gary Kinsman that established that the RCMP had, as late as 1967-68, a list of 9,000 “suspected and confirmed homosexuals in the Ottawa region”. Bean noted that bias was still widespread in the federal public service, and Treasury Board had still not provided gay and lesbian workers with a workplace accepting of them and their families. He called for an apology and compensation for the victims of the purge.

The NBoD adopted a resolution from the 2000 national convention that urged PSAC to take action to convince the federal government to amend pension plan death benefit plans and to redefine “spouse” to include same-sex couples.

In October 2003, the Alliance Executive Committee (AEC) adopted a position to fully support the right of same-sex couples to marry by actively engaging with the equal marriage campaign, by raising same-sex marriage as an issue in the next federal election campaign and by distributing educational tools, resources and a lobby kit.

In 2006, NBoD approved two important resolutions referred to it by the PSAC national convention. The first pledged PSAC’s support for the *Civil Marriage Act* which recognized the right of same-sex partners to marry; the second committed the PSAC to support the pursuit of GLBT victories in the courts.

After the 2007 national convention, the NBoD adopted a resolution calling for the PSAC to lobby and participate in court challenges to remove the words “of the opposite sex” from all definitions affecting benefit plans in Acts, Regulations, and Directives, including National Joint Council (NJC) agreements and collective agreements, to recognize lesbian and gay relationships and to ensure equal access to health, dental, and pension benefits for them and their families.

- **Opening opportunities to participate in our union**

By early 1989 lesbian and gay members had begun to organize. An article written by National Component members about the discriminatory nature of the definition of “spouse” and its impact on couples in same-sex relationships was rejected for publication in *Alliance* magazine on the grounds that it was not of broad membership interest. That galvanized members to organize and push for change within the union. In 1992 an article written by Diane Kilby, about the failure of the Treasury Board collective agreements to recognize the families of lesbians and gay members appeared for the first time in the *Alliance*.

The first open lesbian and gay caucus at the National Component Equal Opportunities Conference in May 1989 led to the formation of the PSAC Lesbian and Gay Support Group (LGSG) in 1990, which lobbied strongly for the rights of lesbian and gay members.

The first workshop on lesbian and gay rights was held at the PSAC National Women’s Conference in 1990.

In 1992, PSAC included two seats on its Equal Opportunities Committee for a lesbian and a gay representative, chosen in consultation with the Lesbian and Gay Support Group.

At the 2003 national convention PSAC members elected their first openly GLBT executive officers in 2003 and agreed to fully fund equity conferences, including a Pride conference.

In 2004, the new PSAC Human Rights Kit included an entire chapter on GLBT rights. In 2010, the PSAC produced a pamphlet on the issues and challenges facing our trans members in the workplace and in society with a call to contact MPs and lobby for an amendment of the *Canadian Human Rights Act*, to include a prohibition of discrimination based on gender identity and gender expression.

PSAC publicly added its support for the International Day against Homophobia (www.homophobiaday.org) for the first time in 2007. In conjunction with the Day, the union has distributed posters and pamphlets, such as those from the Fondation Émergence, a Québec-based organization dedicated to LGBT rights.

PSAC activists have been participating regularly in local and regional Pride events across the country. In 2010, PSAC created its own Pride flag for these events.

The union held its first National Pride Conference in November 2003 where National President Nycole Turmel affirmed that “Gays and lesbians should have access to civil marriage – it’s an issue of fundamental equality.” The conference was the first time GLBT representatives were elected to the National Equal Opportunities Committee and elected as delegates to the PSAC national convention.

The second National Pride Conference took place in 2007 on the theme “Include and be included”. “Equality: are we there yet?” was the theme of the next Conference in 2010. Panels addressed achievements and international perspectives on GLBT rights and the challenges ahead.

In the fall of 2012, the PSAC’s new National Human Rights Committee (formerly the Equal Opportunities Committee) held its first meeting, and the newly created GLBT Working Group met to decide the theme and

workshops of the 2013 National Pride Conference and set out priorities for PSAC work on GLBT issues for 2013-2015. The theme of the 2013 National Pride Conference is “History in the Making”.

PSAC leads the way in bargaining

- **No discrimination – sexual orientation**

As early as 1980, PSAC sought to have sexual orientation added to the no discrimination clause in collective agreements. Treasury Board refused.

In 1983 PSAC proposed a non-heterosexist definition of common-law spouse that would have included same-sex spouses, and a no discrimination clause that included sexual orientation. Treasury Board rejected these demands.

When PSAC negotiated its first Master Agreement with Treasury Board in 1986, it included sexual orientation as a prohibited ground of discrimination (clause M-16). This was a fundamental step forward because it provided an avenue to demand basic human rights within the workplace.

- **Definition of spouse and same-sex spousal benefits**

PSAC proposed to amend the definition of spouse and to expand the preamble to the bereavement clause in negotiations with Treasury Board for the second Master Agreement. However, even though clause M-16 prohibited discrimination based on sexual orientation, adjudication decisions continued to deny the applicable collective agreement benefits to same-sex spouses.

In 1989, PSAC asked Treasury Board to re-open the Master Agreement to modify the definition of spouse considering the existing definition discriminatory. When Treasury Board refused, the union brought its proposal to a conciliation board which did not recommend changing the

definition. When a settlement could not be reached in 1991 PSAC members held a national strike but were legislated back to work.

In 1992, the PSAC negotiated a travel insurance policy with Treasury Board that recognized same-sex spouses.

In 1994, Treasury Board responded to PSAC's proposal for same-sex spousal benefits by suggesting that the Justice Minister would be preparing amendments to the Canadian Human Rights Act on this issue.

Finally, in 1998, the Program Administration (PA) collective agreement was amended to provide for an inclusive definition of spouse that read: "common-law spouse": a common-law spouse relationship exists when, for a continuous period of at least one year, an employee has lived with a person publicly represented that person to be his/her spouse and continues to live with the person as if that person were his/her spouse (*conjoint de fait*).

All of PSAC's agreements with Treasury Board now define common-law partner and spouse as follows:

"common-law partner" (*conjoint de fait*) means a person living in a conjugal relationship with an employee for a continuous period of at least one (1) year."

"spouse" (*époux*) will, when required, be interpreted to include "common-law partner," except, for the purposes of the *Foreign Service Directives*, the definition of "spouse" will remain as specified in Directive 2 of the *Foreign Service Directives*.

PSAC has also been successful in winning non-heterosexist language in other collective agreements. For example, in 1987 the union bargained expanding the definition of common-law relationships to include same-sex spouses in an agreement with the Northwest Territories government. The same language was negotiated with the Yukon government in 1990.

In the early 1990s, the PSAC walked the talk by negotiating collective agreements with its own staff that specifically recognized same-sex relationships.

- **Spousal union leave**

PSAC reiterated its commitment to equality for lesbian and gay members by making the negotiation of spousal union leave a priority.

In 1998 the union negotiated spousal union leave for gay and lesbian couples at the Museum of Sciences and Technology, the National Gallery, the Canadian Museum of Nature and at Canada Post.

Before the *Marriage Act* was amended in 2005, PSAC negotiated spousal union leave in several collective agreements, instead of or in addition to marriage leave. In one example, the Regina Airport Authority agreement provided for five days of leave for anyone with one year of continuous service “for the purpose of declaring spousal union with another person in a public ceremony”. Similar provisions were also negotiated successfully at several other airports.

In 2006, marriage leave was extended to same-sex couples for all Canada Revenue Agency bargaining units.

- **Gender identity**

PSAC is on the cutting-edge in achieving rights for our transgender members, and has bargained good language on such issues as discrimination on the basis of gender identity or gender expression, access to a safe washroom or change rooms, and the right to be referred to by one’s chosen gender.

The addition of “gender identity” to anti-discrimination clauses has been bargained in three museums and related arts groups, in nine airport related bargaining units, in eight of 16 units in the Yukon and 21 of 29 units in the

Northwest Territories. It helps that the NWT was the first jurisdiction in Canada to amend their human rights legislation to prohibit discrimination based on gender identity and gender expression.

PSAC makes gains through complaints, grievances and in the courts

As of the late 1980s, the PSAC had filed a series of grievances against Treasury Board related to discriminatory collective agreement provisions in areas such as marriage leave and bereavement leave for common law in-laws, and provisions in the Public Service Health Care Plan and the Dental Plan.

- **Leaves of absence**

In 1993, the PSAC successfully argued in the David Lorenzen case that a member with a same-sex spouse should be provided spousal-related leave under the collective agreement. Lorenzen's spouse had broken his leg, and need to be cared for at home. Three weeks later Lorenzen's partner's father passed away. Lorenzen requested both: family related care leave and bereavement leave for his father in law. Treasury Board turned down both requests on the basis that Lorenzen's partner was of the same sex. The Public Service Labour Relations Board agreed with PSAC and the decision was used to support several other cases.

- **Spousal benefits**

In 1993 PSAC won another decision after Luc Guèvremont, a PSAC member at Canada Post, filed a grievance when his partner was denied reimbursement for eye glasses under the vision care plan. Canada Post was then forced to provide spousal benefits for same-sex partners without discrimination.

Despite the union's success in the Lorenzen and Guèvremont cases, Treasury Board refused to budge, and contested all grievances on the

subject. A 1994 PSAC National Board of Directors resolution had called on members to engage in a grievance campaign against denial of spousal leave requests and the denial of claims under the Public Service Health Care Plan.

PSAC member Dale Akerstrom filed a complaint with the Canadian Human Rights Tribunal in February 1993, alleging that the Canada Employment and Immigration Commission (CEIC) and Treasury Board discriminated against him on the grounds of sexual orientation, family status and marital status because his spouse was being denied Public Service Health Care and Dental Plan benefits.

While his complaint proceeded, the Supreme Court of Canada ruled in 1995 that Section 15 of the Canadian Charter of Rights and Freedoms provided equality rights to gays and lesbians (the Egan and Nesbit case) and Treasury Board conceded its policy was discriminatory. The Human Rights Tribunal hearing the Akerstrom complaint made a comprehensive order for the employer to immediately cease and desist applying any discriminatory definition of spouse or any other discriminatory provision of the collective agreement, and to interpret all such definitions “so as to include same-sex common law spouses”.

The Akerstrom ruling was of historic importance and had a huge impact by directly benefiting not only Treasury Board workers but also the military, the RCMP, some Crown corporations and agencies, as well as pensioners covered by the federal medical insurance plan. It also applied to federally-regulated employers in the private sector, such as banks, railways, airlines, and telecommunications companies.

Treasury Board continued to resist and proposed that a separate regime of benefits for same-sex partners be included alongside the heterosexual specific definition of “spouse” in the collective agreement and in the National Joint Council Agreements. PSAC had the matter referred back to the Human Rights Tribunal which found Treasury Board’s position to be discriminatory since it reinforced existing prejudice against gays and

lesbians in society. Treasury Board appealed this ruling. Finally, in August 1998, the Federal Court confirmed the Human Rights Tribunal interpretation which led to an inclusive definition of spouse in the PSAC's agreements with Treasury Board in 1998.

- **Pension plan survivor benefits**

PSAC National President Daryl Bean wrote to Treasury Board President Gilles Loiselle in 1992 requesting that the Public Service Superannuation Act be amended to allow for same-sex spouses to claim survivor benefits. Loiselle refused saying the federal government pension plans didn't permit the payment of survivor benefits to individuals of the same gender as the contributor. PSAC challenged the policy in court but was not successful because the *Canadian Human Rights Act* did not apply to pensions.

The Canadian Labour Congress, with the support of affiliates like the PSAC, intervened in support of Jim Egan and Jack Nesbit who sued Ottawa for the right to claim a spousal pension under the *Old Age Security Act*. In 1995, the Supreme Court ruled against the two men but all nine judges agreed that sexual orientation is a protected ground and that protection extended to lesbian and gay partnerships. This was an important ruling for the future as sexual orientation was now considered to be a protected ground under Section 15 of the Charter.

The Supreme Court decision in *M. v. H.* in 1999 eventually led to amendments of all federal and provincial pension benefits standards legislation to provide for survivor pension benefits to same-sex couples.

- **Fighting homophobia**

The PSAC has also supported members in their complaints that relate to human right violations outside of the workplace.

In 2005, the Alliance Executive Committee agreed to cover some of the costs of a legal battle by two PSAC members, Kim Forster and Carol

Pegura, who filed a human rights complaint against the Surrey School District Board. Forster and Pegura argued that they suffered discrimination when the Board permitted a poisonous and homophobic environment at two public meetings to discuss three children's books depicting same-sex parents where speakers denounced the homosexual "lifestyle".

In the Susan Comstock case, the PSAC defended against her challenge that she be allowed to withhold her dues. She claimed PSAC took positions that violated her Charter rights to freedom of religion and freedom of conscience. Comstock wanted her dues sent to her church to protest the union's support for gay marriage and its zero tolerance against "homophobia" and "heterosexism."

The Federal Court of Appeal rejected the legal challenge. "The evidence does not show how her freedom of religion and conscience was compromised by this policy," Justice Frederick Gibson wrote. "The fact that she opposes the union's political or social causes does not force her to act in a way contrary to her beliefs or her conscience." The Catholic Civil Rights League, which took up Comstock's cause and supplied her lawyer, denounced Canadian courts and tribunals for being "generally favourable to homosexual activists."

PSAC mobilizes to change the law

- **The Canadian Human Rights Act**

In the 1990s, PSAC joined like-minded groups to lobby for amendments to the *Canadian Human Rights Act*.

In 1991, National President Daryl Bean wrote to the Prime Minister and the Minister of Justice clearly stating the union's position in favour of amending the *Canadian Human Rights Act* to prohibit discrimination based on sexual orientation. For several years, the PSAC lobbied government and worked with opposition parties until the *Canadian Human Rights Act* was amended in 1996 to prohibit discrimination based on sexual orientation.

- **Equal benefits**

In 1999, the Supreme Court of Canada decided in the *M v H* case, that it was discriminatory to deny same-sex couples the benefits afforded to heterosexual couples. In response to the Supreme Court's ruling, the federal Liberal government introduced Bill C-23, the *Modernization of Benefits and Obligations Act*, giving same-sex couples who have lived together for more than a year the same benefits and obligations as common-law couples.

The Canadian Labour Congress (CLC) and many affiliates, including the PSAC, made submissions in support of the Bill during Parliamentary hearings. The *Act* affected 68 federal statutes on a wide range of issues such as medical and dental benefits, Old Age Security, income tax deductions, bankruptcy protection and the Criminal Code. The definitions of "marriage" and "spouse" were left untouched, but the definition of "common-law relationship" was expanded to include same-sex couples.

- **Employment equity**

In 2002, during a review of the federal *Employment Equity Act* PSAC made a submission outlining its concern that GLBT persons were excluded from the *Act*.

- **Equal marriage**

When the Supreme Court of Canada declared that prohibiting same-sex spouses from marrying would be unconstitutional, PSAC joined the Canadians for Equal Marriage campaign, donating office space and other services. The Coalition, created by EGALE and the United Church of Canada, had an extensive list of supporting organizations including the CLC and affiliated unions. Unions and individual supporters presented briefs before Parliamentary committees and lobbied MPs in support of the legislation.



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History in the Making: PSAC works for GLBT People

HANDOUT # 3

On July 20, 2005, Bill C-38, the *Civil Marriage Act* was proclaimed into law making Canada the fourth country in the world after the Netherlands, Belgium and Spain to legalize same-sex marriage. The Bill had been supported by most members of the Liberal party, the Bloc Québécois and the NDP.

In 2006, with the election of a minority Conservative government, Prime Minister Harper tried to introduce legislation aimed at restoring the “traditional definition of marriage”. PSAC adopted a statement on equal marriage, developed a campaign lobby kit and publicly called on the government to leave the *Civil Marriage Act* alone. Thanks to the important work carried out by all coalition partners this initiative was never adopted.

- **Gender identity and gender expression**

Since 2009, the PSAC has actively supported various NDP private Members bills proposing amendments to the *Canadian Human Rights Act* to include gender identity and gender expression in the list of prohibited grounds of discrimination. The work included collaborating with the Canadian Labour Congress and Egale to develop lobby strategies and invite Trans activists to participate in lobbying. PSAC’s website became the focal point for speaking points and letters to MPs.

The 2011 election prevented NDP MP Bill Siksay’s Bill C-389 from being adopted after it had been passed by the House of Commons. It was followed by NDP MP Randall Garrison’s Bill C-279 introduced in September, 2011. Later that fall PSAC participated in discussing a strategy for lobbying at the CLC’s Stand Up for Your Rights Conference. In March, 2012 PSAC wrote to Prime Minister Harper and the Minister of Justice to support the bill. As of June, 2013, the Bill had been adopted by the House of Commons and was being debated at third reading in the Senate.

PSAC works in solidarity inside and outside Canada

The PSAC has been a staunch supporter of EGALE (Equality for Gays and Lesbians Everywhere) and has contributed funds and human resources to support their struggle for GLBT equality rights.

In 1992, the PSAC endorsed and was an official sponsor of a national conference entitled “Outrights\ les droits visibles”.

- **Working with the Canadian Labour Congress**

In 1994, the Canadian Labour Congress (CLC) adopted a policy on sexual orientation and established a Solidarity and Pride Working Group. PSAC was one of the first unions to appoint representatives to the Working Group and has continued to participate. As an active member of the Group, PSAC helped organize and had the largest caucus at the first union-sponsored CLC Solidarity and Pride conference held in 1997.

In 1998 the PSAC helped sponsor and sent a large delegation to the CLC prairie regional Pride conference “Working Out West” in Alberta.

PSAC sent the largest delegation to the second national CLC Solidarity and Pride Conference in 2001 and actively participated in the third conference in 2005.

In December 2010, the PSAC delegation to the CLC *Rise Up for Your Rights* Conference was the largest of any affiliate and included GLBT activists.

- **Participating in international conferences**

In 1998, the PSAC sent two delegates to the “Trade Unions and Homosexuality at Work” international Conference in Amsterdam. This conference, sponsored by European unions, was the first international GLBT conference attended by Canadian unionists.

PSAC has been sending a delegation to the World Outgames Human Rights Conferences starting with the first one in Montreal in 2006 and again in 2009 in Copenhagen.

In the summer of 2011 a delegation of regional GLBT and Component representatives participated in the North American Outgames Human Rights Conference in Vancouver. This Conference, with its wide range of issues, also allowed PSAC members and staff an opportunity to network with union and other activists.

- **Working in solidarity through the PSAC Social Justice Fund**

The PSAC's Social Justice Fund, proposed by the PSAC National Board of Directors and adopted at the union's 2003 national convention, provides an avenue to support GLBT persons around the world who are persecuted because of their sexual orientation.

In South and Central America

In 2006, the Social Justice Fund facilitated the participation of Mario Alves de Oliveira, LGBT activist and General Secretary of the three million member Confederation of Municipal Workers (CONFETAM) in Brazil and Ivannia Monge Naranjo, representative of the Committee on Gender and Diversity of the National Association of Public and Private Employees (ANEP) of Costa Rica in the International Conference on GLBT Human Rights in Montreal.

Following the 2009 coup in Honduras, security forces unleashed a wave of repression against GLBT and women's rights activists that included the gunning down of Walter Trochez, a well-known activist and HIV/AIDS educator and member of the National Resistance Front against the coup. PSAC supported the campaign denouncing the killing and invited a representative from the Honduran GLBT community to attend the union's 2010 Pride Conference. Due to the severe repression occurring at the time,

the representative was forced into hiding and was unable to attend the conference.

In February 2009, the Social Justice Fund contributed to Peace Brigades International to facilitate a tour of human rights defenders from the Americas that included two representatives from OASIS, a center that promotes LGBT rights and carries out education on HIV/AIDS and works to defend the human rights of sex workers in Guatemala. The delegation included a Trans woman who had survived an attack by Guatemalan police. PSAC is part of the watch group that monitors the situation and that may be called into action if new threats emerge.

In Africa

The Social Justice Fund joined the groundswell of individuals and progressive organizations rejecting Uganda's plan to completely criminalize the lives of GLBT persons, and enact capital punishment for acts of homosexuality. While international pressure and solidarity has been successful in modifying the proposed law, GLBT Ugandans still face many types of discrimination and need our ongoing support. In 2009, PSAC endorsed the letter from the Pride Uganda International Alliance calling on Prime Minister Harper to denounce the homophobic legislation.

In Canada

The Social Justice Fund also currently supports a number of initiatives in defense of gay rights in Canada including support for the Halifax-based Youth Project. The Project is a non-profit charitable organization working with youth around issues of sexual orientation and gender identity. It provides support groups, referrals, supportive counselling, a resource library, educational workshops, social activities and a food bank. A number of PSAC members volunteer at the Project which has been supported by the Social Justice Fund since 2009.



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HANDOUT # 3

The PSAC Calgary Human Rights Committee participates in the yearly Human Rights Forum at the Calgary Global Fest with the support of the Social Justice Fund. This event aims to build community capacity to address racism and discrimination through a series of community events, speakers and information booths. PSAC members' participation in the Forum includes an information booth to publicize the role of unions in support of GLBT rights.

CLC Collective Bargaining Checklist Sexual Orientation & Gender Identity

The collective agreement is the foundation for workers to access their rights in the workplace. Many agreements are silent on the rights of lesbian, gay and trans workers. It is important to review our collective agreements to ensure that we meet our legal obligations and fully represent all our members. As unions, we can bargain beyond the bare minimum legal requirements.

Does your agreement have a no-discrimination clause which includes sexual orientation and gender identity/gender expression?

Does your agreement have anti-harassment/anti-violence clauses?

Do they include sexual orientation, same-sex partnership status and gender identity as prohibited grounds? Is there a clear investigation/resolution process?

Does your agreement call for mandatory workplace human rights training for all employees, including on sexual orientation and gender identity issues?

Does your agreement recognize same-sex relationships?

Are same-sex spouses and families fully covered in all pension texts and provisions and in all benefits provisions?

Is the length of cohabitation (time living together) the same for opposite sex and same-sex couples?



History in the Making: PSAC works for GLBT People

HANDOUT # 4

Is the method of proof of relationship the same for same-sex couples as it is for opposite-sex couples?

Does the method of proof require that the relationship be “public”? (There can still be safety issues involved for same-sex couples.)

How are those benefits accessed? Do GLBT workers have to out themselves in the workplace to access the benefits?

Does the administrative process allow claim forms to be submitted to the insurer rather than the employer?

Does the bereavement leave provision recognize same-sex partners and their family members? Does it respect privacy/safety issues?

Is the definition of parental leave inclusive? Does it recognize same-sex parents?

Are the leave provisions for attendance at a birth or adoption gender neutral or do they specifically include lesbian and gay non-birth parents?

Is it clear that parental leave includes adoption leave?

Does the drug plan include drugs for in vitro fertilization, insemination, HIV/AIDS, hormone therapy, etc. without formularies and without annual or lifetime maximums? (A formulary is an approved and limited list of drugs, rather than any medication prescribed by your doctor.)

Does the medical benefit package include coverage for sex reassignment surgery, counselling and electrolysis?



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HANDOUT # 4

Does your agreement include return to work or leave policies that accommodate workers who transition on the job?

Does the medical leave provision allow for part-day absences?

Do the life insurance and long-term disability insurance contain barriers such as pre-existing clauses, non-evidence maximums?

Does your life insurance include a provision for a living benefit advance and conversion?

Does your agreement include clauses which might have a negative impact on trans workers, such as gender-specific dress codes.

Does your agreement have accommodation provisions for workers who are trans (e.g. washroom accessibility)?

This list of possible benefits and entitlements has an ever expanding horizon. Here is an extensive, but not exhaustive list.

Insured

Registered Pension Plans

Life Insurance

Accidental Death &

Dismemberment Insurance

Survivor Income Benefit

Long Term Disability

Major Medical/Extended Care

Dental Care

Vision Care

Drugs

Family Care (eg. Nursing)

National PRIDE Conference



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HANDOUT # 4

Home Coverage)
Automobile Insurance
Travel Insurance
Legal Plans

Non-Insured

Bereavement Leave
Maternity/Parental Leave Top Up
Adoption Leave
Family Leave
Marriage Leave
Child Care Leave
Child Care Subsidies
Leave For Medical
Appointments
Relocation Leave & Expenses
Family Tuition Fees/Subsidies
Family Memberships
Travel Passes
Complimentary Tickets
Mortgage Subsidies

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Materials\Pride\COLLECTIVE BARGAINING CHECKLIST.wpd

National PRIDE Conference