

## Presentation to Law Amendments Committee

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There are several objections I would like to raise to the Public Services Sustainability Act that is under consideration here today.

- 1) ***The legislation is wrong in principle.*** Collective bargaining is widely recognized as a human right by many international organizations. It has also been affirmed by the Supreme Court of Canada as a right protected under the Charter of Rights and Freedoms. For example in 2007 the Court stated: "Recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms the values of dignity, personal autonomy, equality and democracy that are inherent in the charter." While claims to the contrary have been made, this bill does not respect the right of public employees to collective bargaining. In fact it completely ignores and abrogates that right. One does not have to be a lawyer, a legislator, a member of an opposition party, a union member, or even very intelligent or honest to see that this is so.
- 2) ***The legislation is wrong legally.*** The collective bargaining process for teachers is prescribed under the aptly named *Teachers Collective Bargaining Act*. The Act allows for normal bargaining, conciliation, mediation, and arbitration as ways of reaching an agreement between the Nova Scotia Teachers Union and the Province. It does not make provision for interference by the Legislative Assembly of Nova Scotia whenever the government of the day does not appreciate the position taken by the NSTU. In introducing this bill the government is setting aside a completely valid and proven process, already established in the body of law of this province, and substituting an *ad hoc* settlement reached by an *ad hoc* process. The procedures envisioned under the TCBA have been totally ignored and evaded since the beginning of negotiations between the NSTU and the Province.
- 3) ***The legislation is wrong politically.*** The health of the body politic depends on mutual respect and trust between government and citizens, and between government and its employees. This legislation tends to the destruction of both. Again the issue is the lack of respect for the normal and proper means of establishing contracts between the province and its 75 000 public servants (who are also citizens, as it happens). There is also the lesser but important consideration, for the government which has introduced this bill, that similar actions have been perpetrated by previous governments in the past, and have usually resulted in subsequent electoral defeat of that government, as well as – on occasion – damage to the ability of that government to govern effectively in some respects during the remainder of its mandate.
- 4) ***The legislation is wrong morally.*** Clearly the bargaining strategy of this government from the beginning of negotiations between itself and the NSTU has been to threaten and intimidate the Union, indicating surreptitiously at first, openly of late, that if the government's position is not "accepted" by the Union punitive measures by the Legislature will follow. This bill is obviously a continuation of that reprehensible strategy, designed primarily to place external pressure on the Union to accept contract provisions which its members have already rejected. If bullying is immoral then this bill is immoral. If extortion is morally wrong then this bill is morally wrong. If intimidation is socially unacceptable as a means of having one's way then this bill is socially unacceptable.
- 5) ***Finally there is one aspect of the legislation which it seems to me is wrong conceptually.*** That is the provision that in future arbitrators must take into account the ability of the province to pay. The question that arises in my mind is how an arbitrator would reach any conclusion as to the ability of a particular government to afford a particular settlement. Would s/he be forced to rely on government's own estimate of its ability to pay? Surely that would render the role of arbitrator superfluous. However I cannot see what other means would be available to an arbitrator to make such a determination.

Since this is a flawed piece of legislation – flawed in principle, legally, politically, morally and conceptually - my suggestion is that it be given the only consideration it deserves, that is that it be consigned to the dustbin of history.