

## **Bill 75 - Law Amendments Committee**

### **Submission of the Association of Nova Scotia University Teachers (ANSUT)**

My name is Marc Lamoureux, President of ANSUT, and these are the comments of the Association of Nova Scotia University Teachers (ANSUT) with respect to Bill 75, *Teachers' Professional Agreement and Classroom Improvements (2017) Act*, an act Respecting a Teachers' Professional Agreement and Classroom Improvements.

Overall, the legislation is a continuation of this government's casual willingness to limit collective bargaining rights as a panacea for the public sector's perceived ills. It is a further demonization of organized labour in Nova Scotia. The Bill is yet another unfortunate example of government overreach in the limitation of bargaining rights in the public sector. These measures are simply not necessary to achieve the stated aims of the Bill; rather, they are heavy-handed and punitive actions that are not only irrelevant to the objectives of the Bill, but may, in fact, impede it.

Bill 75 will force a work contract on the 9,300 NSTU members who have been without a contract since July 2015. This forced action is against a recognized right to free association and collective bargaining enshrined in the Canadian Charter of Rights and upheld by the Supreme Court of Canada. ANSUT stands in solidarity and protests with the NSTU because this is the same government that introduced the infamous Bill 100 in 2015, giving the right to NS University Employers to unilaterally (a) remove the right to strike and (b) suspend its collective agreements, which includes the right to strike! Bill 75 and Bill 100 are further proof of the Government's willingness to, once again, breach the constitutionally protected rights of employees in the province to freely associate and negotiate a fair and reasonable work contract. Bill 75 demonstrates the government's contempt and lack of respect for the rights of working people in Nova Scotia. In the case of Bill 75, the government is both the Employer and Legislator, clearly a conflict of interest.

Bill 75 is not only bad policy and bad collective bargaining practice but also is likely contrary to the Charter of Rights and Freedoms. In a recent case, the *Mounted Police*

*Association of Ontario* case, the Supreme Court of Canada stated that the Charter protects a “meaningful process of collective bargaining”. If the legislature seeks to restrict or eliminate that process, “the ultimate question to be determined is whether the measures disrupt the balance between employees and employer that s. 2(d) of the Canadian Charter of Rights and Freedom seeks to achieve, so as to substantially interfere with meaningful collective bargaining”. The Court said, “A process that substantially interferes with a meaningful process of collective bargaining by reducing employees’ negotiating power is therefore inconsistent with the guarantee of freedom of association enshrined in s. 2(d).”

In the *Saskatchewan Federation of Labour* case, the Supreme Court of Canada said, “The right to strike is protected by virtue of its unique role in the collective bargaining process”.

Art. 14 of Bill 75 states specifically that, “No arbitrator or arbitration board established under any Act of the Legislature or in accordance with a collective agreement and no board or tribunal, including the Labour Board established under the Labour Board Act, has jurisdiction to (a) determine the constitutional validity or constitutional applicability of this Act; or (b) determine whether a right conferred, recognized, affirmed or otherwise guaranteed by the Constitution of Canada has been infringed by this Act.” How can this Article be reconciled with the s. 2(d) of the Canadian Charter of Rights and Freedom?

The Bill is bad policy because it will cause unnecessary labour relations turmoil, resentment and upset in the school workplace. It will be readily apparent to all that Bill 75 is unfair to employees. It singles out workers by imposing a collective agreement. It eliminates any meaningful collective bargaining by removing the right to strike.

The negotiation impasse and labour disruption cannot be attributed solely to NSTU. There are two parties at the negotiation table and both are expected to negotiate in good faith to resolve negotiation issues. Is the government negotiating in good faith? The government claims that it does but recent examples prove otherwise: Premier McNeil indicated, after a round of negotiation where a tentative agreement was reached, that

teachers would not have the discretion to use the two self-directed development days, as outlined in the tentative agreement, contrary to documents the NSTU received during the bargaining process. Is this bargaining in good faith?

## **Conclusions**

The Government's action to unilaterally force a work contract and suspend collective bargaining disrupts the balance between employees and employers that s. 2(d) of the Charter clearly requires.

The Bill is further proof of the Government's willingness, once again, to breach the constitutionally protected rights of employees in the province. The Bill demonstrates the government's contempt and lack of respect for the rights of working people in Nova Scotia.

Bill 75 should be quashed and retired from any further discussion or consideration by the Nova Scotia Legislature. The Nova Scotia government and NSTU should be allowed to go back to the negotiation table to reach a fair and reasonable contract that we will meet the collective, future goals of our Nova Scotia's teachers and students.