

**IN THE MATTER OF AN  
INDUSTRIAL INQUIRY COMMISSION  
TO INQUIRE INTO LABOUR RELATIONS MATTERS**

BETWEEN:

BC PUBLIC SCHOOL EMPLOYERS' ASSOCIATION

(the "Employer")

AND:

BC TEACHERS' FEDERATION

(the "Union")

**Interim Report to  
The Honourable Michael de Jong  
Minister of Labour & Citizens' Services  
Province of British Columbia**

Submitted by

Vincent L. Ready  
Industrial Inquiry Commissioner

January 27, 2006

## **BACKGROUND**

The unhappy quarter-century history of collective bargaining in the province's public school system has been well described elsewhere. This history was the background for and context of the *Commission to Review Collective Bargaining*, which reported to the Provincial Government in December, 2004 (the "Wright Report").

The Wright Report was the result of almost a year of intensive consultation with interested parties. It made a number of recommendations, but noted "recommendations will not significantly improve the state of collective bargaining unless there is an attitudinal and behavioural change on both sides". The Report attempted to set a context for this attitudinal and behavioral change. The recommendations were received very negatively by the BC Teachers' Federation ("BCTF").

The Wright Report observed that the state of relations between government and the BCTF "is, in something of an understatement, not very healthy". In 2005, that relationship got worse. The Collective Agreement legislated in 2002 had expired in 2004. Collective bargaining reached an impasse, well described in the fact-finding report of Associate Deputy Minister Rick Connolly (September 30, 2005): "While the parties met on numerous occasions, they failed to agree on a single item". Teachers voted to strike, and on September 28, 2005 teachers began limited job action. On October 3, 2005

the Government of British Columbia passed Bill 12, the *Teachers' Collective Agreement Act*, extending the existing Collective Agreement to June 30, 2005. On October 7, 2005 teachers across British Columbia withdrew services completely. Canadian Union of Public Employees' ("CUPE") members working in schools honoured picket lines, and solidarity strikes by other unions took place in Victoria and elsewhere.

On October 10, 2005 I was appointed as an Industrial Inquiry Commission to facilitate the next round of collective bargaining. On October 17, 2005 my mandate was expanded to include facilitating a return to work. I made recommendations to end the walkout on October 20, 2005. The Government and the BCTF accepted the recommendations, and the strike ended on October 24, 2005.

## **TERMS OF REFERENCE**

My initial terms of reference were:

To make inquiries, consult with the parties, and make recommendations to the minister concerning the following labour relations matters between the parties:

- i. Determining which matters if any, should be concluded at local bargaining.
- ii. Methods and costs associated with the harmonization of compensation structures within the financial mandate established by Government from time to time.

- iii. Establishment of a provincial master collective agreement.
- iv. Bargaining processes for provincial negotiations that are timely, structured, provide for public accountability, promote settlement at the bargaining table and foster effective and productive union/management relations.

The report and recommendations of the Industrial Inquiry Commission on these matters must:

- Take into consideration, but not be limited by, the findings and recommendations of the Wright Commission as set out in that commission's December 2004 report.
- Set out a process that concludes all matters in a timely manner before collective bargaining between the parties for a renewed collective agreement commences in Spring 2006.
- Comply with section 7(3) of the *Public Education Labour Relations Act*.
- Comply with section 27 and 28 of the *School Act*.

On December 15, 2005, my terms of reference were amended:

I would like to confirm my original instruction to you that the Industrial Inquiry Commission review should focus on the development of a workable process and structure for collective bargaining. I request, however, that you expand your analysis to include consideration of an option raised by some of the parties with respect to expanded local bargaining.

I am seeking your thoughts on the viability of a local bargaining system, the structures and strategies that would support such a system and the related accountabilities necessary to ensure a local bargaining structure.

I was also asked for my “recommendations on suggested timelines for concluding the work of the Industrial Inquiry Commission”.

## **SUBMISSIONS AND MEETINGS**

On November 23, 2005, I wrote letters to the major organizations representing stakeholders in the public education system. All organizations contacted responded with their respective positions, which I will refer to in detail in my final report.

I have had initial meetings with the BC Public School Employers’ Association (“BCPSEA”) and with the BCTF. The meetings were cordial and useful. For the most part, the two organizations elaborated on positions that they have taken before on all the issues before me. The BCTF, however, identified, as a new position, the following:

We are therefore prepared to submit, for the first time in the Federation’s history, and in the spirit of compromise, that there is room for provincial negotiation of the provincial level of resources with a resolution mechanism that includes the right to strike. These resources would then be allocated to the local bargaining process. This would assure government that it has some control over the expenditure of resources, but at the same time would then allow the local parties to agree on how and on what the expenditures would take place. The full right to strike must also exist at the local level to ensure the equity of power and in accordance with the principles outlined above in the section on dispute resolution.

## **OBSERVATIONS**

It is well known that the bargaining relationship between BCPSEA and the BCTF is dysfunctional. That fact is one of the few grounds of agreement between the parties (although they have very different explanations for it). The reasons for this dysfunctionality were set out in the Wright Report, and the current state of the relationship is aptly described in the Report of the Fact-Finder.

Although the history of local bargaining before 1994 was fraught with disputes and other difficulties, the evidence is overwhelming that the parties have not conducted meaningful negotiations in the decade since the *Public Education Labour Relations Act* established the present bargaining structure. It is clear that, unless both sides are committed to collective bargaining, the process will be fruitless no matter what system is adopted or legislated.

As a starting point, all parties must recognize this failure to engage in meaningful negotiations. This will require them to establish a realistic bargaining agenda and then commit to concluding collective bargaining within realistic timeframes. These are basic steps in the collective bargaining process, but they have been sadly lacking between these parties.

It is trite to say that free collective bargaining carries with it the responsibility to make it work. That responsibility lies mainly with the parties. That said, I will continue to study other bargaining structures that may provide a workable variation or alternative to the present system.

### **TIME FRAME**

I have concluded that, because of the complexity of this task, it will take considerably more time and resources than I first anticipated for this Commission to complete its study. More time will be needed to review the structures and experience in other jurisdictions, and to consult with affected parties. I recommend, therefore, that my term be extended in order to allow enough time to review alternative bargaining structures and to prepare any interim recommendations I may decide to make and to complete my final report, including any accompanying legislative amendments that may be necessary.

I will keep you informed of the ongoing work of the Commission.

All of which is respectfully submitted this 27<sup>th</sup> day of January, 2006.

*Vincent L. Ready*

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Industrial Inquiry Commission