

Mr. Chair, Honourable Members of the Legislative Assembly.

I am very pleased to appear here today on behalf of the New Brunswick New Democratic Party in support of Bill 77, the Pay Equity Act.

I want to commend the members of the New Brunswick Legislative Assembly for mandating the Standing Committee on Law Amendments to consider this important public policy issue. I also want to especially thank two individuals who are members of the Legislative Assembly for ensuring that Bill 77 came before the House for consideration: the Leader of our party, Elizabeth Weir, and the Member for Miramichi Bay, Carmel Robichaud. Finally, I want to acknowledge the tremendous work that has been done by the Coalition for Pay Equity.

I am proud to say that the New Brunswick New Democratic Party has long supported the principle of pay equity, as has the federal New Democratic Party. In other provinces, NDP governments were early path breakers in the development of pay equity policies and legislation.

Today, pay equity has broad public support. Indeed, members of all three political parties stood in the Legislative Assembly when debating Bill 77 this spring to put on record their personal and political support for pay equity.

Clearly, our world has changed. We no longer accept that it is fair or right that women should be paid less just because they are doing the job. We recognize that entitlement to equal pay is a human right. On this, there is common ground.

There is also general agreement that the wage gap between men and women in New Brunswick is real and needs to be addressed. Significant research on the wage gap in the province has been carried out by the Advisory Council on the Status of Women. The New Brunswick Wage Gap Roundtable chaired by the Minister responsible for the Status of Women, Margaret Ann Blaney, found that the average hourly wages of all New Brunswick women are 19 per cent less than the average hourly wages of all New Brunswick men. Despite the many gains made by women in the workforce, the gender wage gap persists.

While there is much common ground, different views have emerged in the

province on how to translate the idea of pay equity into our real lives.

In my presentation today, I want to speak to why legislation is the appropriate public policy to address gender-based wage discrimination and, secondly, why Bill 77 is appropriate legislation to remedy unequal pay for work of equal value.

The gender wage gap is not a uniquely New Brunswick problem. The wage gap has existed for years across most of the industrialized world and appears to be deeply rooted in the economy. It is a much studied phenomenon. The fact that men earn more than women is one of the most studied issues in labour economics. We have come to understand that such discrimination is systemic and results from a combination of gender-based occupational segregation and the underpayment of women's work.

We can take pride in the fact that Canada is a world leader in addressing this problem. The first pay equity legislation was passed in 1976 by the province of Quebec. Today, pay equity has been legislated in nine provincial or territorial jurisdictions and the Canadian Human Rights Act covers two of the territories plus the federal jurisdiction.

All pay equity remedies since 1985 have been proactive except for the one in the Yukon, which included pay equity in its human rights legislation. Private sector organizations are covered in six jurisdictions: two with proactive legislation (Ontario since 1988 and Quebec since 1996), and four jurisdictions where pay equity is covered by human rights legislation (federally regulated industries and territories covered by the Canadian Human Rights Act: Northwest Territories, Nunavut, and Yukon).

Clearly, the Canadian political tradition is to legislate an end to discriminatory practices and to protect human rights. This is especially true since the Canadian Charter of Rights and Freedoms entrenched certain rights and enhanced the standing of human rights generally.

Bill 77 is in line with the key findings of the recent report of the federal Pay Equity Task Force. In its report released on May 5, 2004, the Task Force recommends that the Federal Government adopt pro-active,

inclusive pay equity legislation, which applies to all public and private sectors employers. It also recommends the creation of an independent organization to administer and interpret pay equity legislation.

As the federal Pay Equity Task Force acknowledged, pay equity is a fundamental human right. The exercise of a human right is not a privilege which can be granted to some citizens and not to others. All New Brunswick citizens should be able to exercise their right to equal pay for work of equal value.

If we agree that all New Brunswick citizens should be entitled to non-discriminatory wages, then pay equity legislation should be as comprehensive in its coverage as possible. All employees should have access to some means of contesting discriminatory practices.

Pay equity legislation should cover both public and private employers. The Canadian legislation protecting human rights - whether federal or provincial - generally applies to the public and private sector.

As with other human rights, there is no defensible rationale for exempting employers in the private sector from the obligation to eliminate discriminatory wage practices. Why should workers in the private sector have less protection against discrimination than those in the public sector? Or why should some workers in the public sector have less protection against discrimination than others who remain without pay equity provisions?

The current government has acknowledged there is a problem. They have said they want to give the private sector five more years to stop discriminating against women's wages. And then they would look at legislating fairness.

Experience has shown that only legislation - not voluntary action - will address discrimination. There is agreement then, that legislation is the appropriate means to address discriminatory wages, the only difference of opinion seems to be how much longer to wait to use it.

In the 25 years since the first pay equity legislation was implemented in Quebec, we have a much better understanding of the problem and how to

redress it.

A key lesson learned is that a human-rights-style complaint mechanism is not as effective in ending pay inequity as a proactive approach.

It is important to understand the difference between direct and systemic discrimination. Direct or individual discrimination is promulgated by prejudiced individuals. Systemic discrimination involves discrimination that is built into employment systems, often unintentionally.

Pay equity redresses systemic discrimination. Systemic discrimination requires a different solution than individual discrimination. Under individual discrimination, the remedy is to "make the person whole", as if the discrimination had not occurred. The focus is on the past. Did discrimination occur or not, and if so, what should have happened and did not? Systemic remedies are meant to be preventative.

They are forward looking. Systemic remedies are proactive and look to see if discrimination exists within a particular employment system, and if it does, to redress it. Human rights legislation has been constructed to redress individual discrimination and uses a complaint based approach.

The first pay equity legislation was incorporated into human rights legislation with a complaint-based approach. The new legislative approach is proactive. A proactive approach does not assume guilt of those involved in setting salaries or wages. It recognizes the systemic nature of the problem and requires organizations to examine the way they determine wages and if inequities are found, to redress them.

One of the advantages of a proactive approach to employers is the removal of retroactive payments which can become a major financial issue. Under the complaints-based approach of Human Rights legislation, there is no time frame. Retroactivity costs accrue from the time of the complaint. Proactive pay equity legislation is preventative and forward looking rather than punishing. Because they are designed to overcome old societal values, often unintentionally built into employment systems, proactive approaches do not provide redress for the past.

A complaint- based approach often means lengthy litigation which is both expensive and creates delays. That is one of the main reasons that the Canadian Human Rights Commission recommended to Parliament in 2001

that the federal government change its current complaint-based approach in implementing equal pay for work of equal value.

In response to the recommendation of the Canadian Human Rights Commission, the Government of Canada appointed an independent Pay Equity Task Force with a broad mandate to review current legislation. Their report released on May 5, 2004, gives clear direction for public policy makers committed to the achievement of pay equity.

The Task Force recommended that the Federal Government adopt pro-active, inclusive pay equity legislation, which applies to all public and private sectors employers. It also recommends the creation of an independent organization to administer and interpret pay equity legislation.

Bill 77 contains the key legislative elements recommended by the Pay Equity Task Force to the Government of Canada. It meets the test of "best practice".

Bill 77 is a pro-active law, that is, a law under which all public and private sector employers are obligated to provide pay equity and to show that they have complied with the requirements of the law. A law is said to be pro-active, rather than reactive, when implementation does not require the filing of complaints by employees.

Bill 77 is an inclusive law, that is, a law to which all public and private sector employers must comply, thus enabling all full-time, part-time, permanent or casual employees in both the private and the public sectors to exercise their right to equal pay for work of equal value.

Bill 77 provides for the maintenance of pay equity, that is, a law that makes all public and private sectors employers clearly responsible for the long-term maintenance of pay equity.

Bill 77 is a bill that ensures that employees are involved in the efforts to attain pay equity, by requiring all private and public sectors employers to create a joint committee for pay equity where

employees, certified associations and/or unions and the employer are represented. The committee for pay equity would be responsible for implementing and maintaining the pay equity program.

Bill 77 would be implemented by an independent organization, that is, a law whose enforcement and implementation is facilitated and monitored by a Commission on Pay Equity especially created to do so. This Commission would be provided with sufficient financial and human resources and vested powers to fulfill its mandate.

And finally, Bill 77 would provide for a two-year preparation period during which an educational campaign on the means of pay equity implementation (job evaluation and salary adjustments) would be directed at employers and employees. This preparation period would begin immediately after the adoption of pay equity legislation.

In conclusion, we have a historic opportunity in New Brunswick to take 25 years of Canadian experience to remedy unequal pay for work of equal value. I would urge members of this Committee to take their words in support of pay equity and turn them into laws that deliver pay equity. Bill 77 will do that.

Thank you.