

From: [Chris Budgell](#)
To: [LRC Review LBR:EX](#)
Subject: #15 - A submission in response to the 2018 Labour Code Review Report
Date: November 29, 2018 3:49:37 PM

This is a submission in response to the [invitation](#) posted on the engage.gov.bc.ca website.

The submissions the review committee received prior to its deliberations remain posted online and include [my submission](#), dated March 27, 2018.

On October 30 the Deputy Minister, in reply to me, indicated that he felt the submissions responding to the report would also likely be posted online, noting the need for transparency and consistency.

I hope this submission will be among them, though I am expressing some very strong opinions.

I have a very long history of dealing with the labour law regime, including litigation that has gone as far as the B.C. Court of Appeal and that has even resulted in complaints submitted to the Canadian Judicial Council.

In the first of those complaints I spoke about a Court of Appeal decision that overturned what I had won in the B.C. Supreme Court and how when I approached the Court of Appeal registry about getting a transcript of the hearing I was told it hadn't been recorded. That was, to the best of my memory, around the time I began asking questions about why there were two versions of the key Labour Code provision, section 13. During the BCCA hearing one of the three judges put the question to me, "if you didn't think the union did a good enough investigation, why didn't you do one yourself?". That was his only contribution throughout the entire hearing but his two colleagues also displayed the same attitude of disdain for me.

I think the record now shows that I *have* done an investigation, though not of what happened in the workplace that led to my termination.

My view is that what I've uncovered reveals a pattern of bad faith conduct, and I think that characterization can be applied to this process still underway. And that ought to be apparent in the fact that the committee heard only from "stakeholders", a term that does not include the public. I claimed to speak for the public interest. If the committee actually heard from anyone else able to make that claim, I'm not aware of them. There were individuals speaking at the meetings but I think they were all there as spokespersons for the unions.

In my March 27 submission I provided a short chronology of what happened to Labour Code section 13. I think it will assist the public to know who specifically was involved in those developments.

[This report](#), dated September 1992, indicates that section 13 was conceived and drafted by a committee composed of John Baigent, Vince Ready and Tom Roper. I continue to claim that section 13 was very poorly drafted; that no competent legislative drafter would have produced a provision so badly constructed. So that raises the question of what oversight was provided by the Ministry of Attorney General's Legislative Counsel Office before the provision was presented to the Legislature.

The labour board's [Terry Norris reconsideration decision](#) from 1994 that I cited in my first submission - because it includes an accurate recitation of section 13 - was signed by Vice Chairs John B. Hall, Brent Mullin and A. Paul Devine. My claim is that this decision reveals the inspiration for the change subsequently made to the language of section 13; a change effected through the mechanism of a then ongoing statute revision exercise being conducted by the Legislative Counsel Office, the Chief Legislative Counsel being Brian Greer. Using this mechanism enabled the change to be made without engaging the Legislature and without creating any publicly accessible record. The statute revision exercise was formally completed

in March 1997 and resulted in the designation "RSBC 1996".

Just short of one year later another committee of advisors - composed of Vince Ready, Stan Lanyon, Miriam Gropper and Jim Matkin - submitted [this report](#) that included (at PDF page 73 of 110) a recommendation to more comprehensively amend section 13. The government did not proceed with that recommendation. It is my belief that this was an attempt to hide forever the fact that an amendment had been effected without engaging the Legislature or creating any publicly accessible record. Mr. Ready at this point appears twice in the chronology. Mr. Lanyon had been Chair of the LRB and I think when this report was produced he had very recently stepped down from that role. Miriam Gropper was a member of the B.C. labour law bar who was subsequently - in 2005 - appointed to the B.C. Supreme Court bench, where she remains and where I have contended with her, after naming her in the first of my complaints to the Canadian Judicial Council.

In the year 2000 I commenced my engagement of the Labour Relations Board, knowing nothing of this chronology. The board's Chair then was Stephen Kelleher, a business associate of Vince Ready and Stan Lanyon at Vince Ready & Associates, located just one block from the Labour Board's premises at Library Square. Mr. Kelleher was appointed to the B.C. Supreme Court bench in 2003, very soon after being succeeded as Chair of the board by Brent Mullin.

In February 2003 Mr. Mullin wrote what I've described as a "policy statement masquerading as a decision" that was a response to my initial success in court challenging the conduct of the board. It was co-signed by Jan O'Brien, who had signed the decision I successfully challenged and whose long career has included being the provincial NDP's Secretary (and thus a close associate of then NDP president and former labour minister Moe Sihota), and by Sharon Kearney, who since leaving the board has worked for both the Ministry of Attorney General and the Law Society of B.C.

I've named already more than a dozen people.

If individuals challenging powerful institutions, as I have done, perceived consistent good faith conduct, then I think we would speak highly of such a community. It is precisely because we see consistent bad faith conduct that we perceive an institutional bias, one I say is, in the final analysis, contemptuous of the public interest and the rule of law.

Sincerely,

Chris Budgell

November 29, 2018