

Submission to the Law Amendments Committee on Bill 75

16 February 2017

Please forgive the conversational nature of this submission – it was originally intended to be presented orally, but since I did not receive a call I have had to hurriedly submit it in writing.

To the Honourable Members of the Committee, and all Members assembled in the People's House

My name is Paul Lenarczyk. I am a Canadian Citizen and have been a Nova Scotia resident since March of 2016. I moved here from our neighbouring province of New Brunswick where I was a teacher for fifteen years and, by way of disclosure, I am a current member of the New Brunswick Teachers' Union.

I have three salient points to the committee's discussion of this outrageous bill; however, I would first like to give you some background on who I am.

I was born in Warsaw, Poland, in 1972, when Poland was still communist and there was no Rule of Law, no democracy, and no unions. I lived through the Solidarity Trade Union revolution and although I was a kid, I was very aware of what was going on because my parents were both members. My mother was a teacher. We left Poland in 1984 because we wanted to live in a democratic country. My parents wanted me to have a better life than what they had. We came to Canada in 1985 and settled in Fredericton where I completed my education. I've also lived in Vancouver, Saint John and St. Stephen, New Brunswick.

In 2012 I married a citizen of the United States, and we decided that we were better off living in Canada, partly due to the fact that I was a teacher and teachers in Canada have much better lives and contracts than in the United States. We do not regret our decision. Eventually we moved to Nova Scotia because my wife who was finally able to work in Canada got a great job here. I thought that after my parental leave for my daughter I would be able to teach in schools in Nova Scotia because I had the education and experience required to get a job. Perhaps I should have done my research into the job market for teachers in Nova Scotia before moving here, because I now see that there is no way that in the current climate I will ever be able to get a teaching job. This is disappointing.

Part of why we moved to Nova Scotia is that we saw this province as a leader in Atlantic Canada in every area of life, including education. I truly believed that this was a more progressive place than anywhere else in the region. Then I arrived and saw what was happening with the collective bargaining process with which I am very familiar from life as a teacher in New Brunswick. I was truly shocked. Teachers turned down a tentative agreement. Then they began work to rule with which I was very familiar again from my time in New Brunswick where teachers had also engaged in this form of strike action in the past and that job action hurt me as a teacher, it hurt students, and it hurt the public, but in the end it achieved the desired results – the contract that was finally negotiated at the end of the work to rule time was a fair contract and it was, importantly, a negotiated agreement.

Then the government closed schools closed for one day because apparently work to rule was going to endanger students (I still haven't figured out how that argument made any sense at all and I was enraged because it was an insult to the teaching profession). Then the government reopened the schools, tried to pass a law, backed down, sat down at the table and came up with a third tentative agreement which was rejected. Why? How could that happen? I read the tentative agreement and it,

much like Bill 75, did not do anything to address the classroom conditions and concerns of teachers. There was no surprise that this tentative agreement was also rejected.

Many of the concerns that teachers in Nova Scotia have today are the same as the concerns of teachers in New Brunswick: the population is declining, the debt is growing, and there is no money for anything, the demands on teachers' time to continually "do more with less," as has been heard by this committee and the government many times. The challenges of the 21st century classroom are different than the challenges of the 20th century one with which we are all familiar. Part of the problem is the disconnect between the people in government and the people in the classrooms today: the teachers and the students. Even in the relatively short fifteen years I have been a teacher I have seen huge changes in the issues in the classroom. This is no longer the public school system we all attended. This is a system that most of the general public do not understand, except the people who are in the classrooms. Several presenters have already said that there are 9300 experts who know the system, and more importantly they know the students. So how are more committees and commissions going to help the situation? What we need instead is a policy that make sense, and a collective agreement that is a true agreement and not something handed down from above.

As I mentioned, I have three salient points:

1. I would suggest that this bill has a **fatal flaw** in its very title. The word "agreement" is defined by the free dictionary as "A meeting of minds with the understanding and acceptance of reciprocal legal rights and duties as to particular actions or obligations, which the parties intend to exchange; a mutual assent to do or refrain from doing something; a contract." An "imposed agreement" such as this one, is in fact, not an agreement at all. There is no meeting of the minds. This is a decree. I would like to make a motion that the word "agreement" be struck from this piece of legislation since it is not an agreement. A law ought not contain a lie.
2. As has been mentioned by several speakers, the very constitutionality of this bill is in question – in the Supreme Court decision last year in the BC Teachers' case the constitutional right to collective bargaining was reaffirmed, and yet the government of Nova Scotia is taking away that right. Furthermore, the government is aware of this as can be seen by section 14 in Bill 75 which negates the ability of any Boards or Tribunals to question the constitutionality of the legislation. This awareness of the illegality of the Bill seems to be another fatal flaw of the legislation. I was not aware that governments were allowed to pass unconstitutional legislation. I would suggest that an amendment be made to the bill either to state that the courts are also not able to adjudicate the constitutionality of the bill, or to invoke the notwithstanding clause. If this is not an amendment that this despotic government would care to make, then perhaps defeating the bill as unconstitutional would be best.
3. In addition to having a fatal flaw, being unconstitutional, and passed in bad faith, the bill is also mean spirited and punitive. The government's withdrawal of the most recently offered sections of the latest tentative agreement which were a "sweetening of the pot," in fact has had the effect of souring the situation, potentially beyond repair. It has ruined the relationship between this government and the teachers of Nova Scotia, and potentially between any future government and teachers. In this time of low confidence and trust in public institutions, this is not a good thing for society.

After those arguments, I have one more request for you. I would like you to imagine a situation now – pretend that this piece of legislation has passed and it is Tuesday, February 21st, the first day of the “new normal” as this potential day has been described. And now imagine if all the teachers in Nova Scotia simply resigned *en masse*, because they do not in fact have a contract so they don’t have to be there. How would this feel? Would this be an improvement of the working conditions of teachers? Would this ensure the effectiveness of the inclusion policy? Would this work for the students of Nova Scotia? Would it improve the education system? Of course not! That would be ridiculous.

But this is exactly what this law will do. It will remove all the teachers who work for the education system already and replace them with disgruntled, unhappy, unsatisfied employees – robots, if you will. And yet of course they will do their best. And they will give their all to the job or vocation to which they have been called, because they are professionals and they care about the very same students whom you do not seem to care about.

I think you know that teachers care about their students. So why would these teachers say no to these tentative agreements? Because they’re greedy? Because they’re selfish? No, it’s because they want the best for their students and they see that this imposed contract does nothing for their students. The Premier has repeatedly said that this bill is in the best interest of the students. Punishing teachers is not in the best interest of the students. It punishes students as well.

You have heard submissions from many teachers already about how ineffective a committee or commission will be in fixing classroom problems. You have heard that the work, the “how to fix the problems,” has been done already. There are lots of experts and reports and studies that have been done. We already know how to fix the problems. Now it is just a matter of agreeing how this is to be implemented. Bill 75 does absolutely nothing to address these issues. A contract agreed to in good faith could do it. Bill 75 will never accomplish that.

I have had many students in my career and I have cared about them very much. I have kept in touch with many and I’ve been fortunate to be able to call many of them my friends. I am here today because I want to stand up for my fellow teachers. I want to stand in solidarity with them, on my own behalf, on behalf of my daughter who will someday be a student, and on behalf of my former and future students. For all these reasons, and all the ones you’ve heard from all the other submissions, I beg you to oppose and reject this bill.