

25 Years of Human Rights

Prince Edward Island Human Rights Commission
September 11, 1976 - September 11, 2001

18th Annual Report

ACKNOWLEDGEMENTS

The Prince Edward Island Human Rights Commission expresses its gratitude to those who have made this publication a reality. The project could not have been completed without the extraordinary effort of the Commission staff, Lorraine Buell, Patricia Butler, Janet Christian-Campbell and Greg Howard who researched, wrote, and edited "25 Years of Human Rights". We owe our gratitude to former Commissioners and Staff who provided their recollections of the early years of the Commission.

We also thank Margaret Koren who worked diligently on all aspects of the publication with Commission staff during the summer of 2001.

We thank Baxter Ramsay, Graphics Designer, Multimedia Services, Provincial Treasury, without whose technical knowledge and assistance the book could not have been completed.

Finally, we express our appreciation to the Queen's Printers staff who made the printing of our book a priority and to the Guardian (Evening Patriot), Eastern Graphic, Journal Pioneer and Lawyer's Weekly for permission to reproduce copyrighted material.

George S. Kells, Chairperson
Richard Noonan, Commissioner
Angela Cormier, Commissioner

September 11, 2001



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December 5, 1975



INTRODUCTION

RE 25th YEAR.

WHAT A LONG WAY IT SEEMS the Commission has come since that SEPT 11, 1976 DAY that we met I think even Tweels. A lot of faith and good will and great confidence in James Kelly. We knew we were pioneers; and it was so exciting to have people start showing up on the doorstep wanting interpretations of their rights.

Bea Mair, March 25, 2001

Twenty-five years ago, the Prince Edward Island Human Rights Commission opened its first office above the Sam the Record Man store, on the corner of University Avenue and Kent Street in Charlottetown.

Reverend James Kelly, Chairperson, a professor at the University of Prince Edward Island, Bea Mair, a high school teacher and Paul Mullin, a lawyer, had their first Commission meeting above Tweel's Gift Shop only days before the September 11, 1976, proclamation of the legislation that created the Commission.

They recall that independence from Government came with a price. They had no job descriptions and little guidance on the proper function of the Commission. The new Commissioners remember the excitement of performing valuable work mingled with the uncertainty of carving out the Commission's identity and creating their role as Commissioners.

This book, entitled "25 Years of Human Rights", will outline the development of the Commission from its first steps as an arms-length administrative body to its present status as an independent Commission. Chairperson George Kells, and Commissioners Richard Noonan and Angela Cormier hope Islanders will join with them to look back and see how the Government's public policy initiative of 25 years ago has contributed to our Island community.



EARLY YEARS

Prince Edward Island was the last jurisdiction in Canada to enact human rights legislation when, on March 25, 1968, *An Act Respecting Human Rights* received Royal Assent. The United Nations had proclaimed 1968 as the *International Year of Human Rights*. Prompted by this United Nation's initiative and developments in other provinces, the Prince Edward Island Legislature passed the Island's first human rights legislation.

The Minister of Labour at the time, J. Elmer Blanchard, promoted the Government Bill in the Legislative Assembly. In the March 23, 1968 edition of the *Guardian*, Minister Blanchard is reported as saying that the legislation was an extension in the Province of rights existing since the Magna Carta. He cautioned,

"Administration of the Act will require extreme care because we are ever mindful of the fact that in attempting to ensure the rights of one person, another's rights may be offended or violated."

It can be safely said that the new law did not usher in an era of human rights activism in the Province.

The preamble of the new Act referenced portions of the United Nation's Universal Declaration of Human Rights. It prohibited discrimination on the basis of race, religion, religious creed, colour, and ethnic and national origin. It provided for a primitive sort of employment equity by providing that...

Equal pay
for women

7. (1) No employer and no person acting on his behalf shall pay a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for substantially the same work done in the same establishment.

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex shall not constitute a failure to comply with this section.

Publications
indicating

8. (1) No person shall,

The Labour Standards Branch of the Department of Labour administered the first Human Rights Act. In his 1969 report, J. Vincent MacIntyre, Labour Standards Inspector, summarized the protection offered by the Province's first human rights legislation:

The P.E.I. Human Rights Act, which came into effect in April 1968, is designed to give basic protection to all from discrimination in employment and public accommodations. In addition, the Act entitles female workers to a rate of pay equal to that of men performing substantially the same work in the same establishment. Discrimination in employment is forbidden under the Human Rights Act in such practises as hiring, discharging or promoting. Labour unions are likewise prohibited from discrimination in regard to membership. It is illegal to seek information about an applicant as to his racial, religious or national origin on employment forms or by oral inquiries. The Act prohibits advertising which indicates discrimination.

The prohibition of discriminatory advertising was especially needed, as help wanted ads from 1968 reveal that discrimination in advertising was common.

years of exper. with heavy machinery. confidence: 21 St. Paul East. Montreal.

Sales Help Wanted—Male

RAWLEIGH BUSINESS now open in Charlottetown. Trade well established. Excellent opportunity. Full time. Write Rawleigh. Dept. A-4-189, 4005 Richelieu St. St. Henry, Montreal.

GOOD MAN OVER 40 for short trips surrounding Charlottetown. Man we want is worth up to \$12,000 in year. plus regular cash bonus. Air mail. President. Dept. TE. P.O. Box 70. Station R. Toronto 17, Ontario.

AGENTS to sell tailored to measure clothes direct to wearer. Full or part time. Free suit bonuses. Experience not necessary. Davenport Tailors. Dept. 22, Box 3014, Montreal.

LOCAL COMPANY representing West Coast Equipment Manufacturer requires 5 men to assist in business. Men chosen must be 21-45. Married. Have car and able to start training immediately. Phone 2-3415 to arrange for interview.

Help Wanted—Male

WANTED YOUNG man willing to work at meat counter or general store work. Apply in person to 233 Queen St.

MAN WANTED for general farm work. Apply Knud Jorgensen, Fredericton.

Help Wanted—Female

WANTED

Mature full time sales-lady for ladies' ready-to-wear store. Experience necessary. Apply in person to:

Canada Manpower Centre
Dominion Building
Ch'town, P. E. I.

MERCHANDISE
Farmers Market

BOYS

We have openings in Montague for newspaper carriers. Call in today and see

IRA BALDERSTON

PHONE 838-2521

Voluntary Health Agency requires

Part-time Executive Secretary

The lady we are looking for should have the following qualifications:

- Be able to get along well with volunteers
- Have keen interest in the health field generally
- Be able to type
- Be willing to operate from her home initially
- Be free to travel occasionally

This position is permanent and the salary is open to discussion. Please write giving personal details and phone number to Box 6594 Guardian - Patriot.

WANTED

Practical nurse or middle aged woman to care for convalescent, easy patient, good wages, liberal time off. For particulars call:

Mrs. Kathryn Farneson
274 Euston St.
Phone 2-1729

MERCHANDISE

For all its legislative idealism, the 1968 Act did not deal with issues that were probably more pressing on the Island. For example, the bare-bones legislation did not enact a general prohibition of discrimination on the basis of sex. Nor did the Act prohibit discrimination on the basis of disability or political belief. The early legislation retained the idealistic simplicity of its United Nations counterpart, the *Universal Declaration of Human Rights*. It was clearly a document meant to support the principle of equality set out in the United Nations' declaration calling for the harmonious interaction of the different human races, but it had little regard for the reality of a homogeneous Island population where other forms of discrimination were widespread.

In most of the subsequent eleven years following the enactment of the Prince Edward Island *Human Rights Act*, the Department of Labour, Industry and Commerce provided in its Annual Report a summary of activity under the legislation. The designated official during the early years was Mr. J. Vincent MacIntyre, who reported to Mr. J. M. MacAlduff, Deputy Minister of the Department of Labour, Industry and Commerce. Mr. MacIntyre held a number of job titles: "*Labour Standards Inspector*" in 1969, "*Chief Labour Standards Inspector*" and "*Acting Human Rights Officer*" in 1975.

The first report to mention the *Human Rights Act* was that of 1968, the year the legislation came into force. Mr. MacIntyre's report follows in its entirety:

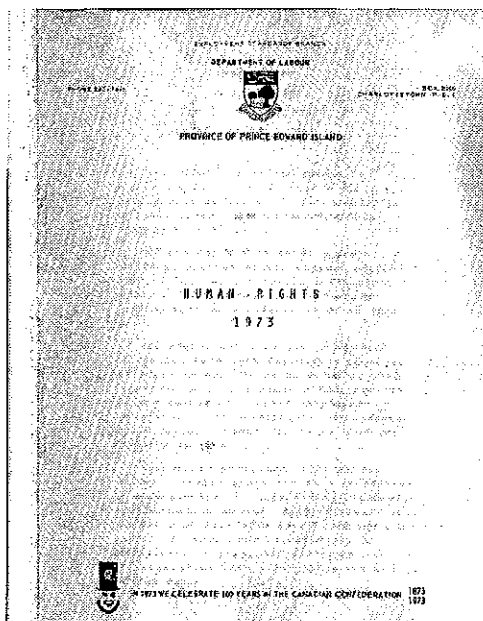
Human Rights Conference - In recognition of 1968 being designated International Year for Human Rights, the Department called a conference of representatives of provincial voluntary organizations to discuss human rights in Prince Edward Island. The 47 persons who were in attendance raised points of concern ranging from general conditions existing on Lennox Island to legal aid.

It is interesting to note that neither of the two topics mentioned specifically by Mr. MacIntyre would be considered within the jurisdiction of current human rights legislation. It is apparent that the Department of Labour was attempting to understand its appropriate jurisdiction.

In the 1970 report, Mr. MacIntyre described the first complaints ever received under human rights legislation in Prince Edward Island. Both were reported to be complaints of discrimination in the renting of accommodations and both were dismissed after investigation. Unfortunately, no other details of these complaints were recorded by the Department.

The first legislation is also noteworthy for the absence of a Human Rights Commission. The administrative mechanism enforcing the lofty goals of the legislation was given to the Department of Labour. The Minister of Labour was empowered under section 10(1) to "*designate an official of the Department of Labour and Manpower Resources to inquire into a complaint and endeavour to effect a settlement of the matter complained of.*" Further provisions of the Act allowed the official designated by the Minister to make a report whereupon the Minister could make an Order. The penalty for non-compliance with an Order was punishment by a fine not exceeding \$100.00 or, if the offender was a corporation, a fine not exceeding \$500.00.

In a 1973 document simply entitled "*Human Rights*", Mr. MacIntyre produced a revealing summary of human rights activity on P.E.I. He recommended amendments to the legislation and suggested Government consider creating an administrative agency to promote and enforce human rights. He reported that four "*informal complaints*" had been filed between 1968 and 1973, and offered remarks on the state of human rights in P.E.I. Below is Mr. MacIntyre's theory as to why so few complaints had been filed since the Act was brought into force:



No doubt this revelation comes as a surprise, particularly, if we do a quick comparison with human rights activities in other areas of Canada. However, before we can arrive at a valid comparison, we must first recognize some important factors. First, the Province of Prince Edward Island has a population of approximately 111,000 people. This number is much less than the population of the City of Halifax and at least a dozen other Canadian cities. Secondly, with the exception of several hundred Micmac Indians and a few families of dark skinned people, the population is all white. Thirdly, the quiet pastoral environment seems to generate a greater awareness of the rights of others.

Mr. MacIntyre showed awareness of the difficulties of advocating for human rights enforcement without any appropriate, independent administrative mechanism. In the Annual Report of 1974, Mr. MacIntyre revealed that:

"In 1968 the Employment Standards Branch was asked to assist in the administration of the Human Rights Code. During the past 6 ½ years, eight complaints, half of which were informal in nature, were received. Two cases involved pay discrimination for equal work, three cases were related to employment, two concerned public accommodations and one concerned sex discrimination in job advertisement.

It would be easy to assume from the above that the Province is relatively free from discriminatory practices as provided by the present Code. However, it is difficult to believe, despite the favourable factors, that harmful forms of discrimination and prejudice do not exist to a greater extent than the numbers shown above would indicate."

The author of the report goes on to say that:

"the formation of a Human Rights Commission would be very useful in the general administration of the Code. The development and implementation of educational and promotional programs are essential if we are to combat the ravages of unjust discrimination and prejudice."

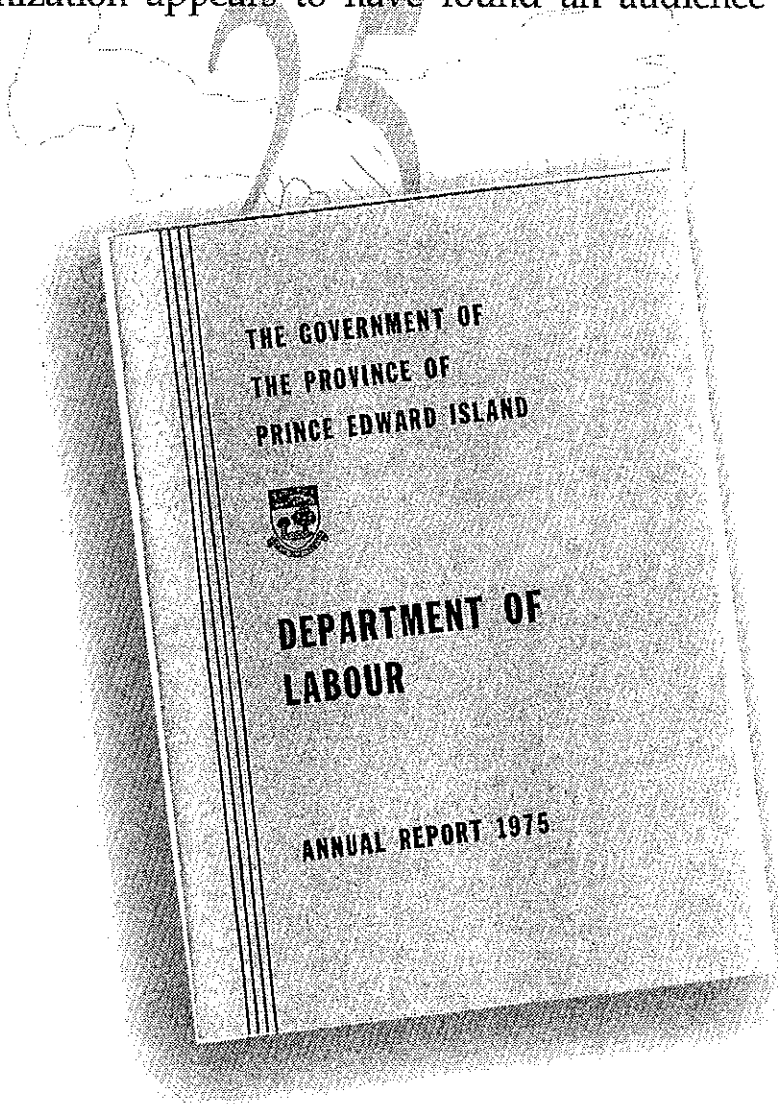
In the two years that followed, there was considerable effort to create an independent body to administer human rights legislation in the Province. A major overhaul of human rights legislation in the Province of Prince Edward Island was debated in the 1975 Fall Sitting of the Legislative Assembly. The Prince Edward Island Human Rights Commission was established with the coming into force of the new Act on September 11, 1976.

The first Chairperson of the Commission, Father James Kelly, was a member of a group called the "Civil Liberties Association", which lobbied for the creation of an agency to advocate on behalf of individuals in disputes with Government. Father Kelly states that this was "truly a citizen's group" that "recognized early on that independence was crucial". He recalls that Bea Mair, a founding Human Rights Commissioner, was also a member of the Civil Liberties Association.

The year 1975 saw the final report under the auspices of the Department of Labour. Again, the Report was submitted by the Chief Labour Standards Inspector and Acting Human Rights Officer, J. Vincent MacIntyre:

"Considering Legislative Counsel's workload and short time period, he (James MacNutt) elected to use the Nova Scotia Human Rights Act as his working model. The Bill received first reading in the Legislature at the Spring session and was then carried over to the Fall Session for second and third readings. During this time, only one complaint of discrimination in employment was received. As the person assigned to investigate the case, I found, from the evidence provided by both parties, that discrimination, as prohibited by the Act, did not occur. The revised Human Rights Act, although passed by the Legislature at the 1975 Fall Session, has not yet been proclaimed at years end."

The report also showed that since 1968 there was less than one complaint per year. The record of complaints and total lack of prosecutions lend credence to Mr. MacIntyre's plea for greater awareness of human rights issues. His recommendation that the control of human rights administration would be best placed in the hands of a more specialized administrative organization appears to have found an audience in the Legislative Assembly.



HOW THE COMMISSION WAS ESTABLISHED

On December 12, 1975, the *Human Rights Act* was amended to state:

PART II			
HUMAN RIGHTS COMMISSION			
Cap. 72	<i>Human Rights Act</i>	24 Eliz. II	
	16. (1)	The Prince Edward Island Human Rights Commission is hereby established; the commission is a corporation.	Human Rights Commission, established
Composition	(2)	The commission shall consist of three members appointed by the Lieutenant Governor in Council; the Lieutenant Governor in Council shall designate one of the members as chairperson of the commission.	
Term of office	(3)	Each commissioner holds office for the term not exceeding three years prescribed in his appointment and is eligible for re-appointment, but the terms of office of commissioners shall be staggered so that one of the commissioners retires from office in each year.	
Remuneration and reimbursement	(4)	Each commissioner not a member of the civil service, shall be paid such remuneration as the Lieutenant Governor in Council determines.	
Vacancies, filling	(5)	Whenever a commissioner ceases to hold office, the Lieutenant Governor in Council may appoint a person to fill the vacancy.	
Commission responsible to Minister	17.	The commission is responsible to the Minister for the administration of this Act.	
Powers and duties of commission	18.	The commission shall	
	(a)	administer and enforce this Act;	
	(b)	develop a program of public information and education in	

The Human Rights Commission was to be composed of three Commissioners, with one of the Commissioners designated as Chairperson. Each Commissioner was appointed for a three-year term and could be re-appointed by the Lieutenant Governor in Council. The newspaper reports from December 1975 give little information about the legislative debates on the establishment of the Commission. The debates have not been transcribed and the audio tapes from this era are nearly inaudible, however, it is possible to discern that the legislators considered whether there should be female Commissioners!

The draft legislation for the original Human Rights Code of 1968 contained provisions for a Human Rights Commission, however, "the Members of the Legislature opposed the idea of a Commission on the grounds that we are a very small Province and that the Minister of Labour should be held accountable for the administration of the Act" (Human Rights 1973, Department of Labour, Employment Standards Branch).

Bea Mair, first staff person and Commissioner, states that Island legislators established the Commission and new Act of 1975 because the Government would "get in trouble if they didn't". She advises that, at the time, the Government of Prince Edward Island did not seem very interested in human rights, and only a very small grant was provided to cover office expenses.



Reverend James Kelly was the first Chairperson of the Human Rights Commission and Paul Mullin and Bea Mair were the first Commissioners. Within the first five months of the Commission's existence, these pioneers were tasked with educating themselves, reviewing the new Act, deciding the role of the Commission, developing and distributing complaint forms, receiving complaints and educating the public on new rights and obligations.

The Commission recognized early on that one of its first and biggest jobs was that of sensitizing and instructing the public in human rights. One of the first recommendations the Commission made to Government was a request that the Attorney General legislate accommodation of persons who used "seeing-eye dogs". Another change the Commission asked for was the inclusion in the Act of "equal pay for work of equal value". In 1977, the Commission recommended "that the Government prepare and issue as soon as possible a French version of the Act". The Commission met for the first time on September 9, 1976, above Tweel's Gift Shop at 144 Kent Street. On the agenda was discussion of the Commission's function and a program for an official public/media launch of the Commission.

HRC 1 9 Sept 76

I

Paul M.
Paul M.
Paul M.

1) Review w. Paul M. of Comm's preparation of its function and proposed program for the actual launching.

2) In the course of reviewing administration of Act in regard to processing of complaints.

Department helped arrange for the Chairperson after

mission was still



The Human Rights Commission was first mentioned in that Department's annual report of December 31, 1976.

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DEPARTMENT OF LABOUR
REPORT OF THE HUMAN RIGHTS COMMISSION

December 31, 1978

Mr. L. W. Braucher
Deputy Minister of Labour
P.O. Box 2000
Charlottetown, P.E.I.

Sir:

This first report of the P.E.I. Human Rights Commission will be, of course, only a quarterly one, since the Act was promulgated and the Commission appointed only three months ago, on September 11.

The activities of the Commission to date could be comprised under three headings: Education of the Commission members, Promotion and Public Relations, Complaints and Direction.

Education of the Commission Members

From late June through the summer, the members met weekly with few exceptions to study the Act and otherwise prepare themselves. Former Deputy Minister, J. M. McAlduff, was of unfailing help through this period. Seminars were arranged with workers in this field from New Brunswick on the occasion, and from Nova Scotia and Newfoundland on another. Your

The first annual report of the Commission is dated December 31, 1977.

THE GOVERNMENT OF
THE PROVINCE OF
PRINCE EDWARD ISLAND



DEPARTMENT
OF LABOUR

ANNUAL REPORT 1977

In the following years, the Commissioners worked with the zeal of those convinced of the value of advancing human rights. Through the efforts of Father Kelly, Bea Mair and Paul Mullin, the Commission's budget increased and new staff were hired. They lobbied Government tirelessly to expand the jurisdiction of the Commission to allow it to deal with matters of importance to Islanders: discrimination on the basis of treatment for alcoholism, and the issue of girls in minor hockey led to active intervention by the fledgling Commission, receiving the widespread attention of the Press.

Ruling Allows Young Girls To Participate In All Sports

By Iris Phillips
Girls under the age of 13 can participate in all sports activities in Prince Edward Island without fear of discrimination on the basis of sex and regardless of any rules a national sports body might have in place.

That word came Friday from Dr. Alan MacDonald, chairman of the P.E.I. Human Rights Commission, and Tom Klewin, commission executive director. The commission called a news conference Friday afternoon to outline to the media the provisions under the Human Rights Act dealing with sexual discrimination in competitive sports.

A decision earlier this week indicated the P.E.I. Hockey Association had discriminated against three girls on the Hunter River novice hockey team by not allowing them to take part in playoff hockey competition.

SPECIFIC AGE
The commission restricted its comments to children in the "pre-pubescent" age levels, or "children aged roughly 13 and under. Dr. MacDonald explained all complaints of discrimination on the basis of sex had been received in that age category. He said the commission wanted to restrict its decision to children at the age level where physiological characteristics are such that the sexes can compete against each other.

The commission based its conclusions on a section of the act that states "no person shall discriminate against any individual, or class of individuals, with respect to enjoyment of accommodation, services and facilities to which members of the public have access."

"Minor hockey playoffs fall within the definition and meaning of an access to a

service and facility of the P.E.I. Human Rights Act," he said.

NOT SPECIFIED
Dr. MacDonald said activities and organizations which are exempted from the provisions of the act are outlined but amateur athletics is not specified and must be interpreted as coming under the legislation.

Since amateur sports on Prince Edward Island fall under the jurisdiction of the P.E.I. Human Rights Act, rules and regulations of national associations are not involved in a determination of whether or not an act of discrimination has occurred, said Dr. MacDonald. He stressed the Island Human Rights Act takes precedence over all the national rules and regulations applied at the provincial level.

"What the Human Rights Act requires in this situation is that children not be denied an equal opportunity to participate in competitive sports at an appropriate skill level or age level. Specifically, the act prohibits denial of an opportunity to participate in competitive hockey on the basis of sex."

Under the act the requirement of equal opportunity can be provided by separate regulations and teams for males and females or by sexually integrated teams. He said under the act both males and females must not be excluded from an equal opportunity to participate in competitive sports on a level commensurate with their skills and physiological development.

See Settlement page 3

Coach Reacts page 14

Settlement Procedures Get Underway

The P.E.I. Human Rights Commission has begun "settlement procedures" concerning three cases of discrimination found against the P.E.I. Hockey Association.

Dr. Alan MacDonald told a press conference in Charlottetown Friday it is now up to the association and the three complainants involved to meet with the commission to see if a settlement can be reached.

The commission found that three girls from the Hunter River novice team were discriminated against by not being allowed to take part in playoff hockey competition.

"If either party does not wish to make settlement then we make a recommendation to the minister, can then for human rights," he said, adding the minister can then order a board of inquiry to be held.

He said the board of inquiry would review the whole matter again and if it finds discrimination did take place, make recommendations to the Human Rights Commission on a settlement. The commission then makes its recommendations to the minister who in turn can call for the parties to adhere to a particular settlement. The only appeal after that procedure has been followed is through the Supreme Court, he said.

Dr. MacDonald said the settlement system works in about 85 per cent of the complaints which come before the commission.

Wayne MacDougall, president of the P.E.I. Hockey Association who was present at the press conference, said the association would be dealing with the situation at its annual meeting in June. He said he felt it was a "hockey problem" and something the various organizations within hockey would have to work out.

He said efforts would probably be made next year to encourage more girls under the age of 13 to take part in hockey in order to provide for the development of more girls teams. He said the association would like to see girls playing hockey with girls, rather than integrated hockey teams.

"We want hockey at the same level for girls as it now exists for boys," he said.

Mr. MacDougall said he has not yet received an invitation from the Human Rights Commission to meet on a possible settlement but when it is received it will be discussed with the association.

Father Kelly recalls that during those years, the Globe and Mail ranked the effectiveness of Canadian Commissions, and P.E.I. finished near the top. A lesson may be taken from the efforts of the second Executive Director, Mr. Tom Klewin, who recalls that the jurisdiction of the Commission was so limited by statute that the Commissioners and staff often took the initiative to advocate against human rights abuses without the authority of law. The first Commissioners clearly felt that their role was to protect basic human rights and, it is obvious in their recollection of the early years that they did not worry about the possibility of a judicial review of their action. They perceived their role as that of advocates, whose responsibility was to advise Government and recommend that a Board of Inquiry be appointed by the Minister.



PANEL & LEGAL DECISIONS

The first Board of Inquiry was held in 1978 to inquire into the complaint of Vera Deighan, who alleged that she was discriminated against when she was dismissed from employment with the School Board on the basis of her age. What follows is a summary of the Commission's Board of Inquiry and Panel Hearing decisions:

Complainant: Vera Deighan

Respondent: Unit 2 Board of School Trustees

Ground/Area: Age/ Employment

Date of Decision: November 20, 1978

Results & Recommendations:

Complainant: Charles R. Craig

Respondent: PEI Government

Ground/Area: Political Belief/ Employment

Date of Decision: March 15, 1983

Results & Recommendations: S13 of Act "meaningless" regarding political belief complaints. The evidence does not support this complaint.

Complainant: Stephen Silliphant

Respondent: Sheiman Wakim

Ground/Area: Sex/ Employment

Date of Decision: March 3, 1986

Results & Recommendations: This person was not hired because of sex but the board found that he was not likely to be hired due to other reasons. Award recommended \$250 general damages.

Complainant: Gladys Kickham

Respondent: City of Charlottetown

Ground/Area: Sex/ Employment

Date of Decision: March 26, 1986 (Decision); June 13, 1986 (Recommendation)

Results & Recommendations: This person was not hired as a police officer.

Complainant to be offered a position; \$5,782.26 in loss of pay; \$3,000 in general damages; and, interest on both at Bank of Canada rate. The board has the right to recommend financial awards.

Complainant: Mark Stevenson

Respondent: All-Can Travel Inc.

Ground/Area: Sex/ Employment

Date of Decision: July 12, 1990

Results & Recommendations: Found for Complainant. The board awarded \$500 in general damages; review of the *Human Rights Act* ordered.

Complainant: Jamie Trainor
Respondent: PEI Government
Ground/Area: Political Belief/ Employment
Date of Decision: April 30, 1991

Results & Recommendations: The board found that the onus was not met - Mr. Trainor failed to establish his belief in a political party.

Complainant: Leo MacDonald
Respondent: School Unit #1
Ground/Area: Age/ Employment
Date of Decision: March 2, 1992

Results & Recommendations: The board found that Complainant was discriminated against in this case but genuine occupational qualification justified in future for mandatory retirement of drivers.

Complainant: Michael Burge
Respondent: Liquor Control Commission
Ground/Area: Political Belief/ Employment
Date of Decision: February 19, 1993

Results & Recommendations: Discrimination was admitted. The board recommended compensation of \$275,598 for monetary loss and \$2,000 for injured feelings. Also, change process for hiring beer truckers (decision in courts at writing September, 1995).

Complainant: Ann Magill
Respondent: Atlantic Turbines Inc.
Ground/Area: Sex/ Employment
Date of Decision: January 30, 1997

Results & Recommendations: Board of Inquiry found discrimination based on sex (sexual harassment) relating to a cartoon, but did not find gender discrimination in pay or promotion policies. Award of \$2,500.00 for hurt feelings and loss of dignity as well as a letter of apology and a sexual harassment policy.

Complainant: Mary Taylor
Respondent: Testori Americas Corp.
Ground/Area: Sex (Pregnancy)/ Employment
Date of Decision: May 2, 2000

Results & Recommendations: Panel found that there was no discrimination in Ms. Taylor's lay-off. However, the panel held the Respondent did discriminate by not providing Ms. Taylor with benefits while she was still an employee on maternity leave. The panel awarded \$375.86 for medical expenses and \$1200.00 for hurt and humiliation.

The Board of Inquiry decisions have spawned a body of jurisprudence that form a guide to subsequent Commissions. Not surprisingly, the first reference to the Supreme Court arose from the first Board of Inquiry. The Court ruled that it was not contrary to the *Human Rights Act* to require a teacher to retire at an age mandated by the *School Act*.

While the Courts and legal counsel sorted through certain issues, the Commissioners and staff unceasingly lobbied Government to amend the Act to protect human rights. The following is a list and summary of Island legal decisions involving the Human Rights Act.

1. Human Rights Commission v. Government of Prince Edward Island and Craig (1982) 37 Nfld & P.E.I.R. 520 (P.E.I.S.C., T.D.) - Reference re meaning of s. 23(3) (confidentiality clause) of Act once a Board of Inquiry established.
2. Reference re Human Rights Act (1988) 69 Nfld. & P.E.I.R. 264 (P.E.I.S.C., A.D.) - Reference re interpretation of meaning of "political belief" as registered under Section 24 of the *Elections Act*.
3. Burge v. Prince Edward Island (Liquor Control Commission) (1991) 97 Nfld. & P.E.I.R. 70 (P.E.I.S.C., A.D.) - Reference re meaning of onus in political belief complaints.
4. Trainor v. Prince Edward Island (Department of Transportation and Public Works) (1992) 98 Nfld. & P.E.I.R. 348 (P.E.I.S.C., T.D.) - Judicial Review of Board of Inquiry decision - political belief.
5. Thibodeau v. Prince Edward Island (Human Rights Commission) (1993) 110 Nfld. & P.E.I.R. 249 (P.E.I.S.C., T.D.) - Application for extension of time under *Judicial Review Act* for applying for review of Commission's recommendations against a board of inquiry.
6. Thibodeau v. Prince Edward Island (Human Rights Commission) (1993) 114 Nfld. & P.E.I.R. 119 p (P.E.I.S.C., T.D.) - Judicial Review of the report of the Human Rights Commission to the Minister recommending against a board of inquiry.
7. Thibodeau v. Prince Edward Island (Human Rights Commission) (1994) 120 Nfld. & P.E.I.R. 185 (P.E.I.S.C., T.D.) - amending previous decision relating to costs against the Human Rights Commission.
8. Thibodeau v. Prince Edward Island (Human Rights Commission) (1994) 122 Nfld. & P.E.I.R. 84 (P.E.I.S.C., A.D.) - Appeal of decision to extend time for applying for judicial review. Appeal moot.
9. Prince Edward Island (Liquor Control Commission) v. Prince Edward Island (Human Rights Board of Inquiry) (1994) 123 Nfld. & P.E.I.R. 143 (P.E.I.S.C., T.D.) - Judicial Review of Board of Inquiry recommendations for compensation - referred back to new board - foreseeability theory for awarding damages - receipt of evidence subsequent to closure of testimony without knowledge of other parties.

10. Prince Edward Island (Liquor Control Commission) v. Prince Edward Island (Human Rights Board of Inquiry) (re Burge) (1995) 135 Nfld. & P.E.I.R. 245 (P.E.I.S.C.-A.D.). Judicial Review. Board's recommendations made before a ministerial order, therefore premature. Decision #9 a nullity.
11. Prince Edward Island (Liquor Control Commission) v. Prince Edward Island (Human Rights Board of Inquiry) (re Burge) (1996) 145 Nfld. & P.E.I.R. 151 (P.E.I.S.C., T.D.) - Judicial Review of Ministerial decision not to award damages pursuant to s. 28(1) of *Act*. Minister does not have complete discretion and must be guided by Commission recommendations in reaching a fair decision. Referred back for new board of inquiry to determine damages.
12. Woodard v. Prince Edward Island (Minister of Prov. Affairs) (1996) 140 Nfld. & P.E.I.R. 282 (P.E.I.S.C., T.D.). Judicial Review of Minister's decision not to have a board of inquiry pursuant to s. 25(1) of *Human Rights Act*. Political belief complaints. Application dismissed.
13. Reiten v. Prince Edward Island (Human Rights Commission) (1997) 153 Nfld. & P.E.I.R. 327 (P.E.I.S.C., T.D.). Motion to waive the time limit for judicial review of the Commission's decision not to recommend a Board of Inquiry was rejected by the Court. The Court outlines the general principles for the extension of the normal time period for an application for judicial review.
14. Ayangma v. Prince Edward Island (1998) 29 C.P.C. (4th) 125 (P.E.I.S.C., T.D.). Motion by the Defendants to strike statement of claim and dismiss action. The Court found that there was no common-law cause of action for discrimination as the Legislature had foreclosed that avenue by enacting the *Human Rights Act*. The Courts found that the Human Rights Commission was not a court of competent jurisdiction as it did not have the power to grant the remedies sought by the Plaintiff under the Charter (prior to 1997 amendments). The Court found that it did not have jurisdiction over the Human Rights Commission except under the *Judicial Review Act*. The claims against all Defendants with the exception of the Provincial Government were struck as the Court ruled that the Government of Prince Edward Island was the only proper party against which the Plaintiff could bring his claims of violation of his Section 15 rights under the Charter.
15. Ayangma v. Prince Edward Island (1999) P.E.I.J. No. 104 [Q.L.] (T.D.) - Appeal of costs dismissed. Costs awarded to Respondent.
16. Ayangma v. Prince Edward Island (2000) P.E.I.J. No. 19 [Q.L.] (C.A.) - Appeal of costs. Stay of proceedings granted.
17. Magill v. Prince Edward Island (Minister of Community Affairs) (1999) 182 Nfld. & P.E.I.R. 144 (T.D.) Application for judicial review made by complainant in human rights complaint dismissed. Standard of review discussed in depth.

EVOLUTION OF THE P.E.I. HUMAN RIGHTS ACT

The following summarizes 30 years of amendments to the Prince Edward Island *Human Rights Act*.

1968

Human Right Code S.P.E.I. 1968, Cap. 24

The Code prohibited discrimination:
on grounds of:

- (a) race
 - (b) religion
 - (c) religious creed
 - (d) colour
 - (e) ethnic and national origin.
- against someone for making or assisting with a complaint.
 - in admission to or enjoyment of public accommodations, services and/or facilities.
 - in occupancy of a dwelling unit, employment, publications and notices.
 - The Code required equal pay regardless of gender.
 - The Code was subservient to other provincial legislation.

3. Nothing in this Act shall be construed as enlarg- Application
ing or restricting or otherwise altering the force and ef- of act
fect of any provision in any other Act.

4. No person shall deny to any person or class of Right to

The Code lacked provisions for a Human Rights Commission.
Written complaints were submitted to the Minister of Labour who could
issue any Order as necessary to remedy the situation.

Exception

Discrimination in employment did not apply to domestic workers employed in private homes or to a wide variety of organizations.

Exceptions

(5) This section does not apply,

- (a) to a domestic employed in a private home;
- (b) to an exclusively charitable, religious, philanthropic, educational, fraternal or social organization that is not operated for profit, or
- (c) to any organization that is operated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit.

1975

Human Rights Code S.P.E.I. 1968, Cap. 24 repealed

Human Rights Act, S.P.E.I., 1975, Cap. 72 assented to on December 12, 1975. proclaimed on September 11, 1976.

The Act was deemed to prevail over all other Acts in the Province, but not until three years after the Act came into force. This gave the Legislature time to remedy any inconsistencies between other Acts and the *Human Rights Act*

Construction of Act

- (2) This Act shall, at the expiration of three years from the date of this Act coming into force, be deemed to prevail over all other laws of this province and such laws shall be read as being subject to this Act; between the date of this Act coming into force and the expiration of the said three-year period it is the express intention of the legislature that inconsistencies between the statutes and regulations of this province and this Act be removed.

- The Act added the prohibited grounds of:
 - (a) sex
 - (b) marital status
 - (c) association
 - (d) political belief.
- Political belief was defined as "*registered under section 24 of the Election Act*". This definition later proved problematic.
- The Act added the provision prohibiting discrimination in sale of property or an interest in property.
- The Act prohibited discrimination in the area of employment on the basis of physical handicap.
- The Act prohibited discrimination on the basis of age (18-65 years).
- The Act expanded the equal pay provisions to apply to all grounds of discrimination, not just gender.

The Act established the P.E.I. Human Rights Commission to administer the Act and to investigate and attempt settlement of complaints. If settlement attempts were unsuccessful, the Commission reported to the Minister Responsible for the *Human Rights Act* who could appoint a Board of Inquiry to continue the investigation and settlement process. The Board of Inquiry could dismiss the complaint, or the Minister could issue an order regarding a remedy based on the Board of Inquiry's recommendations.

Exceptions

An exception was added regarding discrimination in occupancy on the basis of sex.

An exception was added regarding discrimination on the basis of age and handicap in *bona fide retirement or pension plans and group or employee insurance plans*.

1980

The Act was amended on April 18, 1980, to include age and physical disability as prohibited grounds under all provisions of the Act, not just in relation to employment.

Age was defined as between the age of 18 years and 65 years.

The definition of physical disability was added.

(c) by the addition of the following:

- (1) "physical disability" means any degree of disability, infirmity, malformations or disfigurement of the body suffered by a person, as a result of injury, illness or birth defect, and includes any disabling condition resulting from epilepsy, paralysis, lack of coordination, amputation, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or reliance upon a seeing-eye dog, wheelchair, cane or crutch or other remedial appliance or device.

physical
disability

DROITS DE LA PERSONNE

1982

The Act was amended allowing the Minister to hold the Board of Inquiry *in camera*, if a public inquiry would not serve the public interest.

1984

The Act was amended to add an exemption where access to accommodations, services or facilities was denied, on the basis of age, under another enactment in force in the Province. This amendment was made in response to the Province's plan to raise the legal drinking age to 19.

1985

The Act was amended so that age no longer was restricted to those between 18 and 65.

The amendment added mental handicap to the list of prohibited grounds.

The amendment exempted Commission employees from the *Civil Service Act* to make the Commission more "arms-length" from Government.

1987

Charter of Rights (Consequential Amendments) Act, S.P.E.I. 1987, Cap. 6 finally repealed the exclusion of domestic workers from protection against discrimination in employment.

1988

The Legislative Assembly of Prince Edward Island passed a resolution to establish a Special Committee on the *Human Rights Act* "to examine and report on the adequacy of the existing *Human Rights Act* with particular reference to the concept of political belief". The Committee held public hearings and received several submissions from a number of individuals and groups. Some suggestions included: the addition of family status, sexual orientation, source of income, place of origin, a clearer definition of marital status, political belief and discrimination, the definition of sex to include discrimination on the basis of pregnancy and sexual harassment, the inclusion of provisions regarding reasonable accommodation and harassment, recommendations for changes to the complaint process, and sufficient funding for the Commission to carry out its functions, particularly for education of the public.

The P.E.I. Supreme Court, Appeals Division, declared the 1975 definition of political belief "as registered under section 24 of the *Election Act*" as incapable of interpretation: *Reference re Human Rights Act* (1988), 69 Nfld. & P.E.I.R. 264 (P.E.I.S.C. A.D.).

1989

The Act was amended on June 20, 1989, to redefine political belief as ...

(m) "political belief" means belief in the tenets of a political party ^{political belief} that is at the relevant time registered under section 24 of the *Election Act* R.S.P.E.I. 1988, Cap. E-1 as evidenced by

- (i) membership of or contribution to that party, or
- (ii) open and active participation in the affairs of that party.

However, most amendments were not made until after another round of public hearings.

1997

The P.E.I. Legislative Assembly passed a resolution in May 1997 appointing the Standing Committee on Social Development "*to seek public opinion on the current Human Rights Act and the role of the Members of the Legislative Assembly as it pertains to the Act*". Many of the same issues from 1988 were identified. However, in 1997 there was much debate regarding the issue of political patronage and sexual orientation. The Committee heard from 49 individuals and groups, and received written submissions.

An amendment, passed in December 1997 and given Royal Assent in 1998, changed the complaint process from a Board of Inquiry system to a Human Rights Panel system. The Executive Director of the Human Rights Commission was given the power to investigate, settle, dismiss/discontinue, and/or refer complaints to an internal Panel hearing, made up of one or more Human Rights Commissioners. The Executive Director had carriage before the Panel hearing. The Panel decision would be final and binding, although a party could make an application for judicial review by the court.

This amendment removed the Minister Responsible for the *Human Rights Act* from having involvement with the complaint process.

This amendment contained a controversial formula limiting the compensation available to Complainants who filed complaints of discrimination in employment on the basis of political belief.

(2) Subject to subsections (3), (4), and (5), where
(a) a Human Rights Panel orders compensation in respect of a complaint made pursuant to subsection 6(1) relating to termination of employment or refusal to employ; and

Compensation
formula

(b) the complainant has been employed by the respondent in the twelve months preceding the discriminatory act on which the complaint is based,

the amount awarded by the Human Rights Panel shall not exceed the weekly remuneration of the complainant when last employed by the respondent, multiplied by the total number of weeks worked for the respondent divided by fifty-two, multiplied by two.

Application of
subsection (2)

(3) Subsection (2) applies to all complaints of discrimination based on political belief, including political belief complaints based on association as described in section 13 that

(a) relate to employment in the casual division of the civil service as defined in the *Civil Service Act*, R.S.P.E.I. 1988, Cap. C-8 or contracts for service where the Government of Prince Edward Island or a Crown agency is a party to the contract; and

(b) are filed with the Commission prior to June 1, 1999, including complaints which are unresolved as of the date of the coming into force of this Act.

Contract for service

(4) Where a complaint to which subsection (2) applies is based upon a contract for service, the complainant's weekly remuneration for the purposes of subsection (2) is deemed to be the contract amount earned in the last twelve months of service, divided by fifty-two.

Compensation
comprehensive and
exhaustive

(5) Compensation ordered pursuant to subsection (2) is deemed to be comprehensive and exhaustive, and a Human Rights Panel shall make no other order in respect of any complaint to which subsection (2) applies.

ROITS DE LA PERSONNE

1998

The Standing Committee on Social Development issued its final report in May 1998. It recommended the addition of family status, sexual orientation and source of income as prohibited grounds of discrimination. The Standing Committee on Social Development also recommended that the Commission receive adequate funding to fulfill its education function, and that an arm's length body, such as Staffing and Classification Board, be responsible for seasonal and casual hiring (on the basis of merit and not political affiliation!).

The 1998 amendments to the Act added the prohibited grounds of:

- (a) family status
- (b) sexual orientation
- (c) source of income
- (d) criminal conviction.

Discrimination was prohibited in employment on the basis of being convicted of a criminal or summary offence that is unrelated to the employment.

Exceptions

Source of Income included an exception allowing the P.E.I. Government and its agencies and the regional health authorities to restrict access to certain services, facilities, accommodations and programs to only those receiving welfare assistance.

Marital Status was defined to include those who are married, single, widowed, divorced, separated or living in a **heterosexual common-law relationship**.

RECOMMENDATIONS FOR FUTURE AMENDMENTS

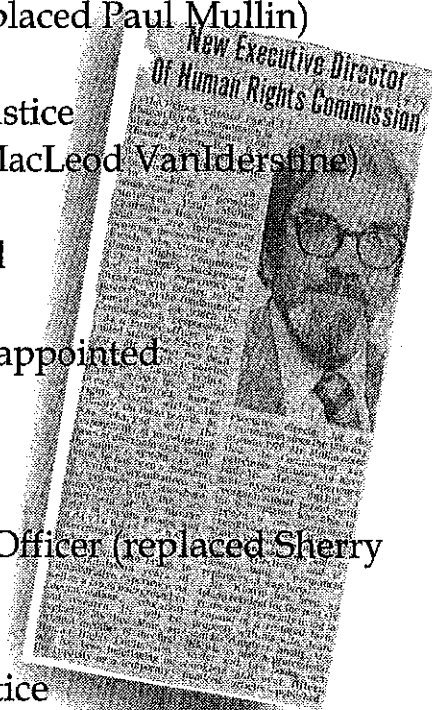
The current Act is a result of the valuable suggestions and recommendations put forward by the Commission, various individuals and groups and Government. However, there is always room for improvements to human rights protection. For example:

- The Commission is still unable to initiate complaints. The burden of making a complaint still rests on individuals or groups.
- The Commission recommends that a definition of "*family status*" and a clearer definition of "*discrimination*" should be developed and a clearer indication of what constitutes a "*disability*" is needed.
- The definition of "*marital status*" should not exclude same-sex couples.
- The Commission recommends that the Act should address and define the concepts of "*genuine occupational qualification*", "*reasonable accommodation*", and "*undue hardship*".

The Commission firmly believes that these recommendations, many of which have already been implemented in other Provinces, improve the protection of human rights for everyone on Prince Edward Island.

MINISTERS RESPONSIBLE, COMMISSIONERS & STAFF

- 1976:** Honourable George R. Henderson, Minister of Labour
Reverend James Kelly, Chairperson
Bea Mair, Commissioner
Paul Mullin, Commissioner
- 1977:** Linda Birt, Part-time Secretary
- 1978:** Honourable George A. Proud, Minister of Labour
Ruth MacLeod VanInderstine, Commissioner (replaced Bea Mair)
Mark Arnold, Part-time Executive Secretary
Leah Clearwater, Secretary
- 1979:** Honourable Barry R. Clark, Minister of Labour
Paul Mullin, Chairperson (replaced Reverend James Kelly)
Kenneth Birtwistle, Commissioner (replaced Paul Mullin)
Thomas Klewin, Part-time Executive Director (replaced Mark Arnold)
Bea Mair, Special Investigator
Sherry Finley, Administrative Assistant (replaced Leah Clearwater)
- 1980:** Honourable Horace B. Carver, Minister of Justice
Reverend Allan F. MacDonald, Chairperson (replaced Paul Mullin)
- 1981:** Honourable George R. McMahon, Minister of Justice
Ruth MacLeod, Commissioner (replaced Ruth MacLeod VanInderstine)
- 1982:** Kenneth Birtwistle, Commissioner, Reappointed
- 1983:** Reverend Allan F. MacDonald, Chairperson, Reappointed
- 1984:** Ruth MacLeod, Commissioner, Reappointed
Thomas Klewin, Full-time Executive Director
Jewel MacDonald, Secretary & Research-Intake Officer (replaced Sherry Finley)
- 1985:** Honourable Wayne D. Cheverie, Minister of Justice
Richard Noonan, Commissioner (replaced Kenneth Birtwistle)



- 1986:** Reverend J. Leo Trainor, (replaced Reverend Allan F. MacDonald)
Frances Piercey, Administrative Assistant & Research-Intake Officer
(replaced Jewel MacDonald)
Virginia Bulger, Temporary Investigator for Prince County
David MacFadyen, Temporary Investigator for Kings County
- 1987:** Shauna Sullivan Curley, Commissioner (replaced Ruth MacLeod)
- 1989:** Honourable Roberta M. Hubley, Minister of Labour
Reverend J. Leo Trainor, Chairperson (re-appointed)
Lila Arsenault, Commissioner (replaced Shauna Sullivan Curley)
Robert Campbell, Commissioner (replaced Richard Noonan)
James M. Wyatt, Executive Director (replaced Thomas Klewin)
Lorraine Begley, Political Belief Complaint Investigator
Irene Larkin, Political Belief Complaint Investigator
Connie Weatherbie, Administrative Support (replaced Frances Piercey)
- 1993:** Honourable Walter A. McEwen, Q.C., Minister of Provincial Affairs &
Attorney General
Reverend J. Leo Trainor, Chairperson, re-appointed
Robert Campbell, Commissioner, re-appointed
Lila Arsenault, Commissioner, re-appointed
- 1994:** Honourable Alan Buchanan, Provincial Affairs & Attorney General
Louise Comeau, Commissioner (replaced Lila Arsenault)
John Dalton, part-time Compliance Officer
Nancy Mollison, part-time Administrative Assistant (replaced Connie
Cameron nee Weatherbie)
- 1995:** Reverend Wayne Burke, Commissioner (replaced Robert Campbell while
on leave of absence from January to April)
- 1996:** Honourable Lynwood MacPherson, Minister of Provincial Affairs &
Attorney General
Honourable Mitchell Murphy, Minister of Community Affairs & Attorney
General
George S. Kells, Chairperson (replaced Reverend J. Leo Trainor)
Richard Noonan, Commissioner (replaced Robert Campbell)

- 1997:** Trudie A. MacKinnon, full-time Compliance Officer (replaced John Dalton)
Patricia M. Butler, full-time Administrative Assistant (replaced Nancy Mollison)
Bob Parry, 50th Anniversary of the Universal Declaration of Human Rights Coordinator
- 1998:** Honourable Weston MacAleer, Minister of Community Affairs
Patricia M. Butler, Acting Assistant Compliance Officer
B. Lorraine Buell, Acting Administrative Assistant (replaced Patricia Butler)
Margaret Koren, Articling Clerk
- 1999:** Honourable Jeffrey E. Lantz, Attorney General
Gregory J. Howard, Executive Director (replaced James Wyatt)
Janet Christian-Campbell, Compliance Officer (replaced Trudie MacKinnon)
Patricia M. Butler, Education Officer
B. Lorraine Buell, Administrative Assistant
Allen Campbell, Articling Clerk
- 2000:** B. Lorraine Buell, Administrative/Intake Officer
Margaret Koren, Contract Employee

APPOINTMENT ANNOUNCED -- DECEMBER 18, 1987

CHARLOTTETOWN -- WAYNE D. CHEVERIE, Q.C., ATTORNEY GENERAL AND MINISTER RESPONSIBLE FOR THE HUMAN RIGHTS COMMISSION, ANNOUNCED TODAY THAT THE LIEUTENANT-GOVERNOR-IN-COUNCIL HAS APPOINTED SHAUNA SULLIVAN-CURLEY OF CHARLOTTETOWN TO THE HUMAN RIGHTS COMMISSION. MS. CURLEY REPLACES MS. RUTH MACLEOD, WHOSE THREE-YEAR TERM HAS EXPIRED.

MS. CURLEY IS AN ASSOCIATE IN THE CHARLOTTETOWN LAW FIRM OF MULLIN, CARR, STEVENSON AND MACKAY. SHE GRADUATED FROM DALHOUSIE UNIVERSITY WITH A BACHELOR OF ARTS DEGREE IN 1979 AND A LAW DEGREE IN 1983. MS. CURLEY WAS ADMITTED TO THE BAR OF NOVA SCOTIA IN 1982 AND THE BAR OF PRINCE EDWARD ISLAND IN 1984.

MS. CURLEY AND HER HUSBAND, BRENDON, HAVE ONE CHILD AND LIVE AT 28 VICTORY STREET, CHARLOTTETOWN.



NEW CHAIRPERSON OF HUMAN RIGHTS COMMISSION APPOINTED -- DECEMBER 18, 1987
CHARLOTTETOWN -- IT WAS ANNOUNCED TODAY BY MINISTER OF JUSTICE AND ATTORNEY GENERAL WAYNE D. CHEVERIE, Q.C. THAT THE LIEUTENANT-GOVERNOR-IN-COUNCIL HAS APPOINTED SHAUNA SULLIVAN-CURLEY TO THE HUMAN RIGHTS COMMISSION AND DESIGNATED HIM AS CHAIRPERSON OF THAT COMMISSION.

FATHER TRAINOR WAS BORN IN CHARLOTTETOWN IN APRIL, 1947. THE SON OF ST. CLAIR AND BERNADETTE (MULLIN) TRAINOR, HE RECEIVED HIS EDUCATION AT ST. DUNSTON'S UNIVERSITY, THE UNIVERSITY OF PRINCE EDWARD ISLAND (B.A. 1970, B. ED 1974) AND MEMORIAL UNIVERSITY, NEWFUNDLAND (DIPLOMA IN EDUCATIONAL ADMINISTRATION 1978).

HE WAS EMPLOYED WITH THE FEDERAL GOVERNMENT IN TORONTO, AND TAUGHT HIGH SCHOOL IN NEWFUNDLAND FOR A NUMBER OF YEARS BEFORE RETURNING TO ST. AUGUSTINE'S UNIVERSITY IN TORONTO WHERE HE RECEIVED A MASTER'S OF DIVINITY IN 1983. FATHER TRAINOR WAS ORDAINED TO THE PRIESTHOOD IN THE DIOCESE OF CHARLOTTETOWN IN 1983 AND SERVED IN ST. DUNSTON'S PARISH FROM THAT DATE UNTIL JUNE 19, 1986. HE IS PRESENTLY SERVING THE DOVER PARISH OF ST. ANN'S IN DOVER RIVER AND JAMES IN SUMMERFIELD.

FATHER TRAINOR SERVED AS CHAPLAIN OF SLEDGE HOLLOW FROM 1963 UNTIL 1966. HIS APPOINTMENT AS CHAIRPERSON OF THE P.E.I. HUMAN RIGHTS COMMISSION IS EFFECTIVE DECEMBER 18, 1987.

Human Rights Commission Losing Chairman, Director

The Prince Edward Island Human Rights Commission is losing both its chairman and its director. Wayne D. Cheverie, Q.C., Attorney General and Minister responsible for the commission, announced today that he has accepted the resignation of Father John Trainor, the commission's chairman, and that he has also accepted the resignation of James B. Summerfield, the commission's director. The resignations were effective December 18, 1987.

Father Trainor, who has served as chairman since 1983, was ordained to the priesthood in the Diocese of Charlottetown in 1983 and served in St. Dunstan's Parish from that date until June 19, 1986. He is presently serving the Dover Parish of St. Ann's in Dover River and James in Summerfield.

James B. Summerfield, who has served as director since 1983, was appointed to the position by the Lieutenant-Governor-in-Council. He has a B.A. from the University of Prince Edward Island and a Diploma in Educational Administration from Memorial University, Newfoundland. He was employed with the federal government in Toronto and taught high school in Newfoundland for a number of years before returning to St. Augustine's University in Toronto where he received a Master's of Divinity in 1983.

The commission's chairman and director positions are currently vacant. The commission is a body created by the Human Rights Act, which was passed in 1985. The commission's mandate is to promote and protect the rights of individuals in the province. The commission is composed of seven members, including the chairman and director. The commission's budget for 1988 is approximately \$100,000.



COMMISSION LOCATION AND LOGOS

1976: 64 Kent Street (above Sam the Record Man)

H. R. C.

P. E. I.

1976-77: The Commission's first logo was similar to the present one, an outline of P.E.I. in yellow with the letters H.R.C. P.E.I. across the Island.

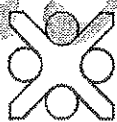
1976: 144 Kent Street (above Tweel's Gift Shop)



1977-78: The Commission's logo was a version of the symbol of the Island with the four trees. The Provincial Government wanted to simplify the logo for the public.

1978: The Commission held a logo contest and the winner was John Ashton. The logo was a stylized cross with four circles at each point.

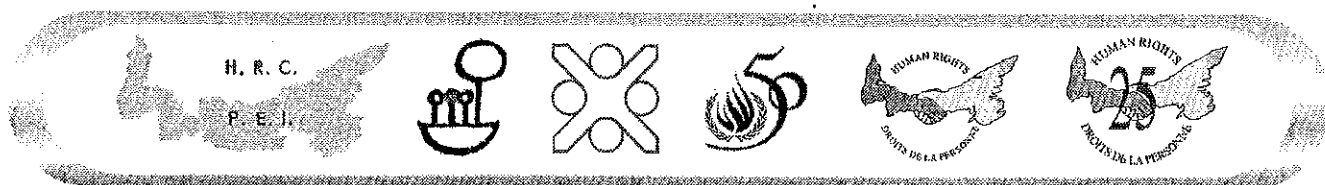
1979: 180 Richmond Street



1988: 3 Queen Street



1997: The Commission used the 50th logo for the 50th Anniversary of the Universal Declaration of Human Rights



1998:

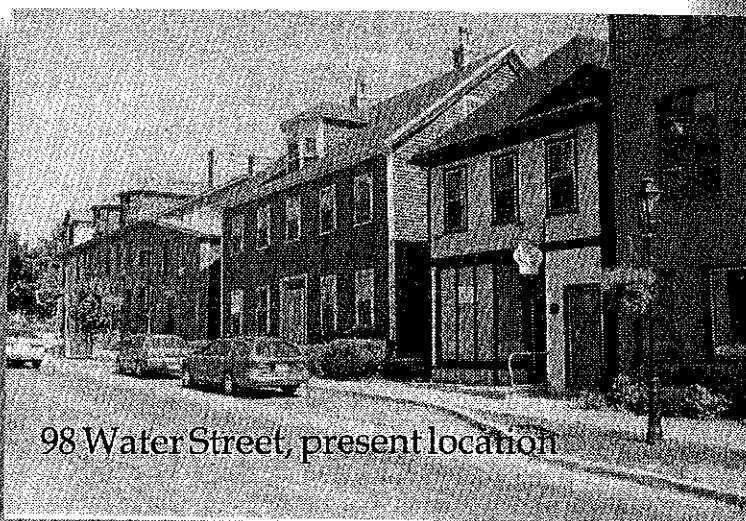
Two Staff from the Commission, Lorraine Buell and Patricia Butler, designed the present logo with the help of Baxter Ramsay, Graphic Designer, Multimedia Services, Provincial Treasury. It is an outline of the Island with two hands clasped in the middle coloured with two shades of grey.



PREMIER PAT BINNS and George Kelle, chairman of the P.E.I. Human Rights Commission, pose with the commission's new logo. The logo was unveiled during a ceremony at Province House Thursday, celebrating the 50th anniversary of the Universal Declaration of Human Rights.

MLA Brown sees red to hear Tories praised for human rights

Opposition member quick to raise disagreement with statements from human rights chairman

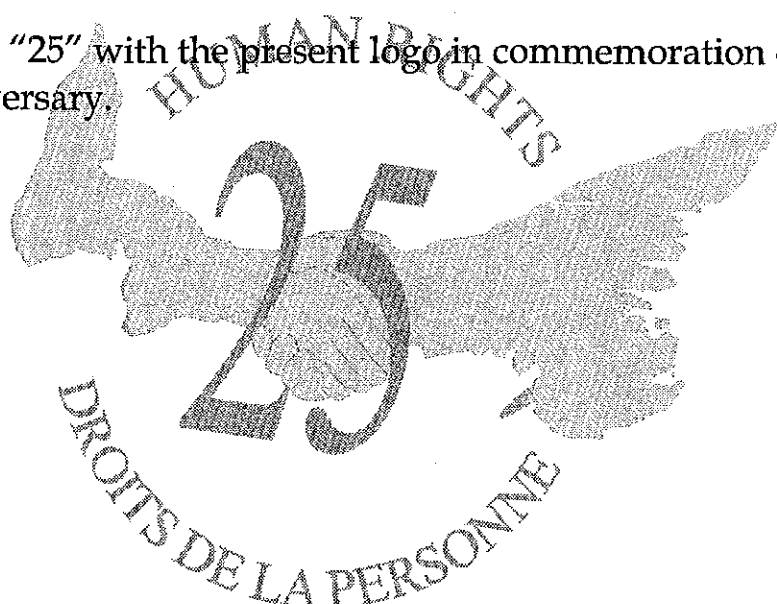


1999:

98 Water Street, present location

2001:

Baxter Ramsay, incorporated "25" with the present logo in commemoration of the Commission's 25th Anniversary.



SUMMARY OF COMPLAINT STATISTICS

Grounds	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	2000
Age	3	3	2	1		3		3	4	7	7	2	7	2	1			3	2	4		3	2		2
Association										1	2	2	3	2	2			2						3	
Race/Colour		3	2	1	1		1	2	1	1	2		3	5	2			3	2	3	1	2	3	2	4
Ethnic/ National Origin																									
Creed/ Religion										2	2	1	1	1											
Criminal Conviction																							1	2	2
Family Status																							1	3	2
Marital Status				2	1	3	1	1	2	3	5	2	2	6	1	1	4		1	3			1		2
Having Laid a Complaint										1	2	2	2	1	1										
Physical/ Mental Disability					1	3	6	5	10	3	7	7	12	12	4		5	6	5	8	13	6	14	14	17
Political Belief			3	5	9	2	5	4	4	3	103	19		2	3			1	1		12	658	95	6	3
Sex	3	3	2	3	3	7	5	7	9	3	10	2	3	8	7		4	5	7	7	5	3	1	1	5
Sexual Harassment						3	3	2		1	10	1			1		3	4	6	8	5	4	6	10	5
Pregnancy															1		2						2	4	1
Sexual Orientation																									4
Source of Income																									1
TOTAL	6	9	9	12	16	21	21	25	30	25	144	35	33	39	23	8	18	24	24	33	36	676	128	45	48

* These statistics do not reflect the same numbers as the earlier annual reports. The exact figures were taken from the minutes.



INFORMAL COMPLAINT STATISTICS OVER THE YEARS

1978

The Commission started to keep a record of informal complaints and inquiries. All were found not to fall within human rights jurisdiction or a formal complaint was not filed. It is interesting to note that of the 42 informal complaints:

- 40% of the inquiries were problems in the area of employment;
- 11% of the inquiries were problems with welfare, pension plans and worker's compensation;
- Other inquiries were of such a diverse nature they could not be categorized.

1979

The Commission began to refer complaints to the Canadian Human Rights Commission. The Commission received 98 informal complaints and inquiries. While none of them were violations of the P.E.I. *Human Rights Act*, the Commission attempted to refer the individuals to the proper government or legal agency to pursue their problems. These inquiries were noted to be time consuming, but the Commission believed (and continues to do so) that providing informal assistance lies within the spirit of the Act.

A comparison of statistics in 1978 and 1979 reveals there was a marked increase in awareness and visibility of the Commission and the *Human Rights Act* among PEI residents:

- 33% increase in signed formal complaints;
- 300% increase in assistance in complaints forwarded to the Canadian Human Rights Commission, and;
- 150% increase in informal complaints and inquiries.

1980

Until this year, the Commission had not received complaints in the areas of access to services, credit, education or insurance. The Commission referred nine complaints to the Canadian Human Rights Commission and handled 112 informal complaints and inquiries, an increase of 14% over 1979.

1981

The Commission referred 22 complaints to the Canadian Human Rights Commission and handled 143 informal complaints and inquiries, an increase of 28% over 1980. Such inquiries continued to consume a considerable amount of the Commission's time, but the Commission still believed in the value of providing assistance to individuals.

1982

Until this year, the Commission had not had complaints in the area of access to accommodations; employment/alcoholism; access to services/insurance/alcoholism. The Commission referred 17 inquiries to the Canadian Human Rights Commission. Thirty-two inquiries were received by the Commission, but did not reach the formal complaint stage. The Commission handled 169 informal complaints of which the most frequent were inquiries regarding: request for Social Insurance Numbers; Worker's Compensation issues; rental issues.

1983

The Commission dealt with 219 informal complaints. The inquiries were most frequently related to labour and rental issues, manpower and unemployment insurance questions.

1984

The Commission handled complex issues such as alcoholism, insurance and sexual discrimination in competitive sports. The Commission referred 21 individuals to the Canadian Human Rights Commission and 22 inquiries were received but did not reach the formal complaint stage. The Commission received more than a 1,000 calls and office visits. The inquiries were most frequently related to employment rights, rental to families or students, and Health and Social Services issues.

**Retirement At 65
No Longer Forced**

The P.E.I. Human Rights Act no longer permits automatic mandatory retirement at age 65, says P.E.I. Human Rights Commission chairman Allan MacDonald.

The commission recently helped a corporation deal with a request from an employee that she not be retired because she turned 65.

"The courts," Mr. MacDonald said in a news release, "including the Supreme Court of Canada, have ruled that provincial legislation, collective agreements, pension plans and contracts which require mandatory retirement are not valid if they are not contained in

Thurs.
Nov 29



TACKLING THE ISSUES

POLITICAL BELIEF

The debates of the Legislative Assembly from 1975 indicate that, in addition to the creation of the Human Rights Commission, the Members of the Legislative Assembly also considered major changes to the prohibited grounds of discrimination within the Act. Tapes from November 18, 1975, the 53rd General Assembly, record the debate on the inclusion of political belief as a prohibited ground of discrimination. The exchange between Opposition Progressive Conservative Member, the late Melvin McQuaid, and Premier, Alex B. Campbell, illustrates the effort to widen the human rights net. Mr. McQuaid stated:

"If we are going to have a Human Rights Act, I think it is incumbent upon us to protect all human rights...the only two things that are different that you can not discriminate against in this Bill that you could in the other, are sex and marital status...For example, political belief is one of the things we should not be allowed to be discriminated against and for some peculiar reason, political belief is not included in the present definition of discrimination. I am not suggesting that there IS political discrimination."

Premier Campbell then responded:

"I think that the amendment improves upon the Act and assures the right of the individual to subscribe to whatever political belief they may have and I would hope that the Human Rights Commission, which is established under this Act will safeguard the right to hold those beliefs."

Today, former Premier Campbell concedes that the amendment to include political belief received the support of his governing Liberals, not from a sense of altruistic determination to eradicate patronage, but because it would have been imprudent to oppose the Honourable Mr. McQuaid's amendment for fear of appearing to sanction the established practice of political patronage. Ironically, the inclusion of political belief in the Act came about as the Party Leaders espoused the importance of protecting a right that they agreed none were denied.

The record of the debate also demonstrates the overwhelming interest in local political issues rather than the weighty questions of fundamental human rights. The amendments to prohibit discrimination on the basis of sex and marital status were

approved with little debate, while the prohibition against political belief and the definition of that term occupied a considerable amount of the Honourable Members' time. The history of the P.E.I. Human Rights Commission is inextricably tied to the development of legislative policy surrounding political belief discrimination.

By the mid-1980's, the definition of political belief that became law in 1976 proved to be problematic. Political belief was defined as:

discrimination

- (d) "discrimination" means discrimination in relation to the race, religion, creed, color, sex, marital status, ethnic or national origin or political belief as registered under Section 24 of the *Election Act*, R.S.P.E.I. 1974, Cap. E-1 of any individual or class of individuals, and "discriminate" and "discriminatory" have a corresponding meaning;

By 1986, the Commission had received 24 formal complaints alleging discrimination on the basis of political belief. Most of these complaints arose as a result of the change of government in 1979 and 1980. A number of these complaints were settled, while one led to a Board of Inquiry in the "Trainor" matter in the early 1980's.

Following the change of government in 1986, the Commission received 110 complaints alleging discrimination based on political belief. In June of 1986, the Commission issued a policy statement that attempted to clarify the definition of political belief as it appeared in the 1976 Act.

The Human Rights Commission has defined political belief to include membership as well as participation or interest in a political party registered under Section 24 of the *P. E. I. Elections Act*. This means that any individual perceived to be a member of a registered political party; who works for or has engaged in party politics; or who manifests an interest in or sympathy for a party, its beliefs and tenets, is protected against discrimination under the "political belief" clause of the P. E. I. Human Rights Act.

The Commission has further defined "political belief" discrimination as occurring when

- an individual is terminated from a position or job because of that individual's party affiliation;
- an individual is not considered for a position or job because of his/her political party association or a preference for a particular political party;

.... an individual is not considered for a position or has his/her employment terminated to enable someone of a different political party affiliation to be employed in that position;

Seasonal, temporary and part-time employment are also protected by the Human Rights Act. Precedence for the protection in these types of employment was established in 1980 by an Ontario Board of Inquiry. The Board ruled that while a part-time employee did not possess the right to expect continued employment indefinitely, that individual had the right not to be refused consideration for future employment for a discriminatory reason.

certainly a public virtue, rendered an individual ineligible for public office.

The inclusion of political belief in 1976 in the Provincial Human Rights Act was a political decision of the highest quality. It implied the recognition that the basis of public hiring and employment was to be competence, not party affiliation. In one act it enshrined the primacy of fundamental rights: the right to work, the right to participate in the political process, and the right not to be discriminated against. It constituted an effort to eliminate the various forms of injustice resulting from political discrimination.

The Commission, in its 1986 statement, went on to describe the problem of political patronage, criticizing *"the failure of some members of all political parties to take this anti-discriminatory legislation seriously."* In a press release dated June 10, 1986, the Commission also indicated that the statement was *"being released to the public as a part of the Commission's educational program. It should also help the public understand what protection is offered Island citizens by human rights legislation in the area of political discrimination."* By the end of 1986, the question of whether *"political belief as registered under section 24 of the Elections Act"* was capable of interpretation had been referred to the Supreme Court of Prince Edward Island:

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THE FOLLOWING IS DISTRIBUTED BY ISLAND INFORMATION SERVICE AT THE REQUEST OF THE DEPARTMENT OF JUSTICE:

SUPREME COURT TO HEAR QUESTIONS CONCERNING HUMAN RIGHTS ACT -- NOVEMBER 12, 1986

MINISTER OF JUSTICE AND ATTORNEY GENERAL WAYNE D. CHEVERIE, O.C. ANNOUNCED TODAY THAT EXECUTIVE COUNCIL HAS REQUESTED THE SUPREME COURT OF PRINCE EDWARD ISLAND TO HEAR AND CONSIDER SEVERAL QUESTIONS CONCERNING THE HUMAN RIGHTS ACT. THE QUESTIONS SEEK GUIDANCE FROM THE SUPREME COURT ON WHAT IS MEANT BY THE PHRASE "POLITICAL BELIEF", AS IT IS REFERRED TO IN SECTION 13 OF THE HUMAN RIGHTS ACT. AS WELL, THE SUPREME COURT HAS BEEN ASKED SPECIFIC QUESTIONS RELATING TO THE PROCEDURE FOLLOWED BY THE HUMAN RIGHTS COMMISSION BEFORE IT DETERMINES THAT A COMPLAINT HAS BEEN SUBSTANTIATED.

THE QUESTIONS WHICH HAVE BEEN REFERRED TO THE SUPREME COURT RESULT FROM MR. CHEVERIE'S CONCERN OVER THE PRESSURE THAT IS PLACED ON THE PROFESSIONAL STAFF OF THE HUMAN RIGHTS COMMISSION TO ADDRESS THE LARGE NUMBER OF CASES PENDING BEFORE THE COMMISSION. APPARENTLY OF THE 150 CASES PRESENTLY BEFORE THE COMMISSION, APPROXIMATELY 100 OF THOSE DEAL WITH ALLEGATIONS OF DISCRIMINATION ON THE BASIS OF POLITICAL BELIEF.

SINCE THERE HAS BEEN NO INTERPRETATION BY THE COURT OF WHAT CONSTITUTES "POLITICAL BELIEF", MR. CHEVERIE RECOMMENDED TO EXECUTIVE COUNCIL THAT CERTAIN QUESTIONS GO FORWARD TO THE SUPREME COURT SO THAT THE BURDEN PLACED ON THE HUMAN RIGHTS COMMISSION MIGHT BE CLEARER AFTER RECEIVING SOME DIRECTION FROM THE COURT.

WHILE THE GOVERNMENT AND THE HUMAN RIGHTS COMMISSION WILL BE EXPECTED TO MAKE SUBMISSIONS TO THE SUPREME COURT WHEN THE HEARING OF THIS MATTER IS SCHEDULED, MR. CHEVERIE INDICATED THAT IT WOULD BE ALSO OPEN TO THE SUPREME COURT TO ALLOW SUCH OTHER MEMBERS OF THE PUBLIC TO MAKE REPRESENTATIONS TO IT AS THE COURT MAY DETERMINE.

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The Prince Edward Island Supreme Court in March 1988 held that "*political belief as registered under section 24 of the Elections Act*" was incapable of interpretation. In a news release dated March 29, 1988, the Commission responded to the Court's decision, verifying that until the Act underwent amendments to change the definition of political belief, no protection against it would exist under the current Act.

P.E.I. HUMAN RIGHTS COMMISSION

News Release

March 29, 1988

Contact Person

Rev. J. Leo Trainor
Human Rights Commission Chairperson
St. Ann's Parish, Hope River
964-2351

Although disappointed, the P.E.I. Human Rights Commission respects the decision of the P.E.I. Supreme Court Appeal Division that the sections of the P.E.I. Human Rights Act relating to political belief discrimination are incapable of reasonable interpretation. The Commission shares its disappointment with the 122 complainants who were waiting for their political belief complaints to be processed.

The Court decision means the Commission does not have the legal authority to process any of the political belief complaints in its complaint files. In addition, the Commission cannot accept any further political belief discrimination complaints under current Human Rights legislation. According to Rev. J. Leo Trainor, the Commission Chairperson, "As of now, the Human Rights Act provides no protection against political belief discrimination."

The remedy, as the Supreme Court indicated in its decision, is the responsibility of the Legislature. An adequate definition passed by the legislature will permit the Commission to again accept political belief discrimination complaints. "It is," Father Trainor explains, "an issue the Court has returned to the Legislature, regardless of their political affiliation."

If the legislation is made retroactive, the current 122 political belief discrimination complaints will remain in the Commission's active complaint file and all complaints will be investigated. If, however, the legislation is not made retroactive, none of the 122 complaints will be processed.

In June 1989, the *Human Rights Act* was amended to include a new definition of political belief.

(m) "political belief" means belief in the tenets of a political party that is at the relevant time registered under section 24 of the *Election Act* R.S.P.E.I. 1988, Cap. E-1 as evidenced by

- (i) membership of or contribution to that party, or
- (ii) open and active participation in the affairs of that party.

(2) This Act shall be deemed to prevail over all other laws of this province and such laws shall be read as being subject to this Act.

(3) For the purposes of this Act the onus of establishing an allegation of discrimination or action on a discriminatory basis in relation to political belief is upon the person making the allegation. 1975,c.72,s.1; 1980,c.26,s.1; 1985,c.23,s.1; 1989(2nd),c.3,s.1 (eff.) Mar.25/88; 1997(2nd),c.65,s.1; 1998,c.92,s.1.

The new definition was made retroactive to apply to any political belief complaint filed with the Commission on or before March 25, 1988. Additional investigators were hired on a temporary basis to address the backlog of complaints. The Commission found that there was sufficient evidence to support the allegations in 54 complaints, and a number of these, including complaints filed by Jamie Trainor and Michael (Mickey) Burge, were referred to the Minister Responsible for Human Rights.

The complaints of Mr. Trainor and Mr. Burge sparked the most interest in any single issue in the Commission's history. Both complaints were heard by a Board of Inquiry. Mr. Trainor's complaint was not upheld, but a Court on judicial review upheld the finding of the Board of Inquiry in Mr. Burge's favour.

Trainor loses bid

April 25, 1993

The Jamie Trainor political discrimination soap opera is finally over, but the government has rejected Mr. Trainor's appeal for a judicial review of the decision of a board of inquiry that ruled last April that Mr. Trainor was not politically discriminated against.

The former seasonal worker for the Department of Transportation and Public Works had originally claimed that he was not rehired to drive a truck one summer because he was a Progressive Conservative and the Liberals had just been elected.

"Insofar as the allegation of discrimination is concerned," said Justice DesRoches in his written decision, "Jamie Trainor was the only witness who testified before the board of inquiry that the reason he was not rehired in 1986 was because of his political belief."

Mr. Trainor had argued that the original board of inquiry had erred on six counts including, among other things, that they had taken the phrase "political belief" too literally. He also argued that supervisors changed their stories between the investigation and official hearing.

But Justice DesRoches decided that while Mr. Trainor's political belief was established, there was not evidence of discrimination based on the fact he was a Tory.

As for Mr. Trainor's argument about witnesses changing their stories, Justice DesRoches ruled he could only overturn evidence at two board if there was an error in law committed, "and I cannot accept this argument."

It is a well established principle that finding of fact made by a tribunal within its jurisdiction as authorized by statute should not be disturbed on review or appeal if there is evidence to support the findings," said Justice DesRoches.

"My review of the transcript reveals that the testimony of Jamie Trainor as to why he was not rehired in 1986 is uncorroborated and unsupported, even by the witnesses called on his behalf."

Mr. Burge's complaint resulted in the largest compensation award in the history of the Commission. In February 1993, the Board of Inquiry found that the Complainant had been discriminated against on the basis of political belief and recommended compensation in the amount of \$277,598.

Burge may get \$277,000 for patronage claim

BY ANNETTE BOURGEOIS

Political patronage victim Mickey Burge of St Peter's could be awarded more than \$250,000 as a settlement for his discrimination case if the board of inquiry recommendation is accepted by the Human Rights Commission.

That decision, released Monday, could see the provincial government paying Mr Burge a total of \$277,598 for lost income between June 30, 1986 and June 30, 1992.

The government has the option to appeal the board of inquiry decision.

Mr Burge, a well-known member of the Progressive Conservative Party, filed a complaint with the Human Rights Commission on May 20, 1986, claiming he was fired from his job on May 18, 1986 by the newly elected Liberal government because of his political beliefs.

Mr Burge trucked beer from two Maritime breweries to provincial

government liquor outlets in Cardigan and Souris. He was paid by the breweries on a per trip basis, however the province was in charge of filling the position and this procedure was accepted by the breweries. Any concerns about the job were handled by the Minister in charge of the Liquor Control Act, thus making it a highly political position.

Lawyer Gerald R Foster was hired last June to conduct a one-man board of inquiry for the Human Rights Commission after attempts by the Commission to reach a settlement between the two parties were unsuccessful. The provincial government admitted one of the reasons Mr Burge was fired was his political

beliefs, however the larger reason was said to be his poor job performance, a consequence which only requires one month's notice before dismissal.

During his report, Mr Foster said he couldn't find any evidence to support the government's claim that Mr Burge was fired for any reason other than political.

"If a decision had been made to dismiss him (Mr Burge) for his poor service record or any other legal reason, evidence ought to have been reasonably available to that end," read the report.

"However, no similar officials of the Liquor Control Commission or the then minister charged with the administration of the Liquor

Control Act were called as witnesses to support the Respondent's (government) contention that there were reasons other than his political belief for his dismissal."

Mr Foster said giving Mr Burge his job back would probably do more harm than good and declined to make that recommendation to the Commission.

Mr Foster said \$316,897, the figure compiled by chartered accountant, Everett Roche, accurately reflected the amount of money lost to Mr Burge as a direct result of his being fired. Taking into account money earned by Mr Burge during June 30, 1986 and June 30, 1992, Mr Foster recom-

mended to the Human Rights Commission that the government pay Mr Burge \$275,598 for monetary loss and \$2,000 for injured feelings. Mr Foster also said the government should change its present practice of hiring beer truckers and adopt a similar practice now in place in New Brunswick where breweries tender the job.

Premier Catherine Callbeck will seek a judicial review of the decision. She said the contract was excessive and an abuse of public funds. A review of current government contracts with individuals and companies in this matter will also begin immediately.

E.G. Feb 24/93

In March 1993, the Provincial Government filed an application for judicial review of the Board of Inquiry's decision.

EP - March 24/93

PROVINCE SEEKS REVIEW Burge discrimination case back in court

By Barb McKenna
Patriot Reporter

The provincial government is not going to compensate Mickey Burge for political discrimination without a fight.

The issue has ended up back in the Supreme Court of Prince Edward Island, with the province requesting a judicial review of last month's ruling of a human rights board of inquiry in Mr. Burge's favor.

Last month, a board of inquiry recommended that Mickey Burge be awarded \$275,000 in compensation because he lost his job because of political discrimination.

Gerald R. Foster, head of the human rights board of inquiry, determined that Mr. Burge was discriminated against because of political belief when he lost his job as a beer hauler after the 1986 provincial election.

The provincial government filed papers Monday asking for the Supreme Court of Prince Edward Island to undertake a judicial review

The provincial government filed papers Monday asking for the Supreme Court of Prince Edward Island to undertake a judicial review of the decision, arguing that the board made an error

of the decision, arguing that the board made an error when it determined that Mr. Burge's "poor performance" was relevant only in determining whether political discrimination had been established.

The papers suggest that Mr. Burge's contract may have been terminated in June of 1986 "because of poor performance and the loss of his previous political influence and his ability to retain the contract, despite poor performance."

The government argues that the board did not use the test of rea-

sonable foreseeability in assessing the period of time during which damages should be awarded to Mr. Burge.

The board failed to apply relevant factors to the compensation ruling, the papers allege, including the fact that Mr. Burge may not have employed in his position very much longer. The government says Mr. Burge had a "long-standing history of unsatisfactory work performance" and that "his equipment was generally inadequate to do the job and on one occasion, a truck was actually taken off a public highway due to serious deficiencies and violations of law."

The government also charges that there was no evidence Mr. Burge suffered any mental anguish, that he may not have made reasonable attempts to mitigate his damage, and that Mr. Burge failed to comply with lawful tax requirements.

The date for the application hearing has not yet been set by the court. Charlottetown lawyer David Hooley is acting on behalf of the provincial government.

In its 13th Annual Report in 1993, the Commission reserved comment on the "Burge Case", on the basis that the judicial review of the Board of Inquiry's decision had not yet been heard. None of the subsequent annual reports make mention of the result of the judicial review. However, in 1995 a Supreme Court judge ruled that the \$277,000 figure was too generous. Burge appealed that decision and in 1996, the Appeal Court ruled that the Supreme Court had no jurisdiction to rule on the adequacy of a human rights settlement. The matter was sent back to Provincial Cabinet and on March 15, 1997, the Guardian reported that the Provincial Government finally announced it would pay a settlement of \$197,588 to the former Government beer hauler, Mr. Burge.

The Chairperson of the Commission, at the time of the “Burge” complaint, Father Leo Trainor, remembers that the process of law in dealing with the matter had been overtaken by “*politics at the highest level*”.

Charlottetown, Prince Edward Island

SATURDAY, MARCH 15, 1997

\$1.00 (includes GST)

Charlottetown, Prince Edward Island

Burge becomes \$200,000 man

lengthy political discrimination case

BY DOUG BEAZLEY
Guardian Weekend

A decade-long political discrimination battle was finally laid to rest this week, as the Binns government announced it's paying a \$197,588 settlement to former government beer hauler Mickey Burge.

But that's a lot less cash than the \$277,598 a human rights board of inquiry said he should get four years ago in compensation for losing his government trucking contract when the Liberals came to power in 1985.

In announcing the settlement Friday, Attorney General Mitch Murphy said the government agreed to pay Burge after negotiations mediated by prominent Progressive Conservative lawyer Mark Ledwell. Murphy also attacked the former Liberal government for dragging out the Burge case through years of appeals and legal wrangling, pushing the cost to taxpayers of lawyers' fees and public inquiries up to just any of \$1 million.

"That process resulted in provincial government expenditures in excess of three-quarters of a million dollars in legal fees alone, on this one case," he said. "A case in which the matter of discrimination was not at issue because government had already admitted fault."

Liberal leader Keith Simpson, meanwhile, claimed the only reason Burge got his settlement is that he's a Tory, and suggested the settlement sets a dangerous precedent for the stack of political discrimination claims already on file with the Human Rights Commission.

"It's certain Mr. Burge was against the new govt. If he was of the right political persuasion," said Milligan. "What this decision means is that the clock is going to start ticking on the current cases... that if they take five or 10 years to settle the government is going to have to pay them what it's paid Mr. Burge. The settlement's too large." — himself could not be

Burge himself could not be reached for comment.
Burge's political discrimina-

tion case has been bouncing between the Human Rights Commission, cabinet and the courts since he lost his contract in 1986. It was only the second political discrimination case ever to go to a public board of inquiry in the province. The board's 1983 recommendation was for a \$277,598 settlement was rejected by the provincial government, which claimed it had a right to terminate Burge's contract at any time.

After the government applied for a judicial review, a Supreme Court judge ruled in 1995 that the Burge award was too generous. Burge appealed that decision, and the appeal court ruled the Supreme Court hadn't the jurisdiction to rule on the adequacy of a human rights settlement. The matter was sent back to the provincial cabinet, which then on it until the general election when the Tories took power. In the interim, Burge appeared in the interim Supreme Court to claim the minister to act on an original board of inquiry on misrepresentation.

Murphy denied yesterday that his government sped to a settlement with Burge because of his party loyalty.

"That's not the reason at all ... we settled this because it's been going on for 11 years and we didn't want to see it go on for another 11 years," he said. "Taxpayers have paid enough."

Murphy said the government went the negotiation route to break the deadlock that he said had built up between the Liberals and Burge.

"It became evident to me that sufficient animosity existed between government and Mr. Burge to make it impossible for the two parties to reach an agreement," he said.

"As minister I'm responsible for the (Human Rights Act) and I couldn't get directly involved. So we asked Mr. Ledwell to arbitrate."

The Binns government has complained in the past about the length of time it takes to settle claims of political discrimination filed against gov-



MICKEY BURGE, shown in this Guardian file photo, has won a settlement of almost £200,000 in his political discrimination case against the P.E.I. government. The beer hauler claimed he lost his employment after the Ghiz government came into power in 1996.

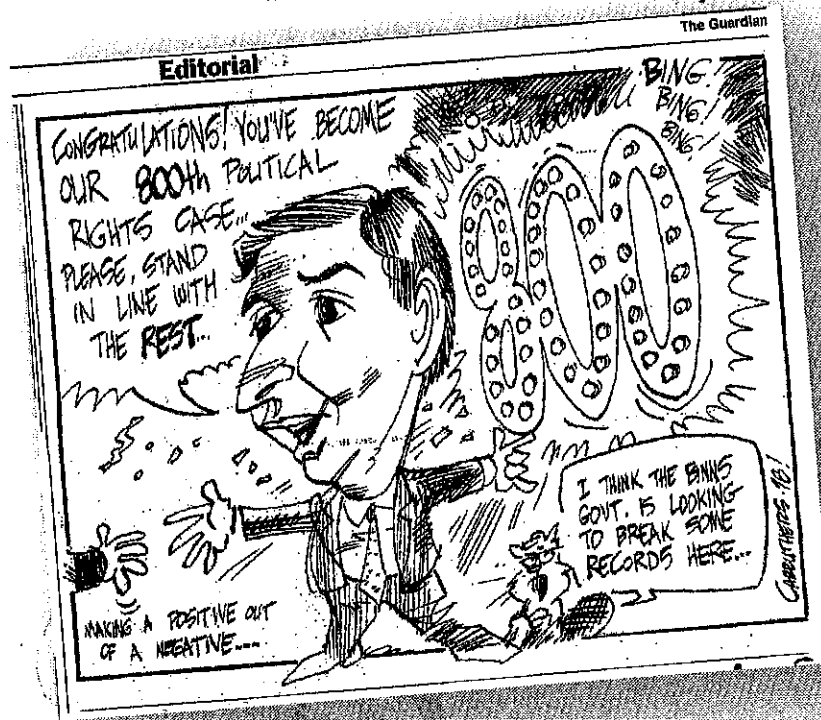
Guardian photo by Nigel Armstrong
in Bunge's case

ernment with the Human Rights Commission by former government employees. Premier Pat Binna is planning to strike a legislature committee to review the act and recommend ways to make the system work faster.

model used in Bulgaria probably wouldn't bear becoming mandatory under the Human Rights Act.

"The Burge case was a unique one, and it called for special measures. I don't know if we could apply those measures to other cases."

Meanwhile, the Commission was grappling with a new round of complaints based on political belief discrimination following the change in Government in 1996. By the end of 1997, the number of complaints totalled 670. After the Government agreed to settle several hundred of these complaints, the number of complaints doubled and, by the Summer of 1998, more than 800 complaints had been received by the Commission.



Due to the unexpected volume of complaints, the Commission urged the Government to standardize the procedure for applying for casual employment by implementing a more objective process which would remove politics from hiring:

Patronage takes a hit

The road to hell may be paved with good intentions, but the road out of patronage seems to be paved with unfairness.

The provincial government has taken what it bills as a major step forward in removing politics from government hiring practices. They intend to take 300 jobs now considered casual and have them classified as protected government positions.

The government wants to introduce protections for seasonal workers, a perennial target of patronage, so that they can have a reasonable expectation of being able to return to their jobs from year to year.

This means that for the first time in recent memory, finding road work on Prince Edward Island won't involve backing someone's campaign or appealing to the local boss's generosity. Rather, the people who work well in Year A and want to return in Year B can expect they'll be allowed to do just that if the job is still available.

People who view government projects as employment programs for the unemployable and MLAs as the judges of the worthy and the unworthy will find much to criticize in that move. "How will people get enough work to qualify for pay?" they'll ask. "Who will plant our signs come election time?" Still, it seems likely that the province will even-

tually adjust to making road construction the primary aim of road construction projects.

The tougher transition is likely to involve the 300 casual jobs being converted to classified jobs.

The Liberals have argued and no doubt will continue to argue that what this move does is take the latest round of patronage appointments and give them the full protection of the Public Service Commission. They'll point to veteran workers who lost jobs in the last post-election purge and are now seeing them placed forever out of reach.

This seems unfair to those luckless people and no doubt it is. What would be more unfair would be to use that unfairness as a pretext to perpetuate the loathsome political rigging of government jobs intended for some of the Island's poorest citizens.

The to-and-fro of politically-motivated firing and hiring has been a constant drain on the Island for generations.

In a land of scarce resources, money intended for public works should not be diverted, diluted or squandered on any other end. It is also unseemly and unconscionable that the people most in need of work have been forced to belittle themselves and butter up their MLAs to get a job.

Whenever the cycle of patronage stopped, one party was bound to be on top while the other was beneath. If this costly game of endless retribution is to end, somebody will have struck the last blow.

The government's move to put a stop to political interference in hiring is long overdue. Only time will tell if it has gone far enough.

In September 1999, a group of Complainants commenced an action in the Prince Edward Island Supreme Court for judicial review of the Chairperson's dismissal of their complaints of discrimination on the basis of political belief. The applicants alleged that the "formula for compensation inserted into the Human Rights Act as part of the 1998 amendments" is contrary to section 15(1) of the *Canadian Charter of Rights and Freedoms*. The matter has been heard, but the Court had not rendered a decision at the time of this publication.

Political rights cases stalled

Settlement formula flaw may send some discrimination claims to court

BY DOUG BEAZLEY

The Guardian

The Blues government saw its 800th political discrimination claim filed against it this week, according to new numbers from the Human Rights Commission.

ing cases.

Wyatt said the formula is being applied consistently in all cases but those where claimants have already gotten money out of government - severance payments, for example. The problem with the formula is that it leaves no provision

in fact, even while new political discrimination claims continue to trickle in to the commission's Charlottetown offices, there's word some cases are stalled due to a flaw in the way the Human Rights Act's settlement formula deals with severance payments for fired government employees.

"We're kind of remembering the long the Micker Borge case took to settle," said Jim Wyatt, commission executive director.

"We're not saying we're looking at a half-dozen. Borge was necessary, but it's quite conceivable some won't be settled without resorting to Human Rights Commission panels or the courts."

Which is exactly the kind of situation the revised Human Rights Act was supposed to avoid. The constitutional Act to amend the Human Rights Act, passed last December after a lengthy and raucous legislative debate, includes a formula for determining political discrimination settlements that's designed to cut the cost and the time spent on political belief claims.

About 500 of the 800 claims have been settled already - many through the formula set down late last year. Insurers have shelled out \$1.2 million already to claimants the commission says lost their government work due to their party affiliation. Government projects spending another

for deducting a severance payment from the political discrimination compensation awarded to a successful claimant.

"Say you get fired for no good reason, and the company gives you two weeks' severance," he said. "You sue for wrongful dismissal and win... the judge still deducts your severance from whatever you get from the lawsuit. That's the easy law."

"But the formula is designed to avoid going to court, and it doesn't make any mention of what you do with other payments."

Which is what's slowing down settlements. Unless the government decides to amend the formula to make it explicit on severance payments, more than a few of the outstanding political discrimination claims could end up going through costly and time-consuming court cases.

Contacted Tuesday, Attorney General Mitch Murphy said he wasn't aware of any problems with the formula.

"If the commission has a problem, they should suggest an amendment to me," he said. "It seems to me the process is working. These people who have filed claims have the right to do so."

The claims notwithstanding, Wyatt said he's still hopeful the commission can clear most of its record-setting political discrimination backlog by the

ALCOHOLISM AS A DISABILITY

With its recognition of alcoholism as a disease in 1982, the Prince Edward Island Human Rights Commission was the first Commission in Canada to accept alcoholism as a physical disability. An individual had complained to the Commission alleging his employer fired him because he had entered an addictions treatment program. While the Commission did not find sufficient evidence to confirm the complaint, the Commission released a report on October 20, 1982, outlining its acceptance of the disease model of alcoholism and prescribing a policy for viewing alcoholism as a physical disability under the *Human Rights Act*. The report, endorsed by the Commission's Chairperson and the Commissioners, was released to the media:

"By placing the condition of alcoholism in the category of a disabling illness, the Commission is offering the protection of the Human Rights Act to both inactive and recovering alcoholics. If an inactive alcoholic is denied a job based on his past alcohol record rather than on his job skills, training, aptitudes and experience, the Commission would accept a complaint from the individual under "physical disability".

As with other physical disabilities, the employer must attempt to make "reasonable accommodations" for a recovering alcoholic; that is, if there is a high degree of risk to the individual or others during the "recovery" period, an attempt must be made to find alternative employment until the employee clearly demonstrates he/she has become an inactive alcoholic.

In addition, the Commission is offering the protection of the Human Rights Act to those who wish to enter the P.E.I. Addiction Services Treatment Centre and become recovering alcoholics but are afraid they will lose their job if they do so."

In a news release on the same date, October 20, 1982, the Chairperson of the Commission is quoted as stating:

"By accepting this complaint, the Commission has indicated it will accept complaints from inactive alcoholics who are being discriminated against for a disabling illness which is under control or from an individual who is seeking treatment at a recognized alcoholism treatment centre just as it will from any individual who has been discriminated against because of a physical disability or disabling disease such as diabetes, high blood pressure, etc."

The Commission's stance garnered extensive media attention, including reports in the *Globe and Mail* and in *Canadian Business* magazine in the early 1980's.

The Commission's Fact Sheet entitled "*Your Rights: Addiction and Alcohol/Drug Testing*" provides a brief overview of the current state of the law on Alcoholism and Disability.



YOUR RIGHTS : ADDICTION AND ALCOHOL/DRUG TESTING

Simon has been coming to work with alcohol on his breath. His job performance has been slipping. Yesterday, his manager had to send him home because he was clearly intoxicated. Today, Simon was dismissed from his employment. The dismissal may be discriminatory.

XYZ Company has introduced an alcohol and drug testing policy that states all employees will be subject to random testing and each employee will be subject to one scheduled yearly test. The consequence of a positive test is immediate dismissal. This policy may be discriminatory.

ADDICTION

Under human rights law, drug or alcohol addiction is considered a disability. See *Your Rights: Physical and Mental Disability* for more information. Employers, property owners and organizations or businesses that are offering accommodations or services to the public must accommodate persons with disabilities to the point of undue hardship.

When an employee has an alcohol or drug addiction that is affecting job performance, accommodation usually includes granting the employee leave to seek treatment and allowing them to return to their position when able. Reasonable accommodation does not include allowing the employee to be at work while under the influence, or continuing to employ an employee who refuses to do anything about his or her addiction.

In the example above, Simon's employer dismissed Simon without inquiring about his situation and/or allowing him to seek treatment if necessary. This may be considered discrimination on the basis of the disability of addiction.

ALCOHOL AND DRUG TESTING

This area of human rights law is still developing. The PEI Human Rights Act does not contain specific provisions regarding drug and alcohol testing. One of the most recent human rights legal decisions on this issue is Imperial Oil v. Entrop (2000), 37 C.H.R.R. D/481. The Ontario Court of Appeal held that:

- Random testing for alcohol use is acceptable for employees in safety-sensitive positions ONLY.
 - Random testing for drug use is NEVER acceptable. Drugs can be detected in a person's system long after consumption. Therefore, a positive drug test does not necessarily mean that your performance is impaired.
 - Alcohol and drug testing is acceptable in situations where there is just cause to believe an employee is under the influence at work or if an incident occurs, such as an accident that may have been a result of alcohol or drug use.
- The court also held that sanctions for a positive test must accommodate the employee. Therefore, automatic dismissal may be discriminatory. 2001/03

Prince Edward Island
Human Rights Commission
PO Box 2000
98 Water Street
Charlottetown PE
C1A 7N8

1-800-237-5031
368-4180

368-4236 (fax)
www.gov.pe.ca/humanrights

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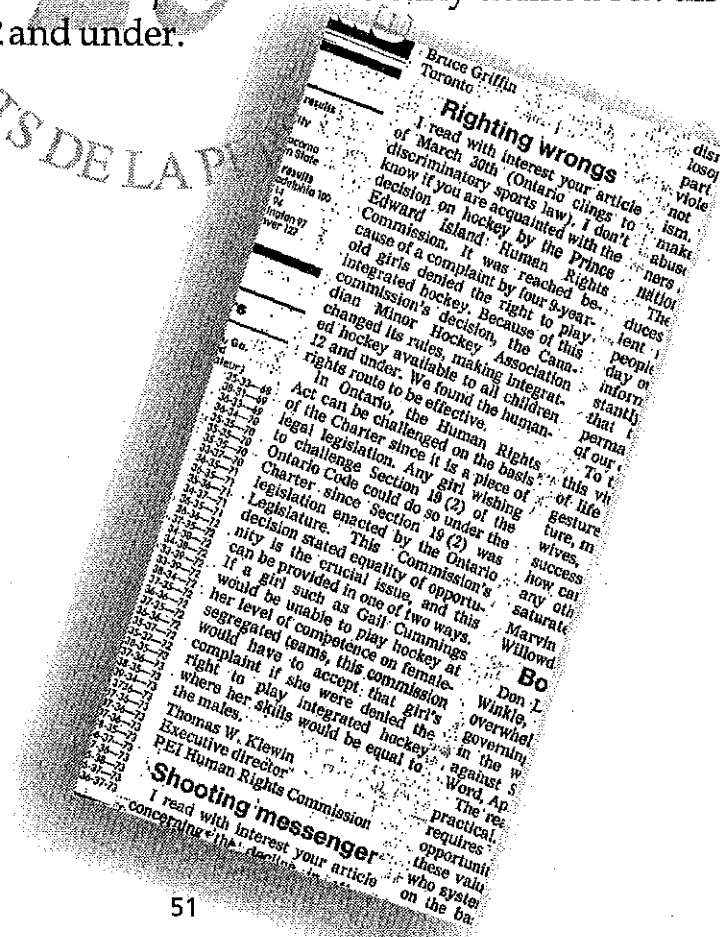
*Why Not Make It
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FEMALES IN MINOR HOCKEY

In a press release dated March 1, 1984, the P.E.I. Human Rights Commission made the following statement pertaining to amateur athletics:

"Minor hockey playoffs fall within the definition and meaning 'an access to a service and facility' of the Prince Edward Island Human Rights Act. The Human Rights Act specifies those activities and organizations which it intended to exempt from its jurisdiction. Amateur athletics were not so specified and must be interpreted as coming under the legislation... Minor hockey playoffs are a "service and facility to which members of the public have access". What the Human Rights Act requires in this situation is that children not be denied an equal opportunity to participate in competitive sports at an appropriate skill level or age level. Specifically, the Act prohibits denial of an opportunity to participate in competitive hockey on the basis of sex."

The Commission went on to state that the integration of boys and girls into minor hockey could be accomplished either by separate organizations and teams for males and females, or by co-educational teams. The Commission is quoted as stating that *"neither one is mandated by the Act to the exclusion of the other... what is mandated is that both males and females must not be excluded from an equal opportunity to participate in competitive sports on a level commensurate with their skills and physiological development."* In 1984, the Commission produced a policy on "Sex and Amateur Sports" which clearly defined sex discrimination as it relates to both sexes aged 12 and under.



The Commission's press statements and policy stemmed from a group of complaints, filed in the Winter of 1984, by three girls alleging sex discrimination in hockey. The Commission ruled that the girls were discriminated against on the basis of sex by not being allowed to participate in play-off hockey; the rest of the members of the team were boys.

Tuesday, March 6th., 1984



Rule In Favor Of Girls

The P.E.I. Human Rights Commission has ruled that girls 12 and under should be allowed to play in boys amateur hockey playoffs, but the P.E.I. Hockey Association disagrees.

Commission Chairman Fr. Alan MacDonald, (left), and member Thomas Kewin announced the decision Friday at a news conference.

In the wake of the Commission's decision, media attention included comments from the girls' coach who stressed that the problem is that there was no comparable hockey system for girls:

Coach Comments On Discrimination Against 3 Girls

The P.E.I. Human Rights Commission has ruled three young girls were discriminated against in not being allowed to play play-off hockey but has not come down with a decision on a similar charge leveled by the coach of Hunter River twice hockey team.

Jerry MacLean, coach of the integrated hockey team, said he was never in any doubt the commission would rule the girls had been discriminated against on the basis of sex.

"It was open and shut. The girls were not allowed to play, simply because they were girls. As far as I was concerned I never had any reservations of what the outcome would be."

ARGUMENT
He said the girls argued discrimination on the basis of sex, but his complaint was that his team had been denied access to playoff competition because there were girls on the team. He said he understood the commission required more study and legal interpretation in order to deal with that argument and therefore a decision on his com-

plaint has not been made. The Hunter River novice team (for those up to eight years old) lost its team status because each team had to register a minimum of 12 players and with the three girls being barred from play-off competition Mr. MacLean's team only numbered 10.

"The boys weren't able to play because there were not enough players."

He said because the girls were barred from competition, the boys were also denied a chance to play hockey.

TO MEET
Mr. MacLean said he understood the next step was to bring the "two parties together" namely the Hunter River team members, and the P.E.I. Hockey Association.

Mr. MacLean said he felt the decision regarding the three girls would have been different had the hockey association dealt with girls within the hockey system of the same basis as boys.

"But the same system isn't there for girls," he said. "It's just not set up on an equal basis. Girls should have the same rights as boys in minor hockey."

Sunday

In other articles following the ruling, the Prince Edward Island Hockey Association President was quoted as displaying the attitudes that contributed to the girls' problem of not being able to play on a 'boys' team:

"The ball's in our hands now - no matter what they (referring to the Commission) say, we are still the ones who have to change the rules...Some parents feel it's tomboyish for girls in boys teams and refuse to allow their daughters to join...But parents would let their daughters play if there were girls teams...on PEI there are presently only five teams for girls 12 and under, so the association is trying to get more teams organized to allow girls to play...But..."boys should play with boys, and girls should play with girls."

In Prince Edward Island at the present time, there are two associations that operate hockey teams open to girl players. Based on the Commission's ruling, all of the Prince Edward Island Hockey Association (PEIHA) teams from the levels of Squirt to Midget are open to girls. In addition, the Prince Edward Island Female Hockey Council presently operates teams that are open to girls only, from the Atom to Midget levels. The Council has been promoting female hockey for about five years and sets its own rules governing female hockey on Prince Edward Island. The Association's constitution restricts these teams to female players only, and a boy would likely be refused membership on these teams even if he applied to play there because there was no space left in the PEIHA system. Female hockey has increased in popularity since 1998 when the Winter Olympics held in Nagano, Japan included the sport as an Olympic Event.





SEXUAL HARASSMENT

Although sexual harassment frequently occurs in employment, the Prince Edward Island Human Rights Act prohibits sexual harassment in a wide range of situations, as indicated in the Commission's Fact Sheet:



YOUR RIGHTS : SEXUAL HARASSMENT

Ellen is the only female mechanic at her workplace. Her male co-workers are often telling sex-related jokes and there are Playboy pin-ups on the bulletin board in the lunch room. Ellen has told her co-workers that she is offended by their jokes and the pin-ups. They just laugh and tell her not to be so sensitive.

David, Rhonda's manager, has invited Rhonda out to dinner several times, but she has refused. He often tells her how attractive she is and that he wants to get to know her better. The last time Rhonda turned down his dinner invitation, David became angry and told her that she'd better be "nice" to him or she may be looking for a new job.

Ellen and Rhonda are experiencing sexual harassment and are therefore being discriminated against on the basis of sex.

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THE LAW

Sexual harassment is included under the ground of sex, and occurs most often in employment. However, the Prince Edward Island Human Rights Act prohibits sexual harassment in all of these situations:

- Employment
- Volunteering
- Offering accommodations, services or facilities to the public
- Membership in professional, business or trade associations and employee organizations
- Leasing or selling property
- Publishing, broadcasting and advertising

Sexual harassment is unwelcome conduct of a sexual nature that has a negative impact on where you work, live, or receive services. Sexual harassment can range from unwelcome comments and offensive jokes or pictures, to unwelcome physical contact and sexual assault. Sexual harassment may involve threats of adverse consequences, such as job loss if the victim attempts to end the harassment.

Victims of sexual harassment are usually women, but men may also be harassed. Sexual harassment can occur between persons of the same or opposite sex.

If you experience sexual harassment, it is important to inform the harasser that his/her behaviour is unwelcome. If the harassment occurs at work, report the harassment to a superior. The PEI Employment Standards Act requires every employer to have and post a sexual harassment policy. The policy should include procedures for reporting sexual harassment. If the harassment occurs where you rent accommodations or receive services, report the harassment to the property or business owner. In any case of sexual harassment, you may also file a complaint with the Human Rights Commission.

2001/03

*Human Rights:
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Everyone's
Business...*

*Why Not Make It
Yours?*

In 1988, Reverend Allan MacDonald, past Chairperson of the Commission, spoke at the University of Prince Edward Island about policy and procedures to deal with complaints of sexual harassment at the University. Father MacDonald pointed out that investigation may prove difficult due to "the clandestine nature of such offenses", and that often, victims do not file formal complaints due to "embarrassment, the threat of reprisal, and/or lack of confidence in the 'system'." Ironically, Father MacDonald also warned decision-makers of the looming "danger" of false complaints:

"Too, decision-makers must take into consideration the ever-present danger of persons lodging false charges of sexual harassment, a factor that affects the working of any remedial program."

The fear of false complaints reflects an attitude toward sexual harassment that has been pervasive in society. The Commission recognized that even those experienced in the field of human rights are not without biases, for example, in the form of suspicion towards the validity of sexual harassment complaints.

In 1991, the Commission was reported as dealing with only two complaints of sexual harassment, due to barriers faced by victims in pursuing complaints, including the issue of the victim's credibility:

Sexual harassment hard to gauge

P.E.I. Human Rights Commission hears few complaints

By Barb McKenna

Despite the widespread publicity that sexual harassment in the workplace has been receiving, the P.E.I. Human Rights Commission has dealt with only two complaints in the past year.

Sexual harassment in the workplace isn't new, but it has recently erupted in headlines and on talk shows since Anita Hill levelled allegations of harassment against Clarence Thomas during hearings on his candidacy for the U.S. Supreme Court.

WIDESPREAD PHENOMENON
Experts in sexual harassment say the phenomenon is widespread — from the assembly line to the executive office — but relatively few cases are reported. But others, including men who oppose current procedures for dealing with sexual harassment, say that only a small percentage of working women are harassed and that usually it's a simple misunderstanding.

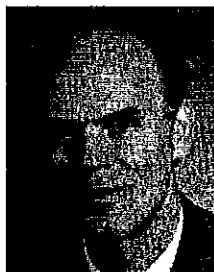
Sexual harassment is normally defined as behavior of a sexual nature (usually by a man) that causes discomfort to someone else (usually a woman).

Complaints often cite lewd remarks, unwanted and persistent sexual advances, and touching.

FEW OPTIONS

On Prince Edward Island, usually the only remedy at a person's disposal to deal with sexual harassment is the P.E.I. Human Rights Commission, says commission executive director Jim Wyatt.

"It's difficult to know how big the problem is," he said. "I suspect we see the tip of the iceberg. It's still a tough thing for a victim to do."



JIM WYATT
... 'tip of iceberg'

Usually, victims look at the harassment as an employment problem, and decide that it's easier to remove themselves from the job than file complaints against the perpetrator, said Mr. Wyatt. Most large companies have their own sexual harassment guidelines, so victims are usually employed in small, service-sector businesses where the loss of a job can be viewed as a small sacrifice to remove themselves from the situation.

The Human Rights Act prohibits discrimination on the basis of sex, which includes sexual harassment guidelines brought down by the Supreme Court of Canada, said Mr. Wyatt.

PROOF PROBLEM

"Proving sexual harassment is always a problem," he said. "It frequently comes down to the credibil-

ity of the people involved. It frequently comes down to a one-on-one investigation of the credibility of the two parties."

Once the commission receives a complaint of sexual harassment, it conducts interviews with all parties involved. It also tries to get to the bottom of the matter by looking for others who might know something about the case, such as previous employees who may have quit the job for the same reason.

"Frequently it is not an isolated incident, and the person who does harass does so on a number of occasions," he said.

Once the inquiry has been carried out and proven, both parties usually choose a cash settlement. If a settlement can't be reached, the investigation can proceed to a public board of inquiry, said Mr. Wyatt. On Prince Edward Island, a sexual harassment complaint has never gone as far as an inquiry, usually because of a fear of publicity, he said.

SETTLEMENTS
Settlements cover the victim for income loss and other damages, including humiliation and insult, he said. Even so, settlements usually are negotiated between the two parties, and are between \$250 and \$500. Sexual harassment victims who file a complaint can expect to wait as long as a year before their complaint is settled, he said.

Despite those drawbacks, Mr. Wyatt says he always encourages women to come forward with their complaints. "When they're successful they take out of the game a few employers who are harassing their workers," said Mr. Wyatt.

Even so, he acknowledges that

most victims probably deal with the harassment by quitting their jobs.

"I've often wondered what's going on out there, when you run into someone who's a harasser," he said. "In a lot of cases it's so easy to say 'I quit'. Then the pain is gone."

WILL QUIT JOB

Even Anita Hill quit her job initially, he said, and it was not until the man she accused of harassing her was being nominated for the role of Supreme Court Judge that she even spoke of it.

"In my experience, I have found that people just don't come forward with this information without it being true. If it is false, the whole thing quickly falls apart like a deck of cards."

Mr. Wyatt said a lot of men feel threatened by sexual harassment guidelines and the recent publicity those rules have been receiving, but he has a word of advice for them.

"I say I'm not afraid of this because I don't do it. I don't rob stores so if you came forward and accused me of robbing a store, then I would be quite comfortable with the belief that the truth that I am not a robber would eventually come out."

PROVINCIAL BREAKDOWN

Here is a province-by-province breakdown of sexual harassment complaints filed with human rights commissions, and reported by The Canadian Press.

Officials say the complaints represent only a fraction of the number of actual incidents of sexual harassment on the job.

Complaints filed from April 1, 1990 to March 31, 1991 (or calendar year as indicated): Ontario — 157; Quebec — 100 (1990); Alberta — 65; British Columbia — 53; Manitoba — 45 (1990); Saskatchewan — 34; Nova Scotia — 26; Newfoundland — 12 (1991 to Nov. 1); New Brunswick — 12; Prince Edward Island — 1.

It was not until 1993 that the Employment Standards Act was amended to require all businesses to have and post a policy on sexual harassment. Nevertheless, the Commission has discovered that frequent violations of this law still occur, and many workplaces, including government departments and divisions, do not post any policy on sexual harassment even though it is a violation of human rights law.

The paucity of news articles on sexual harassment indicates that the problem may often be swept under the table. The Commission's files contain several news articles from the early and mid 1980's on the problem, but very few items from recent years, even though two complaints involving sexual harassment have been widely reported. Lisa Reiten's complaint against the University of Prince Edward Island and Ann Magill's against Atlantic Turbines were the subject of judicial review in the Prince Edward Island Supreme Court.

HUMAN RIGHTS

Ivory tower needs work

So one of the great debates of modern democratic thought has come to this: Is it wrong to show the film *Cannibal Women in the Avocado Jungle of Death* at an institution of higher learning?

In days gone by, the freedoms of thought, expression and assembly were issues upon which the great states of the world were founded.

Unfortunately, the fundamental truths that form our democratic tradition have grown slightly more complicated with the passage of time.

What happened was this: a group of students at the University of Prince Edward Island decided to show a silly comedy. Puffed up with an incredible sense of self-importance, the students billed themselves as Students for Free Speech and Academic Rights.

The decision to show the film predictably provoked anger from another group: the University of Prince Edward Island Women's Constituency Group.

By virtue of the second group's opposition to the film, the argument evolved from a supposed fight over freedom of expression into just another gender politics scrap.

Freedom of speech is a cherished value. And a university is exactly the place where students should learn the true worth of that freedom.

The equality of all citizens in the eyes of the law is another fundamental truth that should be carefully examined by students.

However, the students should learn to pick their sources and fights a little more carefully. Honest debate keeps democracy healthy. Foolish squabbles over topics best left to satirists make a mockery of centuries of great thought, practice and sacrifice.

And surely the faculty at the University of Prince Edward Island can play a useful role in guiding their charges to more useful sources of information than *Cannibal Women in the Avocado Jungle of Death*.

Inquiry awards woman \$2,500 in rights case

Ann Magill was the victim of sexually-harassing cartoon at her former workplace, Atlantic Turbines

BY RON RYDER
Gulfstream Weekend

A woman dismissed from her job as an aircraft parts inspector has won a partial victory in a human rights case against her former employer.

Charlottetown lawyer David Larter, acting as a one-person board of inquiry for the P.E.I. Human Rights Commission, has recommended Ann Magill be paid \$2,500 by her former employer because of a sexually-harassing cartoon in her workplace. He dismissed Magill's contention that she had been subjected to other forms of workplace discrimination.

Magill was hired by Atlantic Turbines of Slemmon Park, July 21, 1993. She was dismissed Dec. 16, 1994 for excessive absenteeism.

Magill filed a complaint with the P.E.I. Human Rights Commission Jan. 3, 1995, saying she had been discriminated against on the basis of her gender and that Atlantic Turbines had violated her rights by paying male employees more money than females for the same work.

In a lengthy written complaint, Magill outlined several occasions in which she said she was not treated with the same respect as male employees.

Magill also referred to an incident in which a cartoon with the caption "I party naked" was placed in her work area with her name written on a female figure. She said she complained about the cartoon to a superior but was advised by him not to pursue the matter.

Larter agreed with Magill's complaint that she had been subject to sexual harassment. He said the cartoon constituted harassment in the form of sexual annoyance, in that it was hostile, intimidating or annoying but did not have direct relation to any job benefit.

"I find, based upon the evidence, that the cartoon incident occurred, that its subject matter was sexual in nature, that it was found to be unwelcome by the complainant, that she communicated her unwelcome feelings to the respondent, and that an insufficient response was provided to the incident by the respondent," Larter wrote in a decision on Magill's complaint.



SEXUAL ORIENTATION

Following lengthy debates, characterized by legislator's expressions of prejudice towards gays and lesbians, the Prince Edward Island *Human Rights Act* was finally amended in 1998 to add sexual orientation as a prohibited ground of discrimination. This issue has generated almost as much controversy in PEI as discrimination based on political belief.

In the Commission's 10th Annual Report in 1986, the section on "*Highlights of the Decade*" contains no mention of issues concerning gay and lesbian rights, but in its recommendations forwarded to Executive Council that same year, the Commission asked that "source of income" be added to the Act as a prohibited ground of discrimination. However, there was no similar recommendation for sexual orientation.

On May 23, 1989, a *Guardian* newspaper article entitled "*Some Election Issues Just Too Hot to Handle*", reported:

"Needless to say, despite some support for the idea in briefs to the legislative hearings on amendments to the Human Rights Code, no party has offered to bring Prince Edward Island in line with Manitoba, Ontario, Quebec and the Yukon by protecting sexual orientation in the Human Rights Code. You'll wait till the 21st century for this one - maybe later, if the current Executive Director of the Human Rights Commission has his way."

In 1992, the Premier of Prince Edward Island was reported as saying that the Province had no plans to include Sexual Orientation in the Human Rights Act:

Gays lack protection in Human Rights Act

While the Prince Edward Island Human Rights Act protects people from many forms of discrimination, it does not protect them from discrimination on the basis of sexual orientation.

Jim Wyatt, director of the P.E.I. Human Rights Commission, said the provincial act is due for renovation, adding that one's sexual orientation is protected in several Canadian provinces. But Premier Joe Ghiz said the province has no plans to include sexual orientation in the act.



WYATT

Gays lack protection Sexual orientation not in Human Rights Act

By Elaine Pedlar
Staff Writer
On Prince Edward Island, it is not illegal to discriminate on the basis of sexual orientation. The P.E.I. Human Rights Act prevents discrimination on the basis of religion, sex, race, ethnic origin, disability, political belief and marital status. But gay rights are presently not protected in the province. The issue of including sexual orientation in the Canadian Human Rights Act has recently threatened to cause a split in the federal Progressive Conservative caucus. Justice Minister Kim Campbell has held meetings with Conservative MPs to find out their views on planned changes to the act.

OPPOSE INCLUSION

A federal Conservative "family caucus" — an informal group of two dozen MPs who believe in "family values" — opposes the inclusion of discrimination on the basis of sexual orientation in the Canadian Human Rights Act.

But P.E.I. Conservative Leader Pat Mella feels including sexual orientation in the P.E.I. Human Rights Act would be a good idea.

"It seems like a reasonable criteria preventing discrimination," she said in a telephone interview with this newspaper.

She said it would probably be given a fair consideration by the present provincial government. But Premier Joe Ghiz, who is also justice minister, said the provincial government has no plans to include sexual orientation in the act.

PLAN NO CHANGES

"We're not planning any amendments to our act," he said in an interview Tuesday.

Commissioner said the provincial Human Rights Act is due for renovation. He said it is illegal to discriminate on the basis of sexual orientation in a fair number of provinces, including Nova Scotia and Ontario, though it is not illegal in New Brunswick or Newfoundland.

The provincial government discussed the issue in 1989, when the Special Committee on the Human Rights Act reported to the legislature.

NOT RIGHT TIME

"In short, your committee feels that at this time we have neither the experience nor the qualifications to recommend the inclusion of sexual orientation in the Human Rights Act," said the report.

Mr. Wyatt said the issue has not been discussed since. He said the inclusion of sexual orientation would prohibit discrimination on the basis of sexual orientation particularly when individuals are looking for a job or an apartment.

In 1993, following court challenges in other provinces, which compelled human rights bodies to start accepting complaints from gays and lesbians, the Prince Edward Island Human Rights Commission announced that it would begin accepting complaints of discrimination against gays:

Commission upholds rights of gays

The P.E.I. Human Rights Commission would look at taking on complaints of discrimination against homosexuals, says executive director Jim Wyatt.

"At least one court has said it goes against the Charter of Rights and Freedoms and that's what all human rights acts are subject to," he said in an interview in Charlottetown.

This week the Alberta government announced it would be seeking legal advice on whether it can stop its human rights body from investigating cases of discrimination against homosexuals.

NOT COVERED

Alberta's Individual Rights Protection Act, like the Island's Human Rights Act, does not cover sexual orientation. Its human rights group said a number of re-

cent court rulings and the Charter of Rights and Freedoms compelled it to take complaints of discrimination from homosexuals.

"The same thing has just happened in Newfoundland as well," Mr. Wyatt said, although he wasn't certain whether that province's government had decided to look into the legal ramifications.

"We would also certainly have to look at the legal aspects," he said.

"But I do think it is a progressive move. The human rights acts only deal with discrimination, it is not putting a seal of approval on anything."

OMMITTED PROTECTION

The Ontario Court of Appeal recently found Canadian Human Rights Act omitted protection of homosexuals and violated Section 15 of the Charter of Rights and

Freedoms, he said.

Mr. Wyatt said a case before the Supreme Court of Canada may also have an effect on human rights legislation.

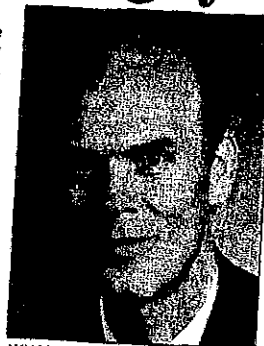
"It doesn't deal directly with discrimination on the basis of sexual orientation, but with same sex marriage and what is considered a family," he said.

"But that may have some bearing on what is happening now."

The federal government is also reviewing its Human Rights Act, Mr. Wyatt said.

"I believe they are looking at making amendments and some changes may come from that as well," he said.

In 1988, a legislative committee looking into amending the province's Human Rights Act turned down pleas to include sexual orien-



WYATT

tation in the act.

"We have not been approached by anyone with a complaint," Mr. Wyatt said.

In 1994, the Premier of Prince Edward Island promised a review of the Prince Edward Island *Human Rights Act*. However, by the time of the review, the Supreme Court of Canada had ruled that discrimination on the basis of sex included discrimination in sexual orientation. Prince Edward Island did not offer explicit protection for gays and lesbians through human rights legislation, but the protection was available by virtue of the Supreme Court ruling.

It was not until 1996 that the Premier was reported as writing a letter to a proponent of gay rights law stating that he intended to move forward with legislation prohibiting discrimination on the basis of sexual orientation. Ironically, the *Guardian* also reported that the same letter generated controversy from the Government's own Members of the Legislative Assembly for "pre-committing the Provincial Government to including sexual orientation in the *Human Rights Act*".

In 1998, the Government's Standing Committee on Social Development held public sessions to deal with proposed changes to the *Human Rights Act*. Passionate arguments included everything from the causes of homosexuality, to "slippery-slope" concerns about the "erosion of the family" through demands for same-sex marriage. The purpose of the proposed amendments, to protect gays and lesbians from discrimination, could often not be heard above the heated opinions being expressed. One Committee Member said he wouldn't be able to support the inclusion of the words "sexual orientation" in the Act, for fear that the phrase might end up meaning more than it should:

"It encompasses too much...it's not cut-and-dried. I certainly don't think homosexuals are any more likely to be deviant than the rest of us. But I feel very strongly that, if I'm running an apartment building with a kindergarten on the first floor, I should have the right not to rent an apartment to a known pedophile."

In a later report, the Member qualified his remarks by stating he thinks that "whatever legislation is put into place is not able to be maintained for the benefit of those outside the law". The following collection of letters and news reports exemplify the sentiments being expressed.

LETTER TO MEMBERS OF THE P.E.I. LEGISLATURE:

Dear Member:

As you are aware, the Supreme Court decision on the Friend case in Alberta does not automatically oblige you to include "sexual orientation" in the P.E.I. Human Rights Act.

You must also know that including such a phrase could give rise to great conflict between the homosexual community and those in Island Society who are concerned about morality. There is a real danger that the family as we know it could be eroded, the rights of parents regarding the education of their children could be restricted, and the freedom of churches to teach about sexual matters could be curtailed. This is not mere theory or speculation. It is already happening in Ontario and B.C.

To avoid these problems, we urge you to amend the definitions in the Act so that family is defined as a group of individuals related by blood, marriage or adoption, and so that marriage is defined as the union of a man and a woman.

We urge you to add a clause assuring Islanders that nothing in the Act is intended to restrict the freedom of churches and religious organizations. We also urge you to define spouse as persons of the opposite sex.

The people of P.E.I. have been promised a free vote on this issue, and the people expect it. Regardless of actions elsewhere, we want our elected representatives to be as outstandingly courageous in this as they were in the matter of abortion funding in 1988. We want you to stand up for what is right, and to vote for those family values and morals so dear to the heart of Islanders.

Donald Moore

I am in agreement with the above letter.

Signed:

Joel Moore
Gloria Moore
Jerry Moore

All Cabinet Ministers:
(Name the Ministry)
P.O. Box 2000
Charlottetown, P.E.I.
C1A 7N8

All Liberal Members:
Opposition Members Office,
P.O. Box 2890,
Charlottetown, P.E.I.
C1A 8C5

PC Members not in Cabinet:
Government Members Office,
P.O. Box 338,
Charlottetown, P.E.I.
C1A 7K7

NDP Member:
Third Party Office,
P.O. Box 2000,
Charlottetown, P.E.I.
C1A 7N8

RIGHT

APE

Ms. George Wells
Human Rights Commission
P.O. Box 2000

Dear Mr. Wells:

I am not for discrimination against homosexuals but I believe that the Christian definition of family is persons related by blood, marriage or adoption.

Tom Reay Wells
Human Rights Commission
P.O. Box 2000

Dear Mr. Wells:

I am writing out of a deep concern for human inclusion in our Provincial Human Rights Act. I do not want homosexuals as my one discriminated against. I am only asking that you retain our necessary belief in the natural traditional definition of family, namely persons related by blood, marriage or adoption.

Thank you for your concern.

Beth MacKinnon
P.O. Human Rights
Standing Committee / David Rees

Dear Madam
I do believe in human sexuality as religiously right but do not consider them as a family unit.

Premier grilled on gay rights

Panel questions 'promise' to change Human Rights Act

BY DOUG BEAZLEY
The Guardian

Premier Pat Binns split a few rhetorical hairs Thursday trying to explain to a legislative committee his views on sexual orientation and human

Rights Act, and they insist the premier's stated intention makes worthless the work of the standing committee.

"I guess our question to you, premier, is given this pre-commitment, why has the committee been wasting its time

Mooney says he's not prejudiced against homosexuals, anyone else
Souris-Elmira MLA says statements taken out of context

BY NANCY WILLIS
Guardian Weekend

SOURIS — MLA Andy Mooney says he is not prejudiced against homosexuals or any other group of people, contrary to the light he was cast in during a recent radio interview.

The representative from Souris-Elmira said the out-of-context presentation of statements he made concerning his position on the proposed Human Rights Act made him appear to equate homosexuality with deviant behavior. "This is not what I said," he said. "Two weeks before."

"At the time of that interview I

still had problems with the act, because I felt it left open some very worrisome loopholes that could be applied to behavior outside the law," said Mooney. In particular, he referred to the current practice that allows police to inform the public when a convicted pedophile is released after serving a sentence. He thinks it is important that whatever legislation is put into place is not able to be manipulated for the benefit of those outside the law.

Mooney said he is quite clear that a pedophile is a person whose "abilities with be directed towards children of either sex, and that is not a condition specific to homosexuals."

"I am not prejudiced, and I don't believe we have the right to discriminate against anyone, but I do put the rights of the elderly and children ahead of all else."

Over the past few days the eastern Island MLA has received over 60 letters and phone calls from citizens in his district worried that the wrong people would be served through the new Human Rights Act.

Since then work on the act has made him more comfortable.

"I am now convinced that the safe guards needed are in place, and I think the people of my district will be satisfied as well."

Human rights fears

Editor,

It is with utmost concern that we, the members of St. Felix Catholic Women's League, wish to voice our grave concern in regards to opposing protection of sexual orientation in our Human Rights Act.

We strongly feel that if society enacts laws of sexual orientation in the HRA, then society is enacting laws that would be anti-family and anti-society orientated, which in turn is asking for deep trouble. Homosexuals do not need additional rights under current laws; they already have all the same legal rights as the rest of society.

We strongly oppose protection of sexual orientation in our Human Rights Act as we feel that this will give direct access to marriage of same sex; adoption rights to homosexuals and lesbians; loss of the right to discriminate against hiring homosexuals for Big Brothers or Boy Scouts; will legalize protection for a behaviour that is posing grave health risks; remove the rights of parents to choose who will teach their children morals, for example at school and religion class; give a blessing to immorality, which we strongly oppose; destroy the very foundation of civilization itself - the family. We feel that homosexual persons, like all humans, are made in the image and likeness of God and are meant to be temples of the Most Holy Spirit. They deserve all respect and compassion, but homosexual behaviour is disordered and cannot at any time be approved.

Jesus tells very clearly in the Bible where we stand on immorality. Our political leaders must very seriously see the consequences of enacting additional Human Rights

More rights not needed

Editor:

Doreen Beagan's commentary on sexual orientation and human rights (The Guardian, Dec. 22, 1987) was well researched and well presented. It is obvious that the points that she makes are backed up by some learned people who have done studies in these areas.

My understanding of these issues of sexual orientation and human rights (in brief) is: homosexuals want special status under the Human Rights Act of P.E.I. to protect them from harassment and violence.

Correct me if I'm wrong, upon existing laws, don't homosexuals already have the same protection heterosexuals? Why should homosexuals have more rights (more sections) than heterosexuals?

I commend Mrs. Beagan for the courage to present thought-provoking information. I commend Kenneth Bice, Virginia McIntyre and others for stirring her.

Philip Corrigan,
Charlottetown

BY DOUG BEAZLEY
The Guardian

A local pastor is claiming partial victory already for the lobby to keep a gay rights clause out of the Human Rights Act.

Reverend David Filsinger of the Sherwood Church of the Nazarene is one of the organizers of a letter-writing campaign aimed at convincing MLAs not to include a section on sexual orientation in Prince Edward Island's Human Rights Act. He said Tuesday recent word that the latest draft of a legislative committee report on gay rights rules recognition of gay mar-

riage is having an effect on provincial politicians.

"It's obviously having an impact," said Filsinger. "It's not everything we wanted, but when you consider the nature of politics one can't be completely disappointed."

The legislature's Standing Committee on Social Development has been considering for weeks the question of whether to include sexual orientation as prohibited grounds for discrimination under the act. It's expected to table its recommendations to the legislature some time before the end of May.

Last week, The Guardian reported that the latest confidential draft of the commit-

tee's report includes a recommendation apparently barring provincial recognition of gay common-law marriages.

Thanks to a recent federal Supreme Court ruling, most observers believe the committee has little choice but to recommend that a gay rights clause be written into the act. Sources say that a gay rights clause was included in the draft committee report to appease opponents of a gay rights clause.

Recently, the church coalition Filsinger represents ran a half-page ad in The Guardian half-page ad in the clip and urging Islanders to clip and mail a form letter protesting the gay rights clause to every member of the legislature.

Filsinger said his congregation alone has accounted for 2,000 letters of protest mailed to MLAs.

"I'd have no idea how many have been sent from other congregations, but I'd say the campaign's a success," he said. "We're making a statement. We've accomplished something already, and we can take some credit for that."

Some MLAs on the committee acknowledge they're being lobbied hard, but differ on the degree to which the lobbying is affecting their decision-making.

Agriculture Minister Eric Hammill, for example, said Tuesday he hasn't been overwhelmed by petitions from the

public either for or against gay rights.

"I've gotten some letters... it's a normal part of the democratic process," he said.

"I haven't really had time to look at these letters. They're form letters, aren't they? Form letters don't really impress anyone these days."

Liberal MLA Paul Connolly, however, said he thinks the petitions are making a few waves among his fellow committee members.

"It's hard to get a reading on it, but they're probably having some impact," he said. "The majority of the representations I've been getting are against the gay rights clause."

Lobby against gay rights clause working: pastor

Gay rights endorsed

House committee recommends changes to Human Rights Act

BY RON RYDER
The Guardian

Gay rights have been endorsed in a legislative committee's recent report proposing changes to Prince Edward Island's Human Rights Act. On the other hand, political patronage could find itself back in the closet.

The Standing Committee on Social Development brought forward its report on the Human Rights Act and the role of a Member of the Legislative

- That an arm's length body be responsible for hiring of seasonal and casual employees on the basis of merit.

- That sexual orientation, status of income, and family prohibited grounds of discrimination.

- That marital status be defined as being married, single, divorced, widowed, separated or living with a person of the opposite sex.

- That people be protected from employment discrimination

- That the commission be given resources to allow it to educate the public about human rights issues.

Confirming an earlier report leaked to the Guardian, the committee added a new section to its report to address the current debate over funding of certain drugs for multiple sclerosis.

The committee recommended that Beta Interferon and Copaxone be covered by the provincial drug program on the

three parties who made up the committee. The report was accepted by MLAs in a unanimous vote. Paul Connolly, Kevin MacAdam and Miltred Dover were not in the house at the time of the vote.

MacKenzie said it now remains for the ministers in the cabinet to deal with the recommendations - Dover, as Health and Social Services Minister, would be responsible for any change to drug funding, while Attorney General Mitch Mur-



Protected status for intolerance

It may be news, but it's one of the oldest stories around.

I'm referring to the persistent notion that guaranteeing the minority rights and protection under the law somehow diminishes the rights and protection enjoyed by the majority.

The argument is nothing new. In comparatively recent times, it has been used to justify exterminating Jews and native people. It flourishes today as a rationale for so-called ethnic cleansing. It's an idea that propped up slavery and denied women and racial minorities the vote.

Right now, here at home, the notion is being employed to dissuade legislators from protecting sexual orientation under the P.E.I. Human Rights Act, a protection guaranteed in all but one other province and territory.

Legislators are being told that the Island — which likes to be viewed as equal to every other province — should consider its refusal to protect or affirm that right as persons of his or her own sex.

Pedophile: an adult who directs sexual love towards children.

Homophobia: hatred or fear of homosexuals.

Tolerate: to endure or permit a practice, action or a person's activities; to allow a

IN THIS CORNER

By Martin Dorrell

person, religious sect, or opinion to exist without interference or molestation; to endure with forbearance. Intolerant: not tolerant of a sign of moral leadership, a source of pride, not shame or embarrassment.

Let's be absolutely clear. My point isn't that someone who opposes human rights protection for homosexuals necessarily supports slavery, the subjugation of women or ethnic cleansing. My point is that the argument is similar. It is built on the same foundation. It is based on fear, ignorance and intolerance, on hatred and paranoia. It is homophobic. It confuses rights and equality with privileges, tolerance with approval, homosexuals with pedophiles. It defends family values as if there were only one set of values, one kind of family.

Need more clarity? Some definitions: Fear: a painful emotion caused by impending danger or evil. Homosexual: a person who is sexually attracted only by

opinions differing from one's own.

Approve: to confirm, sanction or commend; to pronounce or consider good or satisfactory.

Right: what is just, fair treatment; a thing one is entitled to.

Family: members of a household.

Ignorance: lack of knowledge.

Paranoia: abnormal tendency to suspect and mistrust others.

Hatred: intense dislike, enmity.

Equality: the condition of being the same in value.

The so-called special protection would be granted to everyone — regardless of sexual orientation — and that currently provides "special protection" on the basis of race, religion, creed, color, sex, marital status, ethnic or national origin, age, physical or mental disability, or political preference.

Evidently, opponents of an expanded human rights act don't fear that Buddhists, Lithuanians or the hearing-impaired are likely to impose their values on the rest of us.

Surely they would laugh at the suggestion that members of any of those groups share a detailed set of values. Yet,

according to some opponents of change, "The goals, strategies and conduct of

the radical, activist, homosexual community is (sic) socially unacceptable."

Some of us find the goals, strategies and conduct of the radical, activist, heterosexual community odious and tiresome. We could label them socially unacceptable, but we try to be tolerant. Their sexual practices neither interest nor concern us.

It's a free country — for these folks, anyway — and they have the right to defend their values and express their fears that the gay community may become the dominant political and economic power in the province. Should that happen, they could take some comfort in the knowledge that prohibiting discrimination on the grounds of sexual orientation would protect them from unequal treatment.

Anne Nicholson said it best. She's the coordinator of the P.E.I. Rape and Sexual Assault Crisis Centre and a former chair of the P.E.I. Advisory Council on the Status of Women.

"Equality," she told our legislators, "is not divisible. No one experiences equality until everyone does."

□ Martin Dorrell teaches journalism at Holland College in Charlottetown.

The Supreme Court's decision in "Vriend" was both unanimous and clear, declaring that excluding gays and lesbians from provincial human rights law...

"Sends a message to all Albertans that it is permissible, and perhaps even acceptable, to discriminate against individuals on the basis of their sexual orientation...The government has in effect, stated that 'all persons are equal in dignity and rights' except gay men and lesbians."

Short of invoking the Constitution's 'Notwithstanding Clause', the Prince Edward Island Government would have no choice but to include sexual orientation in the *Human Rights Act*. The Premier was reported as saying: "That may well be true, but I still want the benefit of the committee's recommendations."

By the end of April 1998, the Gay and Lesbian Coalition of Prince Edward Island urged the Members of the Legislative Assembly to make their recommendations to the Legislature before the end of the Spring Session, or the bottom line would be that "the law will eventually be tested here, similar to what it was in Alberta and other places in the country." The Coalition reminded the Government that opposition to the amendments may characterize the popular sentiment of the day, but that the issue is really one of basic rights, not popularity.

In May 1998, the amendments to the *Human Rights Act* were finally unveiled to reveal that sexual orientation would be included as a prohibited ground of discrimination.

Human rights supporters were disappointed with a definition of 'marital status' that denied the recognition of same-sex unions. The media reported this caveat was the only way to ensure that the caucus would back the controversial Bill. It basically came down to satisfying Committee Members in Government who were alarmed by a perceived 'erosion' of traditional family values. Members of the Legislative Assembly were quoted as saying:

"I had to give a little to get a little...the sexual orientation clause I can live with, because I know it's the law across the country. But if that definition of marital status weren't there I wouldn't support (the bill) at all."

"I'd have like to have seen a definition of family included too, but I can live with the bill as long as the definition of marital status is in there."

T. marital status

(h.2) "marital status" means the status of being married, single, widowed, divorced, separated, or living with a person of the opposite sex in a conjugal relationship outside marriage;

SDAY, MAY 27, 1998

65 cents (includes GST)

Tories limit marital status in Rights Act

Province could face court challenge if law approved

BY DOUG BEAZLEY
The Guardian

The Binns government will table amendments to the Human Rights Act by the end of the week - including a controversial definition of "marital status" already rejected by the Ontario appeal court and the government of Nova Scotia.

Attorney General Mitch Murphy said Tuesday the bill to amend the Human Rights Act will follow all of the recommendations of the Standing Committee on Social Development's final report, tabled in the legislature earlier this month.

"We have a committee report... we have a process in place that we intend to follow," he said.

The standing committee's report recommended the

Human Rights Act be amended to prohibit discrimination on the basis of sexual orientation.

But it also drew a line against recognition of gay marriages - by recommending marital status be defined in the act as being limited only to heterosexual relationships.

Just a month ago, the Ontario Court of Appeal struck down a section of the federal Income Tax Act that prohibited the payment of survivor benefits from registered pension plans to same-sex partners of the deceased.

And on Monday, the Nova Scotia government announced it would start awarding pension benefits to surviving partners of homosexual unions. The province was facing claims before its own Human Rights Commission from two surviving partners of deceased

provincial public employees.

If the Island legislature approves including the new marital status definition in the Human Rights Act, that could leave the provincial law butting heads with a court challenge of its own down the road unless the federal government successfully appeals the Ontario ruling to the Supreme Court of Canada.

"The rumblings we hear are that it's going to the Supreme Court, through a federal appeal," said Murphy.

"It's the nature of legislation that it gets challenged from time to time. The federal Income Tax Act was challenged. It's the way the process works."

The Liberals appear to differ. Opposition house leader Robert Morrissey said Tuesday See TIMES p. A2

Tories limit marital status in Rights Act

(Continued from p. A1)
the Binns government should not be introducing a law that looks to be wide-open to a Charter of Rights challenge.

"The courts have already spoken on this issue loud and clear," he said. "I have a problem with drafting legislation that's already known to be offensive to the court."

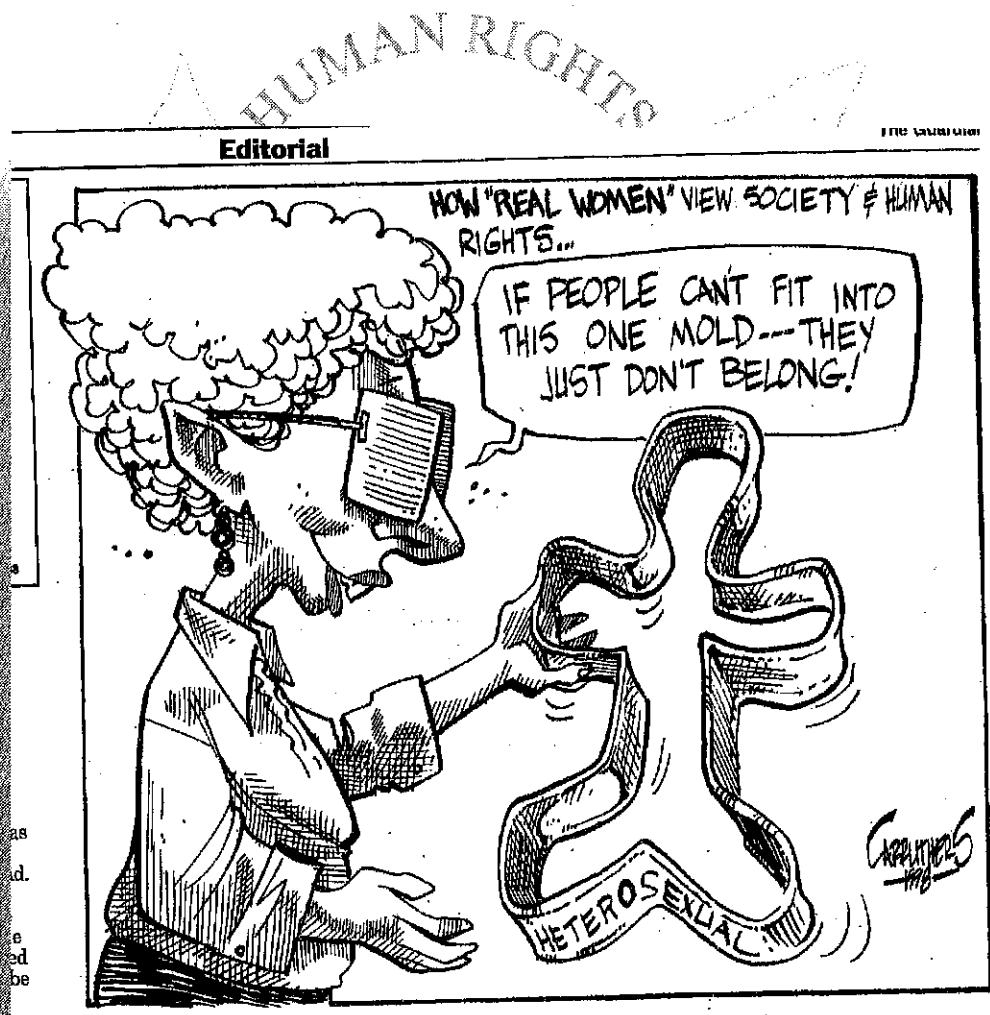
And Morrissey went a little further, saying he agrees with the Ontario court's conclusion that limiting a legal definition of "spouse" to heterosexual partnerships only is discriminatory. "I've never been one to extend my views into something that everyone has to live by," he said. "I do feel (the marital status definition) is discriminatory."

So in the short term, the stage could be set for another drawn-out struggle in the legislature over the Human Rights Act -- a repeat of last year's fracas over political discrimination settlements.

In the slightly longer term, if the marital-status clause ends up in the final bill, it probably would mean the P.E.I. Human Rights Commission would not be able to hear the kind of pension complaint filed by the same-sex survivors against the Nova Scotia government.

"I don't think we could accept such a claim," said HRC chair George Kells. "Other than that, there would be no effect on us, until there was a no challenge here in P.E.I." "Then it would be up to the province to fight it or cave in."

One development that received some press coverage was the announcement by the University of Prince Edward Island in 1999 that full benefits would be made available to an employee's same-sex partner. Apparently, the Provincial Government announced soon after that benefits for their employees would also be extended to same-sex partners. This announcement was made quietly, without fanfare and, incidentally, no press release containing the announcement is included in the Government website's media/news link.





ACCESSIBILITY IN TOURISM

In 2000, the Prince Edward Island Human Rights Commission initiated a campaign to educate businesses in the tourism industry in preventing discrimination against persons with physical or mental disabilities.

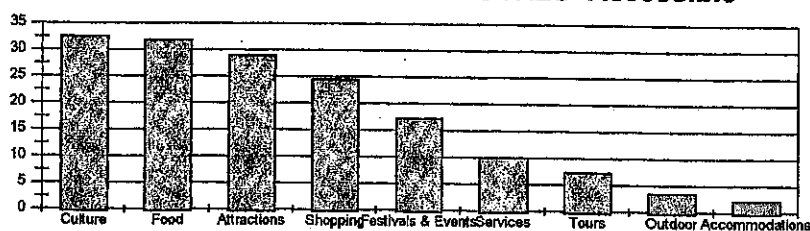
To identify the extent of the problem of barriers faced by disabled tourists, the Commission compiled a survey of services listed in the Prince Edward Island's 2000 Visitor's Guide. The survey showed that only 2.1% of accommodations listed were accessible to persons with disabilities. Accessibility in accommodations was significantly lower than accessibility in other areas such as food services, where 31.78% of establishments listed in the Guide were accessible, and festivals and events, where 17.28% were accessible to persons with disabilities.

SERVICES LISTED IN PRINCE EDWARD ISLAND'S 2000 VISITOR'S GUIDE

Area	Totals	Not Accessible	Limited	Accessible	% Accessible
Culture	40	20	7	13	32.5%
Food	107	43	30	34	31.78%
Attractions	114	53	28	33	28.95%
Shopping	98	52	22	24	24.49%
Festivals & Events	81	67	0	14	17.28%
Services	10	8	1	1	10%
Tours	41	34	4	3	7.32%
Outdoor	87	76	8	3	3.45%
Accommodations	1047	861	164	22	2.1%
TOTAL	1625	1214	264	147	

It should be noted that the results of this survey may not accurately reflect the actual accessible facilities. Each tourist operator self-reports on whether they are accessible or not.

PERCENTAGE TOTALS- Accessible



These statistics must be viewed with caution: they may not portray the magnitude of the problem because the degree of accessibility often varies greatly from one service to another. Furthermore, the statistics were self-reported by tourism operators who provided information for the Guide.

The Minister of Tourism's response to the Commission's Accessibility in Tourism Focus 2000 report included a letter dated July 17, 2000:


"Tourism PEI is committed to working with our industry, the Prince Edward Island Human Rights Commission and other key stakeholders to improve the accessibility standards of tourism accommodation in the Province. With this in mind, we feel it is the responsibility of the Human Rights Commission to initiate constructive dialogue with the tourism industry in order to educate and identify reasonable accessibility expectations for our tourism operators."

Interestingly, the year 2000 Visitors Guide contained the following advertisement by the Tourism Industry Association of Prince Edward Island:


MAN RIGHTS

The objectives of the Tourism Industry Association of Prince Edward Island are:

- to advance the tourism industry in Prince Edward Island
- to strive for continued development and improvement of tourism facilities and services offered to the public
- to create a wider interest in the tourism industry among the general public in Prince Edward Island

Look for this logo  in the Visitors Guide which signifies businesses committed to the objectives of the Tourism Industry Association of Prince Edward Island.

25 Queen Street, 3rd Floor
Charlottetown, PEI C1A 7N7
Tel: 902-566-5008 Fax: 902-368-3605
tiapei@pei.sympatico.ca



participating establishments have agreed to provide a minimum number of rooms at their chosen Access Canada level. Please contact the establishment directly to ensure your specific needs can be accommodated.

In PEI eight establishments have chosen to participate in the Access Canada program and they are all rated at the A2 level, which offers accessibility to seniors and people with mild to moderate disabilities. Some properties may offer additional amenities and access to wheelchairs. The participating properties are:














ACCESS CANADA
Access Canada is a four-level standard used by roofed accommodation to meet the needs of mature travellers and people with disabilities. The program is voluntary and

Blue Waters Executive Cottages;
The Rodd Charlottetown;
Chez Nous Bed & Breakfast;
Greenwood Cottage Bed & Breakfast; Loyalist Country Inn;
Rodd Royalty Inn; and Stanley Bridge Country Inn.

ABBREVIATIONS

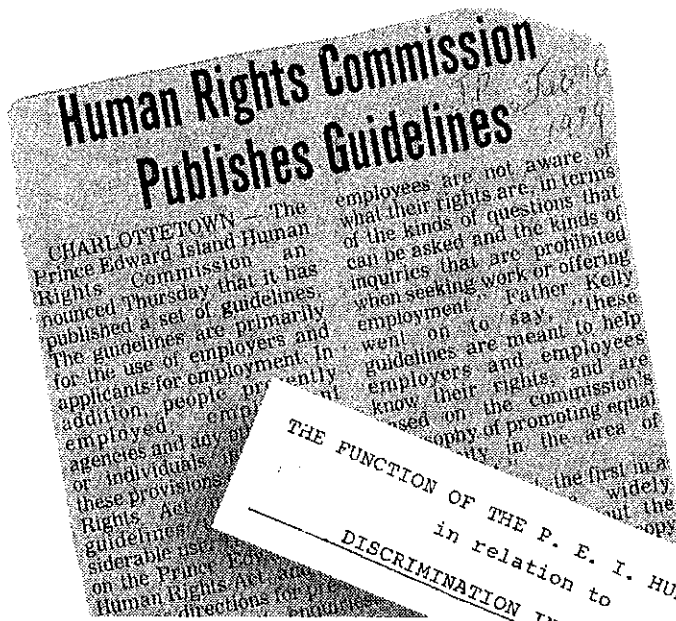
AE American Express	BA Bank Americard
DC Diners Club	MC MasterCard
V Visa	B bath
o/n overnight	S shower
km kilometre	m metre
hsk housekeeping unit - provides bedding, utensils, dishes, refrigerator and stove or hotplate (for light housekeeping)	
(u) unserviced site	
(2w) site with water and electrical hook-ups	
(3w) site with water, electrical and sewage hook-ups	
(5w) site with 3w hook-ups plus cable and telephone	

SYMBOLS

-  Accessible for persons with disabilities
-  Limited accessibility. Contact re: specific needs
-  Food served
-  Non-smoking
-  Licensed to serve alcohol
-  Pool, indoor or outdoor
-  Pets permitted, usually on leash
-  Air-conditioned establishments
-  Establishment which pays travel agency commission
-  Open off season: before June 15 and/or after Sept 15
-  Canada Select and Camping Select rating
-  Member, Tourism Industry Association of PEI
-  Member, Association of Tourist Operators

EDUCATION AND ADVOCACY

Since 1976, the Commission has been publishing educational material for the public. In 1976, the Commission published a booklet entitled "Human Rights Protection - PEI Can Lead". In 1978, the Commission produced "Guidelines for Employers" and "Pre and Post Employment Inquiries". In 1979, two students were hired to catalogue and index material and develop seven pamphlets for the Commission.



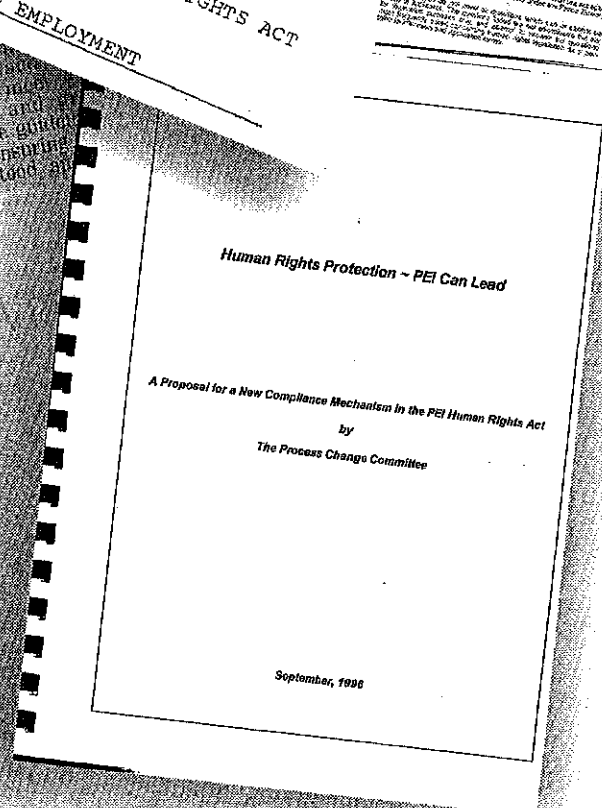
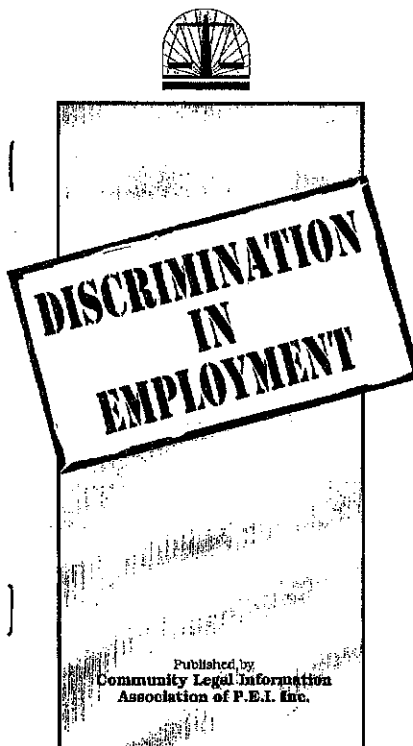
PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION



GUIDELINES

PRE AND POST EMPLOYMENT INQUIRIES

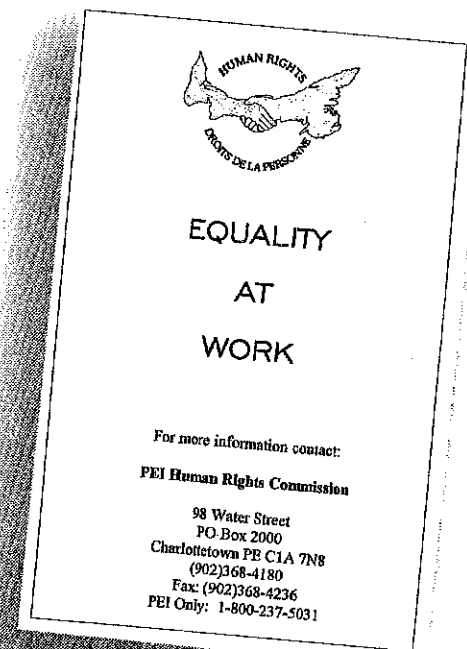
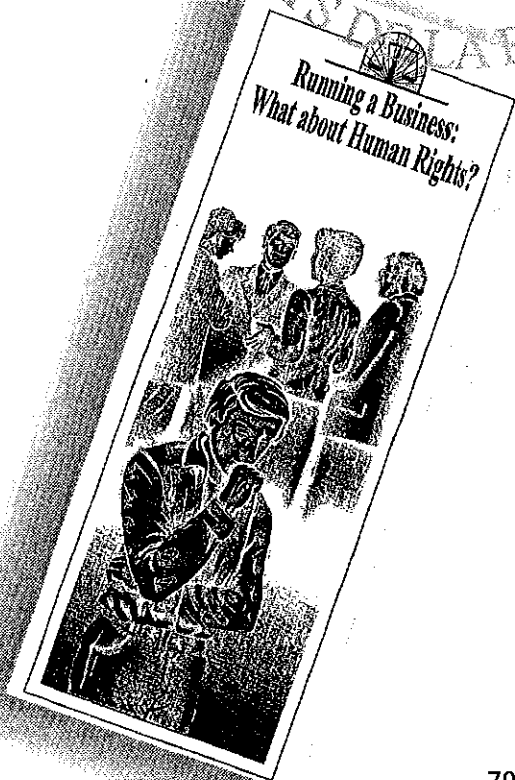
THE FUNCTION OF THE P. E. I. HUMAN RIGHTS ACT in relation to DISCRIMINATION IN EMPLOYMENT



The Commission published a report in 1983 entitled "*Human Rights Awareness*", to raise the profile of human rights education in the Province.



Despite limited resources six pamphlets were published in 1993 on different grounds of discrimination including, "*Steps in Processing Complaints*". In 1996, the Commission published "*Running a Business: What About Human Rights?*" and "*Policies of the Human Rights Commission*". In 1998, staff developed "*Guide for Complainant*" and "*Guide for Respondent*", and in 1999, the Commission published educational material to include and explain the new amendments to the Act.



In 1976, the Commission participated in a Federal-Provincial Committee on human rights as part of a Federal initiative to ensure Provincial compliance with the United Nations treaty obligations. The Prince Edward Island Human Rights Commission has an anomalous relationship with the body that monitors and ensure compliance with Canada's United Nation's obligations: the Continuing Committee of Official on Human Rights. The Continuing Committee is composed of Territorial/Provincial/Federal departmental officials. However, Prince Edward Island's official representative is the Chairperson of the Commission. As a representative, the Chairperson is uniquely placed to consider matters of P.E.I.'s compliance with UN treaties.

In 1977 the Commission joined the Canadian Association of Statutory Human Rights Agencies (CASHRA) and has been actively involved in that organization over the past 25 years. In 1978, the Commission delivered a paper to the annual CASHRA Conference on the interpretation and implementation of physical disability prohibitions. Attending all CASHRA Conferences since then, the P.E.I. Commission has participated in sub-committees of CASHRA such as the Standing Committee on Human Rights Training (SCHRT) and the National Public Education Network (NPEN).

The Commission hired Lee Bartley as CASHRA Coordinator for the '91 CASHRA Conference hosted by the Prince Edward Island Human Rights Commission.

NEWS IN PICTURES



HUMAN RIGHTS AWARD

Rev. J. Leo Trainor, president of the P.E.I. Human Rights Commission, presented the award to Douglas Wilson, executive director of the Canadian Association of Statutory Human Rights Agencies, which recently met in Charlottetown. Lee Bartley, CASHRA Coordinator, is also present.

National human rights group will meet in Charlottetown

Rev. J. Leo Trainor, president of the Canadian Association of Statutory Human Rights Agencies, says a business meeting of the organization will be held at the CP Prince Edward Convention Centre Tuesday.

CASHRA is an association of the 12 provincial and territorial human rights commissions and the Canadian Human Rights Commission.

PURPOSE SEEN

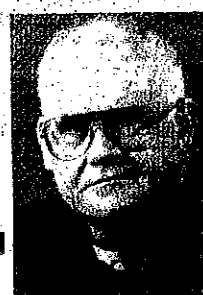
The purpose of the meeting is to complete the agenda started at the association's meeting held in early June at the CASHRA Conference in Whitehorse, Yukon.

Attendance will be representatives from Yukon, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia and Newfoundland, in addition to the Canadian and P.E.I. Human Rights Commissions.

CONFERENCE PLANS

There will also be a meeting of the CASHRA executive body to discuss, among other issues, the planning for the 1991 conference to be held in Charlottetown.

That conference will take place June 15-19, 1991 at the CP Prince Edward Convention Centre, and approximately 150 delegates are expected. Not only will CASHRA member agencies be represented,



REV. LEO TRAINOR
RIGHTS ADVOCATE

Human rights officials to meet on Island today

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June 16-19, 1991 at the CP Prince Edward Convention Centre, and approximately 150 delegates are expected. Not only will CASHRA member agencies be represented, but also many other human rights organizations from Canada, United States, and Bermuda.

Later that same week, there will be a meeting of the continuing committee of officials on human rights, scheduled for June 18-19, 1991.

Island man elected leader of national body

Rev. J. Leo Trainor, president of the Canadian Association of Statutory Human Rights Agencies, was elected leader of the national body.

Human Rights Agencies To Hold National Meeting In City

CHARLOTTETOWN — Alan Borovoy, general counsel of the Canadian Civil Liberties Association, will give the opening address at the annual conference of the Canadian Association of Statutory Human Rights Agencies to be held in Charlottetown June 15-19.

The theme of the conference is "The Future of Canadian Human Rights," and the event will bring together human rights practitioners from across the country.

Rev. J. Leo Trainor, president of the national group, is also chairman

of the Prince Edward Island Human Rights Commission. He said the conference will allow participants the opportunity to focus on where human rights should be heading in the future.

"With the ever-changing pace of today's society, human rights must also evolve and respond to these changes," said Rev. Trainor.

The national group has been in existence since 1972, and this is the first time they have met on Prince Edward Island.

Monday, June 17th, 1991

In 1978 the Commission held a very successful public relations campaign to educate the public on human rights issues. The Commission also established May 1-7 as Human Rights Week. Through the year, the Commission was busy with media interviews and advertising, collaborated with the Department of Education in sponsoring student projects and held its first poster contest.



Each year, the Commission celebrates the Universal Declaration of Human Rights: the Commission participated in a special conference in Ottawa commemorating the 30th Anniversary of the signing of the Universal Declaration of Human Rights.

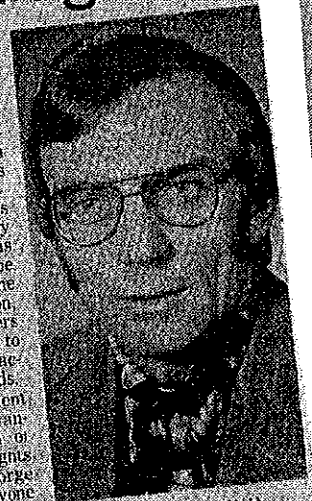
Proud Stresses Human Rights

Everyone has a personal obligation to respect and promote human rights, says Labor Minister George Proud.

Mr. Proud issued a statement commemorating the 30th anniversary of the proclamation of the universal human rights charter.

Sunday, Dec. 10, was declared Human Rights Day around the world, and as minister responsible for the Human Rights Act and the Human Rights Commission, Mr. Proud said, Islanders should use all their influence to insure public policies and practices meet their own standards.

In a prepared statement commemorating the 30th anniversary of proclamation of the universal human rights charter, Labor Minister George Proud told citizens everyone has a personal obligation to respect and promote the basic human rights in their own deal.



GEORGE PROUD

...ishing a society where no one ... treated differently or unfair ...

In 1988 and 1998 respectively, the Commission celebrated the 40th and 50th Anniversary of the Universal Declaration of Human Rights by sponsoring poster and web site contests, creating a new logo, developing a website and translating a consolidated version of the Act. The Commission partnered with Maritime Electric, which placed a 50th Anniversary Statement on their monthly bills for the year. The Commission also partnered with Island Tel to place a 'Free to be Me' advertisement in their 1998 Telephone Directory. Also, to commemorate the new millenium, the Commission held a poster contest entitled "What does Human Rights Mean to Me?". Over the years, the Commission has partnered with many provincial agencies, companies and businesses in developing educational material, activities and celebrations. For example, the Commission's partners have included the Council of the Disabled, One-Parent Family Association, Bank of Montreal, Scotiabank, PEI Multicultural Council, RCMP, AIDS PEI, just to name a few.

McMahon Urges Protection Of Human Rights

CHARLOTTETOWN — Saturday, Dec. 10 marks the 35th anniversary of the Universal Declaration of Human Rights to which Canada has ascribed its signature.

"The Prince Edward Island Human Rights Act was passed by the Prince Edward Island legislature in response to the universal declaration of human rights," said Justice Minister George McMahon in a news release through the Information Service. "Human rights exist in every

of human rights is the concept expressed in the universal declaration that the foundation of freedom, justice and peace is based on the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family. I believe it is essential that we not only remember the principles embodied in the universal declaration of human rights but actively pur-

PAGE A2 • THURSDAY, DECEMBER 11, 1997

HUMAN RIGHTS

The Province

Human rights seen challenge of changing the system —Kells

Ceremony kickoff to celebration leading up to 50th anniversary of Declaration of Human Rights in '98

BY TOM KILLORN
The Canadian

Human rights in this province extends far beyond patronage and political discrimination says the chair of the P.E.I. Human Rights Commission.

George Kells says human rights are not just "cash settlements for human rights complaints."

Kells was the keynote speaker Wednesday at ceremonies celebrating the Universal Declaration of Human Rights, which was ratified by the United Nations Dec. 10, 1948.

Kells said recent publicity on political discrimination is just a small part of the commission's business.

The current legislative debate over the P.E.I. Human Rights Act is vital, said Kells, who noted the act has changed very little since it came into effect in 1965.

"The act is outdated and ineffective," said Kells to an audience of interested professionals at the provincial legislature.

He applauded Premier Pat Binns for having "the nerve to revise it" through amendments to the act.

Kells said the Human Rights Commission is hindered in its efforts due to underfunding and a lack of staff.

Although the public may view it as a body to settle human rights complaints, a key function of the

commission is educating the public on human rights issues, the chair said. The commission needs more resources to properly fulfil its education mandate, he added.

"Human rights is a question of changing the system which led to these complaints."

Kells told the audience that P.E.I. has come a long way in the past 50 years, but there remains more work to be done on human rights.

"There are (islanders) who are bigoted and do not accept change in society."

The commission chair said Island society was less tolerant of ethnic groups when he was a youngster. He recalled that when legendary jazz musician Louis Armstrong played in Charlottetown many years ago a city hotel refused to allow him because he was black.

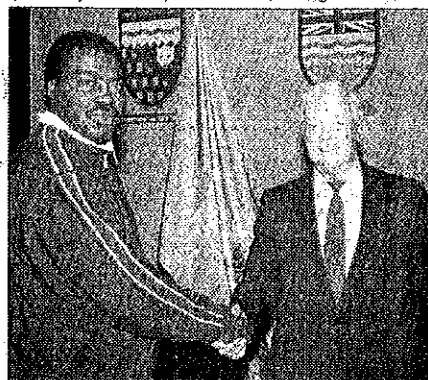
Premier Pat Binns also addressed the ceremony and said the UN declaration was a key document in protecting human rights on a global scale.

"The protection of human rights requires positive action," said Binns in his remarks.

Binns added that the recent debate over changes to the P.E.I. Human Rights Act is a positive development for the province.

"We must work together to advance human rights in this province."

The UN declaration on human



NOEL AYANGMA, left, chair of the P.E.I. Multicultural Council, is greeted by George Kells, chair of the P.E.I. Human Rights Commission, at ceremonies Wednesday in Charlottetown to mark the Universal Declaration of Human Rights by the United Nations. That historic document will be remembered in the coming year leading up to its 50th anniversary Dec. 10, 1998.

Kells was also present in remarks by Charlottetown mayor-elect George MacDonald and Janet Horne, a representative for Hillsborough MP George Proud.

Wednesday's ceremony was the kickoff to year-long celebrations leading up to the 50th anniversary of the Human Rights Declaration Dec. 10, 1948.



Daniel Parks, a grade five student at Charlottetown's St. John's School, is shown here with George Kells, chair of the P.E.I. Human Rights Commission, after he won a poster contest. Parks' poster was selected as the best in a province-wide competition sponsored by the P.E.I. Human Rights Commission to celebrate the 50th anniversary of the Universal Declaration of Human Rights.

Human Rights Commission sponsors Internet contest

The Prince Edward Island Human Rights Commission is sponsoring an Internet contest in celebration of the 50th Anniversary of the Universal Declaration of Human Rights. The contest is open to all students of the PEI school system. The contest is open to all students of the PEI school system. The contest is open to all students of the PEI school system.

50TH ANNIVERSARY COMMITTEE For Prince Edward Island

Will host a public ceremony in celebration of the 50th Anniversary of the Universal Declaration of Human Rights on

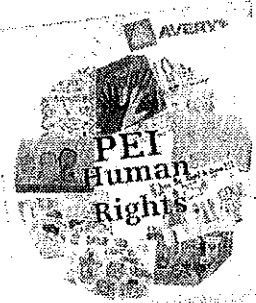
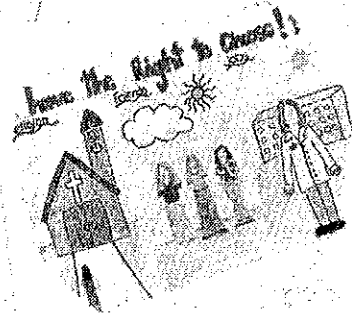
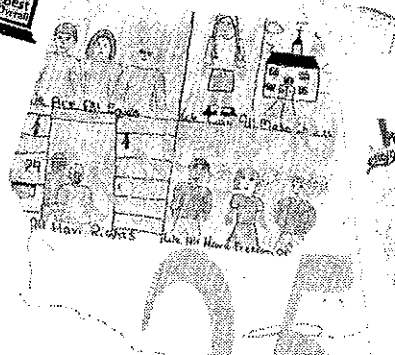
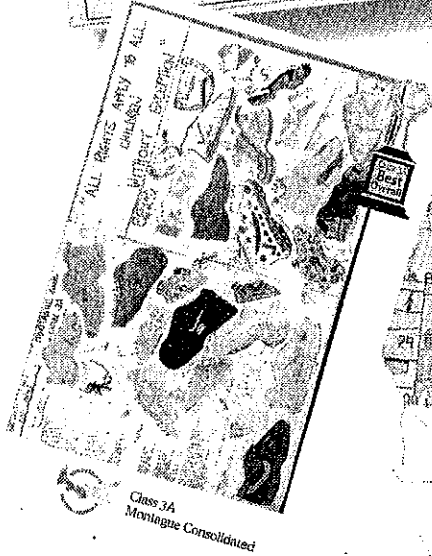
December 10, 1998 at 12:00 Noon Province House



Students celebrate prize winning posters with pizza party

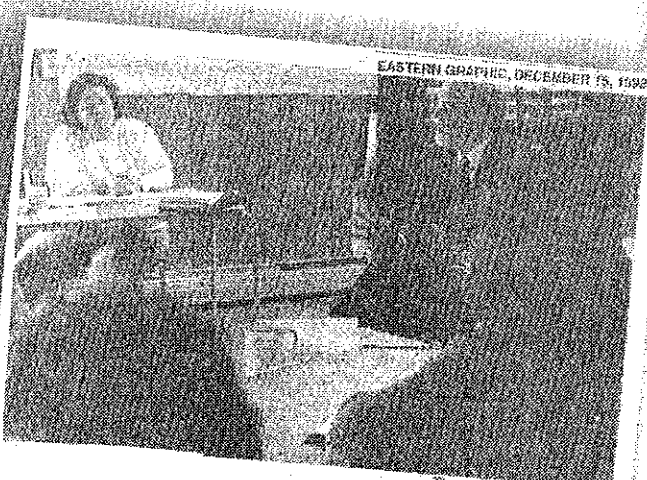
Edwena Arbuckle's grade three Montague class had a lot to celebrate on Valentine's Day. The class won \$50 plus a pizza party as they submitted a poster for the PEI Human Rights poster contest in December. Their poster is one of a number of posters that were grouped together to make up the PEI Human Rights Future 2000 poster. Their poster includes sayings that each student drew and that "All Rights Apply To All Children Without Exception".

Photo by Chantale Anse



Also, in 1978 the Commission prepared its first United Nations report contribution, assisting the Federal Secretary of State with the preparation of the International Covenant on Civil and Political Rights. The Commission also gathered data for inclusion in Canada's Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

The Commission presented 11 human rights education seminars in 1978 and the number of seminars has grown to 50 in the year 2000.



Learning

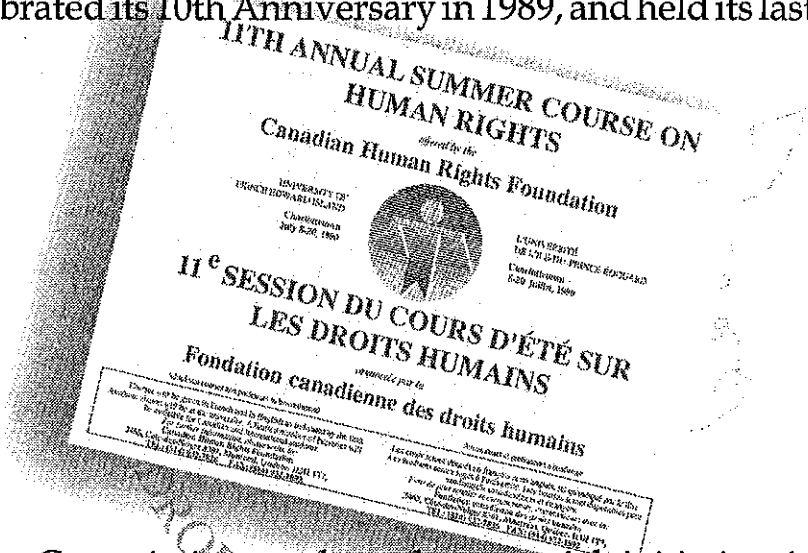
These women are part of the latest AWARE-to-entry group in Montague. Jen Watt, executive director of the Human Rights Commission, was discussing several issues with the group on Friday, International Human Rights Day. The women are in the orientation stage of the 26 week program.



The Commission began to work with local newspaper in 1978 to monitor employment ads, as well as review application forms for government, businesses, industries and companies on Prince Edward Island.

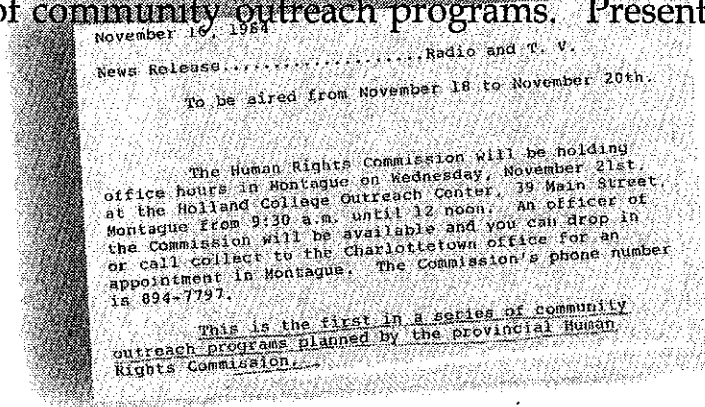
In 1979, the Commission held Prince Edward Island's first Human Rights Conference, "Volunteer Organizations and Human Rights", on October 26th and 27th. This was the first conference ever held in Canada in which the role of voluntary organizations in the human rights movement was the central theme. Over 90 delegates from 26 organizations were in attendance.

In 1980, the Canadian Human Rights Foundation conducted its first Annual Summer Course on Human Rights at the University of Prince Edward Island. That organization celebrated its 10th Anniversary in 1989, and held its last session in 1990.

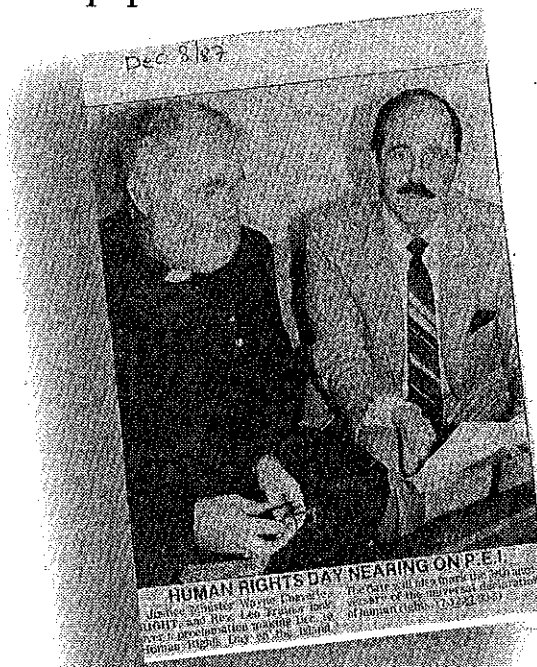


In 1982, the Commission undertook a special initiative in the recognition of alcoholism as a disability . Over the years the Commission has undertaken initiatives to promote human rights in provincial legislation and services, such as the Human Rights Awareness Project, and the Focus on Accessibility in Tourism. Staff members have made presentations to the provincial Legislature's Quality of Life Committee and Standing Committee on Social Development, the Premier and various provincial departments.

In 1984, the Commission began holding office hours in Montague on Wednesday's as the first in a series of community outreach programs. Presently this service is not available.



In 1985, for the first time, the Commission was represented by a Commissioner from each of the three counties. The Commission also celebrated December 10th, International Human Rights Day and has recognized this special day each year since, either through public celebrations, contests, publications or advertisements in local newspapers.



In 1986, there were very few activities due to a Provincial Election and a change in Government which resulted in a large number of political belief complaints being filed.

In 1987, for the first time in its history, the Commission reported that it had adequate funding for current staff and administrative costs. However, the Commission stressed the fact that the need for another staff member was paramount! The Commission developed a policy on media and news releases, and began discussion with the Department of Education to introduce human rights materials into the school curriculum.

P. E. I. HUMAN RIGHTS COMMISSION
APPENDIX A
GUIDELINES ON DRUG TESTING IN THE WORKPLACE

1. "Employer's 'right to know' about employees who take legally prescribed drugs that do not prevent them from fulfilling essential job duties".

Human rights legislation and principles mandate that information concerning disabilities whether of a physical, mental or emotional nature can only be requested by an employer where the disability which may require legally prescribed drugs is directly related to the job or position of the individual with the disability or where the use of legally prescribed drugs would endanger the safety of the individual, co-workers or the public. Assumptions concerning the effects of the legally prescribed drugs on the individual are not valid criteria for assessing ability to be assigned to a job, task or position. Scientific, objective studies must be the criteria and, in addition, medical evidence from a competent physician must indicate any adverse effect the legally prescribed drug may have on that particular individual's ability to function adequately in his/her job.

2. "Accuracy of testing methods - state of the technology, laboratory quality control".

Extreme care should be taken that the laboratory utilized for testing has the equipment and expertise to analyze samples. In addition, research should be conducted as to the accuracy of current testing methods and the need for multiple testing for verification purposes. Testing should be done so that a differentiation can be made between the "recreational" user of drugs and the abuser of drugs. Because recreational use of drugs can be found several days after use, extreme care should be taken to differentiate between the "recreational" user and the abuser. A corollary may be found in the difference between a "social drinker" and the active alcoholic. Testing methods must be devised to single out the "abuser", whose continual or daily use of drugs interferes with his/her work performance and the safety of co-workers and/or the public. drug testing cannot ascertain whether drug use is affecting job performance, or

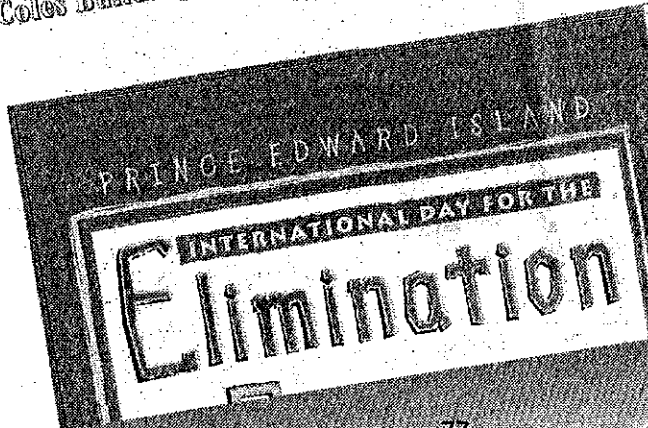
In 1990, the Commission recognized March 21st as the International Day for the Elimination of Racial Discrimination and has recently partnered with the PEI Multicultural Council and Scotiabank in recognizing this day through festivities such as a Harmony Brunch and Harmony Evenings.



Wednesday, March 21, 2001 - 6:00 PM to 8:00 PM
Coles Building, 100 Richmond Street, Charlotte town



Premier Blais has proclaimed March 24 the International Day for the Elimination of Racial Discrimination. In Prince Edward Island, attending the signing of the proclamation were Parits Chishti, president, PEI Multicultural Council, seated with the Premier and standing, left to right, REAP's Corporate Richard Thibault, Myra Thorsteinson, PEI Dept. of Education, Patricia Butler, PEI Human Rights Commission, and Jamie Gudimova, Scotiabank.



The Commission attended a National Conference on Human Rights and Canadian Solidarity in Ottawa in 1990; in 1992, the Commissioners attended the International Association of Human Rights Agencies (IAOHRA) meeting in Philadelphia; and in 1998 participated in a Diversity Management Seminar at Mill River. The Commission saw an increased awareness of Aboriginal issues.

EASTERN GRAPHIC, FEBRUARY 13, 1991



3-The Guardian, Charlottetown, Wed, Feb. 13, 1991

Rural controversy ending, Redmen name to go

...along with discontinuing... continued a campaign for the school... to select a new team identity after it... the legacy... Sark said he first wanted school ad... to acknowledge his... and most don't understand why it's... for all those years... day the move... to drop the... to race re... Canadian... U.S. in... loss... identi... a sui... for a... to the... 100... 2

Rural students voice support for team name
PRINCIPAL: 'They want to keep the name, they'd like to keep the symbol.'

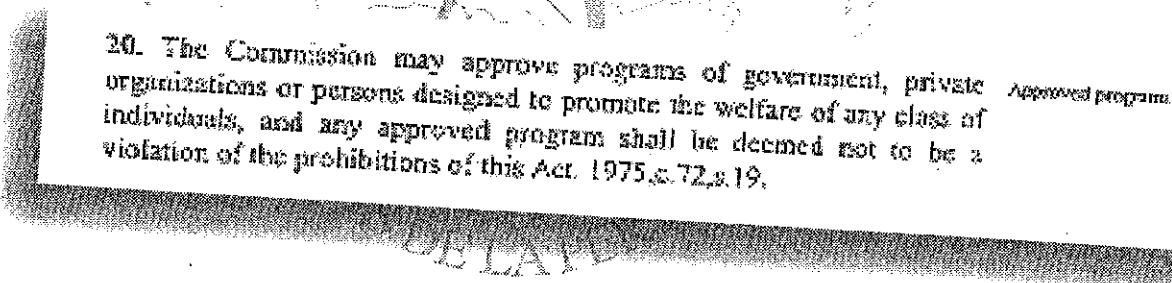


JOHN JOE SARK
 ...with name changed
 Charlottetown Rural is located

In 1993, the Commission marked the 25th Anniversary of the 1968 Act and published the Annual Report with the first financial audit included. The Commission made an announcement that it was unable to fund its own activities with regards to March 21st, the International Day for the Elimination of Racial Discrimination or December 10th, International Human Rights Day.



In 1994, the Commission stressed the need for more funding (the age-old problem), the need to change the operational process, and the need for a connection between Employment Equity and the Human Rights Act.



In 1997, the Commission displayed its educational materials at the PEI Teacher's Federation Annual Convention and has continued this educational exercise to the present day. The Commission also displayed at an open-house at Holland College and, in 1999, at the Labour Market Expo.

In 1998, the Chairperson became a member of the Board of the Canadian Council of Administrative Tribunals and, in 1999, the Education Officer became a committee member on the Provincial Diversity/Equity Committee and PEACEWORKS.

A need that has been identified from the time the Commission was established is one of public education of human rights. Adequate funding to enable the Commission to carry out this important function has long been the issue. In May 1999, the Commission was finally able to establish a position for a full-time Education Officer.

The Commission recently resumed the practice of issuing quarterly press releases which included the Commission's activities and a summary of settled complaints. The Commission also developed a complaint process chart.

For Immediate Release

The following is distributed by Island Information Service at the request of the PEI Human Rights Commission.

Prince Edward Island Human Rights Commission Panel Decision Mary Taylor and Testori Americas Corporation

Charlottetown, Prince Edward Island, June 21, 2000 —

The Prince Edward Island Human Rights Commission held a Panel Hearing on March 10, 2000, their first since amendments to the Human Rights Act changed the Board of Inquiry process to a Panel Hearing system. Louise Comeau, Commissioner, Prince Edward Island Human Rights Commission, was the Commission Panel

Commission rules Island company discriminated against employee

Testori Americas Corp. failed to provide health benefits to worker while she was on maternity leave.

BY JIM DAY
THE GUARDIAN

The P.E.I. Human Rights Commission has ruled that a Summerside company discriminated against an employee by failing to provide health benefits to the woman while she was on maternity leave.

However, the commission panel found that there was no discrimination in the layoff of Mary Taylor.

Taylor filed a human rights

complaint Nov. 18, 1998, against Testori Americas Corporation, a company located in Sisman Park which makes components for aircrafts and trains.

She alleged that she was laid off from her employment due to her pregnancy and that she was denied health benefits during maternity leave. The company denied the allegations of discrimination.

The commission panel found that there was no discrimination in the layoff,

which the company attributed to downsizing, but found the employer's failure to provide health benefits to Taylor during her maternity leave was discrimination contrary to section 6(1) and (4) of the Human Rights Act.

The panel ordered Testori Americas Corporation to reimburse Taylor \$172.80 for medical expenses that would have been paid under the company's group policy of insurance.

The panel further ordered the company to cease its practice of excluding pregnant employees on maternity leave from the group insurance policy and pay Taylor the amount of \$1,200 for hurt and humiliation.

Linda Lapogna, president of Testori Americas Corporation, said the case was an isolated incident and was not reflective of the company's policy towards employees on maternity leave.

"The mistake we made is we did not pay her off but we cut her benefits," he explained. "We will make sure the mistake does not happen again."

Lapogna said there have been no similar problems in his company in previous incidents of maternity leave.

June 21, 2000

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For Immediate Release

The following is distributed by Island Information Service at the request of the PEI Human Rights Commission.

Prince Edward Island Human Rights Commission Settlement Reached in three Complaints based on Marital Status

Charlottetown, Prince Edward Island, July 13, 2000 —

The Prince Edward Island Human Rights Commission announced today that a settlement has been reached between four individual complainants and the

P.E.I. common-law couples get tax relief

By donalee Moulton
Halifax

Life is getting a little less taxing for common-law couples in Prince Edward Island.

On the eve of a scheduled Human Rights Panel hearing, the provincial government said it plans to change a policy that treated common-law couples differently from married couples.

At issue was a sales tax exemption for family members transferring a private automobile. Under the government's policy, which was enforced by the Provincial Tax Commissioner and applied by the Registrar of Motor Vehicles, married couples were eligible for the exemption; common-law couples were not.

In the four-year period between 1994 and 1998, four complaints were filed with the Prince Edward Island Human Rights Commission against the government alleging discrimination on the basis of marital status.

In each case, the Highway Safety Division informed the complainants that they must pay sales tax when transferring ownership or joint ownership of a vehicle from one common-law spouse to the other. However, they would not have had to pay the tax if they had been married.

According to P.E.I.'s Human Rights Act, no one can "discriminate against anyone in the enjoyment of manner in which services are provided to the public." The Act also defines marital status as including "living with a person of the opposite sex in a conjugal relationship outside marriage."

The provincial government now says it will change the policy so common-law couples and married couples are treated equally, and in future both will be entitled to the sales tax exemption. In addition, it agreed to refund to the complainants the amount of sales tax, with interest, that they had paid in the automobile transfers.

Lawyers Weekly Sept 1, 2000

July 13

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Prince Edward Island
Human Rights
Commission

98 Water Street
PO Box 2000
Charlottetown
PE C1A 7N8



Commission des droits
de la personne
de l'Île-du-Prince-Édouard

(902) 368-4180
Fax (902) 368-4236
1-800-237-5031 (PÉI)
<http://www.gov.pe.ca/humanrights>

18th

ANNUAL

REPORT

2000-2001



Prince Edward Island
Human Rights Commission

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de l'Île-du-Prince-Édouard



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September 11, 2001

The Honourable Jeffrey E. Lantz
Attorney General
Minister Responsible for the
Prince Edward Island Human Rights Commission
PO Box 2000
Charlottetown PE C1A 7N8

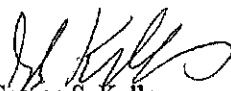
Dear Mr. Minister:

Re: Prince Edward Island Human Rights Commission 18th Fiscal Report

On behalf of the staff and Commissioners of the Prince Edward Island Human Rights Commission, I present the 18th Report for fiscal year ending March 31, 2001. This Annual Report includes the activities of the Commission, publications and the audited financial statements for fiscal year 2000-2001.

We submit this report to you for delivery to Her Majesty's Representative, the Lieutenant-Governor of Prince Edward Island.

Sincerely,


George S. Kells
Chairperson

September 11, 1976
25
September 11, 2001

POWERS AND DUTIES OF THE COMMISSION

The Preamble to the Human Rights Act states that "*it is recognized that in Prince Edward Island as a fundamental principle that all persons are equal in dignity and human rights*".

Since the enactment of the Human Rights Act on September 11, 1976, the Prince Edward Island Human Rights Commission has been empowered to:

- administer and enforce the Act
- develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights.
- advise government on suggestions, recommendations and requests made by private organizations and individuals.
- report as required by the Minister on the business and activities of the Commission.
- consider, investigate or administer any matter or activity referred to the Commission by the Lieutenant Governor in Council or the Minister.

The Human Rights Act is deemed to prevail over all other laws of the Province.

REMARKS FROM THE CHAIRPERSON

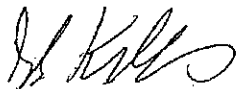
This reporting year has been one of continued growth and change for the Commission, as we approach the milestone of the 25th year of our existence. We are still striving to implement the legislative changes that made us a decision-making administrative tribunal in 1998, but we are making an effort this year to recall our humble beginnings a quarter century ago.

In addition to our statutory obligation to protect human rights on Prince Edward Island, we have significant national obligations. Planning is well underway for the CASHRA Conference (Canadian Association of Statutory Human Rights Agencies) hosted by the Prince Edward Island Human Rights Commission in May 2002. The Commission has contracted with a conference planner to assist in the preparations for this major event, which will host 200 delegates on the Island.

Part of my role involves sitting as Prince Edward Island's representative on the Continuing Committee of Officials on Human Rights, a group comprised of representatives from the Provinces and Territories responsible for planning Canada's compliance with United Nations obligations. The Commission must allocate resources to ensure completion of Prince Edward Island's contributions to Canada's reports. We have found this responsibility to be increasingly onerous as our role has changed from advisory to decision-making.

Our small staff will be extremely busy as the Commission fulfills its mandate of educating the public, advising Government, resolving complaints through the new tribunal system, in addition to preparing to commemorate 25 years of human rights on the Island and hosting a major national conference of human rights practitioners in the coming year.

In this 25th year, it is important to emphasize the supremacy of the Prince Edward Island Human Rights Act. The Act binds all Islanders, as well as public and private sector employers, and I ask everyone to consider the legislative policy behind the supremacy of the legislation. Our community must be mindful of the need to uphold the importance of protecting essential rights of all people, regardless of age, colour, creed, criminal conviction, ethnic or national origin, family status, marital status, physical or mental disability, political belief, race, religion, sex, sexual orientation, and/or source of income.



Major General George S. Kells (Retired)

REMARKS FROM THE EXECUTIVE DIRECTOR

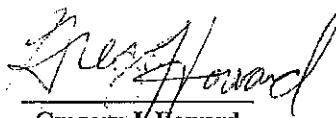
The Commission received an increase in the number of complaints over last year. We continue our effort to decrease the time it takes for resolution of each complaint. We have implemented a new complaint intake procedure that we hope will allow for the efficient navigation by complainants and respondents through our administrative process.

This year also marked the Commission's first Panel Hearing decision in *Taylor v. Testori Americas*. The Commission has seen a marked increase in the activity surrounding panel hearings. Already, there are six panel hearings scheduled for the fiscal year 2001-2002, a number that will continue to grow and which promises to keep our part-time commissioners busy as they advance the resolution of human rights complaints through the tribunal process.

The Commission is now able to do more to fulfill its mandate of public information and education in the field of human rights. It is hoped that increased education will result in less resort to the adversarial tribunal process. Increased public awareness has led to an increased request for educational seminars. Early in this fiscal year, the Commission commenced the issuance of press releases, an effort to use generic information to inform the public on the outcome of complaints before the Commission. The Commission's web site is currently up and running and we are updating all public information regularly.

The Prince Edward Island Commission agreed to host the national conference, in May 2002, of the Canadian Association of Statutory Human Rights Agencies (CASHRA). Our staff have been busy preparing for the Conference entitled "Human Rights At Work".

In conclusion, the Prince Edward Island Human Rights Commission continues to strive to fulfill our legislative mandate to protect and promote human rights. I take this opportunity to thank staff for their work and our Commissioners, who ably defend human rights in the Province.


Gregory J. Howard

COMMISSIONER'S PROFILES

GEORGE S. KELLS, CHAIRPERSON

Stratford

George Kells was appointed Chairperson of the Prince Edward Island Human Rights Commission on February 12, 1997. Prior to his retirement from the Canadian Armed Forces in 1993, Major General Kells held a number of senior level positions. Those positions included Deputy Chief of Staff, Operations Central Region, Trenton, Ontario; Director General, Conditions of Service, National Defence Headquarters, Ottawa; Chief of Personnel Services, National Defence Headquarters, Ottawa; and Canadian Defence Attache, Washington, DC. Altogether, Mr. Kells has served in four Canadian provinces and five foreign countries.

As Chief of Personnel Services, Mr. Kells had direct experience in personnel services policy including the areas of compensation and benefits, conditions of service, employment of women, and family support. As Director General, Conditions of Service, his duties included monitoring personnel policies, and creating policy and procedures to deal with morale difficulties, equal opportunities, official languages, and sexual harassment.

A native of Fredericton, Prince Edward Island, Mr. Kells attended high school at Prince of Wales College and received his BA. in Commerce from the Royal Military College in Kingston, Ontario. Subsequent to his retirement, he was employed as the Canadian representative of an American consulting firm.

Since joining the Commission, Mr. Kells has attended administrative tribunal training sessions sponsored by the Atlantic Council of Administrative Tribunals. In 1998 he was appointed to the Board of the Council of Canadian Administrative Tribunals and is an active member in the International Association of Official Human Rights Agencies (IAOHRA) and CASHRA.

LOUISE COMEAU, COMMISSIONER
Abram Village

Louise Comeau was appointed Commissioner on September 1, 1994. Ms. Comeau is the owner of the first 'Economuseum' on Prince Edward Island which includes a quilt manufacturing company called Les Creations Louise Comeau. Ms. Comeau is a member of the Board of Governors for Université de Ste. Anne and is currently the General Manager of the Baie Acadienne Development Corporation and a member of the Selection Committee of the Prince Edward Island Business Hall of Fame.

Ms. Comeau received her nursing education at the Nova Scotia Hospital in Dartmouth. She holds a Bachelor of Arts (French) from Université de St. Anne and a Master's Degree in Psychology from the Université de Moncton.

Since joining the Commission, Ms. Comeau has attended administrative tribunal training sessions in Halifax, sponsored by the Canadian Institute for Administration of Justice.

RICHARD P. NOONAN, COMMISSIONER
Summerside

Dick Noonan was appointed Commissioner on February 12, 1997. A native of Summerside, Mr. Noonan is no stranger to the Commission, having served as Commissioner from 1985 to 1989. From 1990 to 1993, he served as a member of the Canadian Human Rights Tribunal.

In addition to previous experience at both provincial and national levels, Mr. Noonan has an extensive record of public service and experience in personnel matters. He served as Superintendent and Assistant Superintendent of Education in Regional Administrative Unit 2, Principal of Summerside High School and President of the Prince Edward Island Teachers Federation. Mr. Noonan started his education career of thirty-five years, as a teacher of Social Studies and English. Prior to that he served two years active service and five years reserve in the Royal Canadian Navy.

Mr. Noonan received his Bachelor of Arts (History and English) from St. Dunstan's University, a Bachelor of Education from St. Francis Xavier and a Certificate in Administration from University of New Brunswick. He later attended numerous school administration and professional development programs.

Since joining the Commission, Mr. Noonan has attended administrative tribunal training sessions in Halifax, sponsored by the Canadian Institute for the Administration of Justice.

Prince Edward Island Human Rights Commission

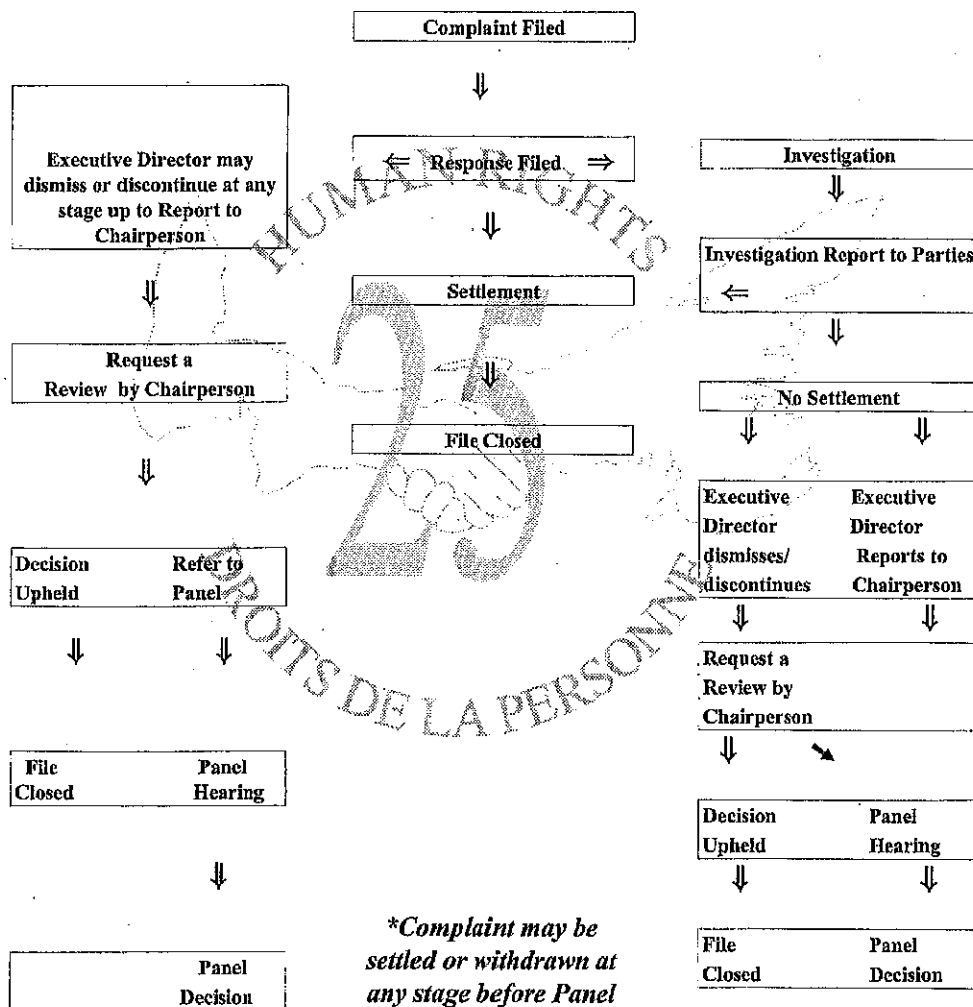
April 1, 2000 - March 31, 2001

Complaint Statistics

Prohibited Grounds of Discrimination	ACTIVE COMPLAINTS					YEAR'S ACTIVITY				
	Carried-over from 1999-2000		Filed 2000-2001		Total 2000-2001	Settled, Dismissed/Discontinued, Withdrawn, Panel			Carried-over to 2001-2002	
	Employment	Other	Employment	Other		Settled	Dismissed/Discontinued	Panel	Employment	Other
Age	3		1	1	4	1	3			1
Association										
Criminal Conviction		1	1	1	1			2	1	
Ethnic, National Origin/Race/Colour	5*	1		4	5		7	1	1	1
Family Status	2	1	1	1	3	1		1	1	2
Marital Status		3		2	5	4		1		
Physical/Mental Handicap	10	7	10	7	20	3	13	3	9	6
Political Belief	10		3		13	3	3	1	6	
Religion/Creed										
Sex			5		5		1		4	
Sex - Harassment	13		4	1	17	6	10		2	
Sex - Pregnancy	4		1		5	1		1	2	
Sexual Orientation			1	3	1	1			1	2
Source of Income				1			1			
Sub Totals	47	15	27	21	74	20	38	10	27	12
Totals	60		48		108	69			39	

* counted two complaints as 1 - ethnic, national origin/race/colour

COMPLAINT PROCESS



EDUCATION REPORT

The Education Officer conducted 40 human rights presentations. The most requested topics again this year were general human rights, sexual harassment and diversity in the workplace and at school. The Commission also presented information at the PEI Teacher's Convention, spoke at a Listen & Learn Session at the PEI Tourism Association's Semi-Annual Convention, spoke at the Women's Equality Conference for the Union of Public Sector Employees, participated as guest speaker at the Council of the Disabled's Annual General Meeting, participated in International Human Rights Day celebrations, and partnered with the PEI Multicultural Council, Canadian Heritage and Canadian Human Rights Commission in recognition of International Day for the Elimination of Racial Discrimination. The Prince Edward Island Commission also participated in and spoke at several community workshops on such topics as Workplace Diversity and Employment Equity, Homophobia, AIDS and Palliative Care, Aboriginal and Disability issues.

We revised our written educational materials. A "Human Rights Information Kit" will be available in 2001-2002. In October, the Commission launched a booklet entitled "Know Your Rights in Prince Edward Island" to target teachers and students in Grades 1 to 6. We participated in a nation-wide education campaign to develop a poster to promote "Human Rights are Everyone's Business", and printed bookmarks and posters in recognition of the winners of last year's contest.

The Commission has a new website (<http://www.gov.pe.ca/humanrights>) thanks to the efforts of Carol Mayne and Darren Hatfield from the provincial Department of Development and Technology. Darren's knowledge, assistance and cooperation has made the creation of the site a reality. The Commission's website and Human Rights Act will also be translated into French in 2001-2002.

We have taken an active role in the creation of press releases to educate the public regarding human rights on such topics as accessibility in PEI tourism and human rights settlements. The Commission was also active in updating its Resource Library this year with the purchase of several new books and videos. The Education Officer has also been involved in the planning of CASHRA 2002 and the Commission's 25th Anniversary celebrations.

The Commission is represented on the Canadian Association of Statutory Human Rights Agencies (CASHRA) National Public Education Network Committee, the provincial government's Diversity Committee and PEACEWORKS.

LEGAL DECISIONS

April 5, 2000

Ayangma v Eastern School Board (2000), 187 Nfld. & P.E.I.R.154 (P.E.S.C.C.A.)

Motion judge's order dismissing civil actions based on violations of Human Rights Act upheld. Actions based on Charter reinstated.

June 19, 2000

Ayangma v P.E.I. Human Rights Commission, et al. (2000), 189 Nfld. & P.E.I.R. 286 (P.E.S.C.C.A.)

Appeal of dismissal of appeal of costs. Dismissed.

July 12, 2000

Ayangma v Government of P.E.I., et al. (2000), 195 Nfld. & P.E.I.R. 130 (P.E.S.C.T.D.)

Appeal of costs dismissed. Cost of appeal to Respondents.

September 20, 2000

Ayangma v Government of P.E.I. (2000), 194 Nfld. & P.E.I.R. 254 (P.E.S.C.T.D.)

Refusal to allow a suggested visible minority interviewer on the Race Relations Board interview panel was discriminatory and violated section 15.(1) of the Charter. Committee's preference for candidate with extensive experience in P.E.I. school system discriminated against visible minorities and therefore violated section 15 of the Charter. Plaintiff awarded \$7,500 general damages, plus costs.

January 5, 2001

Ayangma v Wyatt (2001), 198 Nfld. & P.E.I.R. 126 (P.E.S.C.T.D.)

Plaintiff's statement of claim struck. No cause of action against James Wyatt personally as he was acting within the scope of his employment as Executive Director of the P.E.I. Human Rights Commission. Statement of claim does not support claims of section 7 and 15 Charter violations, nor can an individual be sued in a private capacity for violations of the Charter. No civil cause of action for a breach of a statute, such as the P.E.I. Human Rights Act. Whole statement of claim struck as pleadings disclose no reasonable cause of action.

January 10, 2001

Ayangma v Wyatt, unreported

Correction to decision of January 5, 2001. Correct hearing dates were January 17 & 18, 2000, not January 8, 2000 as reported.

SETTLEMENTS

The following are some of the settlements effected by the
Prince Edward Island Human Rights Commission in 2000-2001

Employment/Sex (Pregnancy) and Physical or Mental Disability

In July 1999, a Prince Edward Island woman filed a human rights complaint alleging that she was discriminated against in employment on the basis of sex (pregnancy) and physical or mental disability. The Complainant worked as a Customer Service Representative for a local business. She stated that while on a six-month maternity leave she developed post-partum depression approximately three months before her scheduled return to work. The Complainant provided a physician's letter to her employer that stated she required another month off to recover from her illness and recommended a gradual re-entry into the workforce on an ease-back basis. The Complainant's employer notified her that they would no longer cover her medical insurance premiums and she would be responsible to pay the premiums herself in order to maintain her current coverage. The Complainant's employer stated that he needed her back on a full-time basis and by a specific date and if she could not comply there would be no guarantee of employment beyond that point. She was unable to comply with those requirements due to her disability and was dismissed. The employer subsequently hired a permanent replacement. The settlement in November 2000 involved a monetary component, a letter of reference, and the Respondent agreed to participate in a Human Rights Education Seminar for all management and staff.

Employment/Sex (Pregnancy)

In July 1999, a Prince Edward Island woman filed a human rights complaint alleging that she was discriminated against in the terms and conditions of her employment as a waitress at a local inn and convention centre on the basis of sex (pregnancy). The Complainant was 6 ½ months along in her pregnancy when she alleges that her shifts were all cancelled without notice, another waitress worked her shifts, and despite repeated inquiries, her employer did not provide a satisfactory explanation. The woman felt she was constructively dismissed from her position. A witness indicated that the employer expressed an intent to dismiss her from her employment due to her pregnancy. The employer denied they had any intention of dismissing her and states that her shifts were rescheduled in order to train new waitresses and ensure another employee obtained 40 hours of work. The employer stated that she quit her employment. In reaching a settlement in November 2000, the Complainant received monetary compensation, and the Respondent provided a letter of recommendation.

Employment/Age

In July 2000, a Prince Edward Island woman filed a human rights complaint alleging that she was discriminated against in employment on the basis of age by a local business. The Complainant states that she received a call from a local business about a job opportunity. She states that she went for an interview and was informed she would be working on a government project. The Complainant went back for a second interview and received a call shortly after saying she would be hired. Two days into her employment she was asked by the employer how old she was. She stated her age, which was 31, and he said "There could be a problem". He explained that the position was a youth project for ages 19-30. The Complainant states that she worked that whole day and, at the end of the day, the employer told her he would have to let her go. The Respondent maintained that the Complainant did not meet the guidelines established by the program. The settlement called for monetary compensation and a letter of apology.

Services and/of Facilities/Physical or Mental Disability

In July 2000, a Prince Edward Island man filed a human rights complaint stating that he was discriminated against by a local store in the provision of services and/or facilities on the basis of physical disability. The Complainant uses an electric wheelchair. He stated that the store was not accessible because the doorstep was too high to navigate with his chair. He also stated that the sidewalk in front of the store had a ramp, but the store did not. The Complainant stated that two years ago he had brought this to the attention of the store owner and, to date, there had been no attempts at accommodation. In reaching a settlement in December 2000, the Respondent constructed a ramp and the Complainant was fully satisfied that the Respondent had appropriately addressed his complaint.

Employment/Sex (Harassment)

In November 1999, a Prince Edward Island woman filed a human rights complaint alleging that she was discriminated against in employment on the basis of sex (harassment) by her former employer. The Complainant was a waitress/bartender at a local bar for approximately six months. She alleges that she was sexually harassed by her employer which led to a change in her working conditions and ultimately her dismissal from employment. The Respondent admits that her employer and the Complainant did engage in consensual sexual intercourse, but denied that her working conditions at the bar were affected by this sexual relationship, or that her dismissal from employment was related to the incident. The Respondent maintained that she was dismissed due to poor job performance. In reaching a settlement in March 2001, the Complainant received monetary compensation.

Accommodations/Sexual Orientation

In August 2000, a couple from Montreal, Quebec made a phone call to reserve a room for two at a local bed and breakfast. They were given directions to the bed and breakfast and arrived approximately 45 minutes later. The owner met them outside before they entered her home and said there was a problem. She did not have a room that had twin beds, she only had rooms with double beds and that they would have to rent two rooms instead of one. They immediately informed the owner that the double bed would be fine. The owner answered by saying "It's two rooms or I can't rent to you". The Respondent claims she meant no ill will by her actions, and maintained that she was applying a policy established in accordance with her cultural norms that two unrelated adults of the same sex do not sleep in the same bed. In reaching a settlement in March 2001, the Complainants received monetary compensation, and the Respondent agreed to cease operating a bed and breakfast or other tourist accommodation offered to the public.

Services/Marital Status

Between 1994 and 1998 the Prince Edward Island Human Rights Commission received three complaints filed against the Government of Prince Edward Island alleging discrimination in the provision of services on the basis of marital status. A Government of Prince Edward Island policy provided an exemption to the payment of tax on sales of private automobile transfers between family members. Married couples qualified for the tax exemption, but common-law couples did not. The policy was enforced by the Provincial Tax Commissioner and applied by the Registrar of Motor Vehicles. The Highway Safety Division informed the Complainants that they were required to pay taxes on the transfer of ownership or joint ownership of a vehicle from one common-law spouse to the other. The Complainants would not have had to pay the taxes if they were married to their common-law spouse. A Human Rights Panel Hearing was scheduled for June 28, 2000. Shortly before the hearing, the Government of Prince Edward Island advised the Commission that to settle the complaints it was prepared to discontinue its discriminatory practice. The Respondent has agreed to modify the policy of the Provincial Tax Commissioner which is applied by the Registrar of Motor Vehicles. The Government of Prince Edward Island will now extend to common-law couples, who identify as such, an exemption from sales tax for transfers. This exemption shall be offered as long as it is made available to married couples. The Government of Prince Edward Island agreed to refund to the Complainants the amount of sales tax, with interest, that they paid in respect to the transfers.

For statistical purposes, the Commission settled four complaints alleging discrimination in employment on the basis of political belief, (2) sex (harassment), and discrimination in services based on marital status. The PEI Human Rights Commission was party to the complaints and the confidentiality clauses clearly states "there shall be no disclosure of the details" of the memorandum of settlements. Also, there were seven complaints settled alleging discrimination in employment on the basis of political belief (2), (2) sex (harassment), family status/criminal conviction, and physical or mental disability/sexual orientation.

PUBLICATIONS

The following is a list of publications that are available to the public free of charge from:

- Prince Edward Island Human Rights Commission
 - Community Legal Information Association of Prince Edward Island, Inc. (CLIA)
Sullivan Building, Fitzroy Entrance, PO Box 1207, Charlottetown PE C1A 7M8
902-892-0853. Toll-free: 1-800-240-9798
-
- ~ PEI Human Rights Commission Information Kit (available in 2001-2002, available now on line)
 - ~ Guidelines: Pre and Post Employment Inquiries
 - ~ Know Your Rights in Prince Edward Island for Grades 1-6
 - ~ Complainant's Guide
 - ~ Respondent's Guide
 - ~ Policies
 - ~ Guidelines for Advertisers
 - ~ Canadian Prohibited Grounds of Discrimination: Employment and Provision of Goods, Services, Facilities and Accommodation
 - ~ Bookmarks and Posters

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

OFFICE LOCATION

98 Water Street
PO Box 2000
Charlottetown PE C1A 7N8

(902) 368-4180
(902) 368-4236 (fax)
1-800-237-5031 (PEI toll free)

<http://www.gov.pe.ca/humanrights>

COMMISSIONERS

George S. Kells
Chairperson

Richard Noonan
Commissioner

Louise Comeau
Commissioner

STAFF

Gregory J. Howard
Executive Director
howard@isn.net

B. Lorraine Buell
Administrative/Intake Officer
lbuell@isn.net

Janet Christian-Campbell
Compliance Officer
janetc@isn.net

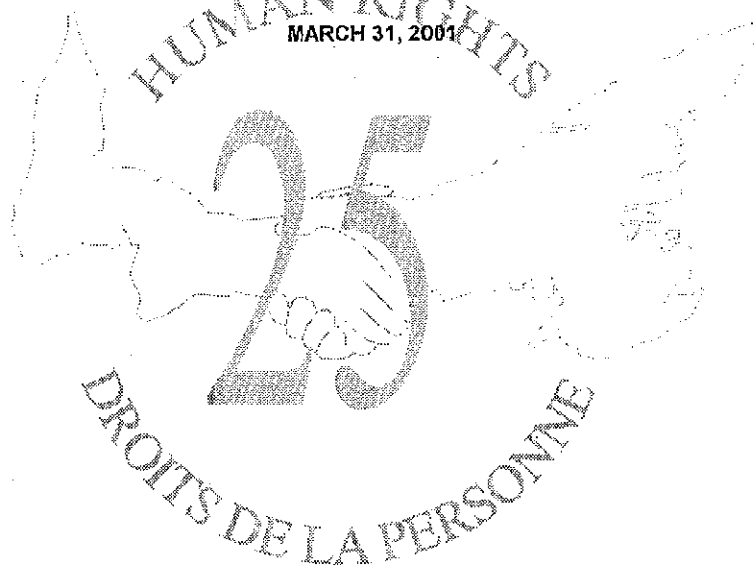
Patricia M. Butler
Education Officer
pbutler@isn.net

AUDITOR GENERAL

CHARLOTTETOWN
PRINCE EDWARD ISLAND

PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION

FINANCIAL STATEMENTS
MARCH 31, 2001



STATEMENT 1

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

BALANCE SHEET

AS AT MARCH 31, 2001

	<u>2001</u>	<u>2000</u>
ASSETS		
Cash	\$ 3,640	\$1,565
Accounts receivable	1,623	-
Prepays	<u>10,596</u>	<u>4,649</u>
	<u>\$15,859</u>	<u>\$6,214</u>

LIABILITIES AND EQUITY		
Accounts payable	\$ 2,586	\$5,084
Surplus (Deficit) - Statement 2	<u>13,273</u>	<u>1,130</u>
	<u>\$15,859</u>	<u>\$6,214</u>

(The accompanying notes are an integral part of these financial statements.)

SIGNED ON BEHALF OF THE COMMISSION:

COMMISSIONER: _____

COMMISSIONER: _____

STATEMENT 2

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION
 STATEMENT OF REVENUE, EXPENDITURE, AND EQUITY
 FOR THE YEAR ENDED MARCH 31, 2001

	<u>2001</u>	<u>2000</u>
Revenue		
Province of P.E.I. - Grant	\$306,200	\$289,200
Miscellaneous	500	-
	<u>306,700</u>	<u>289,200</u>
Expenditure		
Bank charges	36	-
Cleaning	2,874	2,974
Commissioners' honoraria and expenses	15,857	17,700
Furniture and equipment	5,780	6,056
Memberships and conferences	10,152	8,568
Miscellaneous	3,024	1,774
Office materials and supplies	11,033	2,850
Photocopying	10,040	4,808
Rent	17,500	17,500
Salaries and benefits	202,277	216,105
Snow removal	1,645	570
Staff travel	9,077	3,075
Telephone	5,262	6,088
	<u>294,557</u>	<u>288,067</u>
Net income for the year	12,143	1,133
Surplus (Deficit) at beginning of year	1,130	(3)
Surplus (Deficit) at end of year	<u>\$ 13,273</u>	<u>\$ 1,130</u>

(The accompanying notes are an integral part of these financial statements.)

AUDITOR GENERAL - CHARLOTTETOWN, P.E.I.

STATEMENT 3

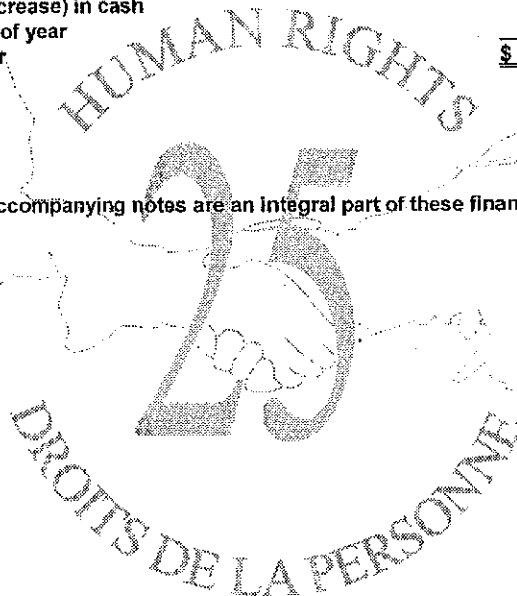
PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2001

	<u>2001</u>	<u>2000</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash received from Province of PEI for operations	\$306,200	\$289,200
Cash received from other sources for operations	500	-
Cash paid for salaries and benefits	(202,277)	(216,675)
Cash paid for materials and services	<u>(102,348)</u>	<u>(73,210)</u>
Net Increase (Decrease) in cash	2,075	(685)
Cash, beginning of year	<u>1,565</u>	<u>2,250</u>
Cash, end of year	<u>\$ 3,640</u>	<u>\$ 1,565</u>

(The accompanying notes are an integral part of these financial statements)



AUDITOR GENERAL - CHARLOTTETOWN, P.E.I.

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

NOTES TO FINANCIAL STATEMENTS

MARCH 31, 2001

1. Purpose of the Organization

The P.E.I. Human Rights Commission is a corporate body which is responsible for administering and enforcing the provincial Human Rights Act. The Commission provides education and public information in the field of human rights. The Commission also inquires into and endeavours to effect a settlement of any complaint of a violation of the Human Rights Act filed with the Commission as prescribed by the Act.

2. Significant Accounting Policies

A) Basis of presentation

These statements were prepared in accordance with Canadian generally accepted accounting principles for non-profit organizations, with office equipment, furniture and computer software expensed in the year purchased.

B) Certain 2000 financial statements figures have been related to conform with the current year's presentation

3. Funds Disbursed in Trust

During the year the Province of Prince Edward Island paid out \$30,956 (2000 - \$29,470) to settle political belief complaints. The entire amount was disbursed through the P.E.I. Human Rights Commission to individual complainants or to legal counsel acting on the complainants' behalf.

4. Provincial Appropriations

Legal fees for the year ended March 31, 2001 totalling \$3,266 (2000 - \$3,018) were paid on the Commission's behalf by the Province of Prince Edward Island through the Office of the Attorney General. These fees are not included in Statement 2.

5. Lease Commitment

The Commission entered into a five-year operating lease for its office premises, covering the period from April 1, 1999 to March 31, 2004. The lease payments are set at \$17,500 per annum for each of the five years.



