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STOP DISCRIMINATION!  
WE ALL HAVE GATS

# ANNUAL REPORT 1989

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## COMMISSION MEMBERS

The Newfoundland Human Rights Commission consists of eight members. They were appointed on July 6, 1989 by the Lieutenant Governor in Council for terms of three, four and five years.



### **EVE ROBERTS, Chairperson**

Eve Roberts, Q.C., is a partner with the law firm of Halley/Hunt in St John's. She was called to the Bar of Alberta in 1965, and the Newfoundland Bar in 1981. Mrs. Roberts has been involved with the National Board of Directors, Women's Legal Education and Action Fund (LEAF). She was also a member of the Minister's Committee to review the Human Rights Code in 1987 and has been an ad hoc Commissioner appointed to hear complaints made under the previous Human Rights Code. Mrs. Roberts is also a past member of the Board of Directors, St

John's YM-YWCA, a member of Terra Nova Chamber Players and past member of the Lieutenant Governor's Family Life Institute. Mrs. Roberts was appointed for a five year term.



### **E. JANE HOUSE, Vice-Chairperson**

Jane House, Vice-Chairperson, is a teacher at the Newfoundland School for the Deaf. Ms. House has a Bachelor of Arts (psychology) from Memorial University of Newfoundland, a Masters of Education in Educational Psychology, Guidance and Counselling from Memorial University of Newfoundland, and a Masters of Education (Deaf Education) from the University of Moncton. Ms. House has been the Regional Director from Newfoundland for the Association of Canadian

Educators of the Hearing Impaired and is currently Co-Chairperson of the National Biennial Conference of the Association of Canadian Educators of the Hearing Impaired which was held in St. John's in August, 1989. Ms. House is the Chairperson of the Canadian Paraplegic Association, Newfoundland Division, after spending 12 years on the Board holding various executive positions. Ms. House is also a founding member and has served on the executive of the Newfoundland and Labrador Physically Handicapped Association, and the Newfoundland Wheelchair Sports Association. Ms. House was appointed for a four year term.



#### **LINDA COLES**

Linda Coles is a graduate of Memorial University, receiving her Bachelor of Arts (Education), her Bachelor of Arts, and her Masters of Education. She is currently employed at MacDonald Drive Elementary School and has previously taught school in Goose Bay, Port aux Basques, Bishop's Falls, Flowers Cove, and Genevieve-Barr's Harbour. She has held numerous positions with the Newfoundland Teachers's Association, including most recently membership on the Collective Bargaining Committee. She has written and

edited numerous publications and manuscripts to be used for educational purposes. Ms. Coles has been appointed for a four year term.



#### **LORRAINE EDWARDS**

Lorraine Edwards resides in Lewisporte and is actively involved in community activities and associations, particularly those which provide assistance to persons with physical or mental disabilities. She is President of the Notre Dame Association for Community Living, Chairperson of the Local Service District Committee of Stanhope and member of the Integration Committee for Winter Games, Reye's Syndrome Foundation, USA and Blissymbolics Association of Newfoundland and

Labrador. Mrs. Edwards has also been employed as a print inspector, a teacher, and in a nursing home. Mrs. Edwards has been appointed for a four year term.



#### **ROBERT J. MERCER**

Mr. Robert J. Mercer is a graduate of St. Joseph's High School and St. Michael's College in St. George's, Newfoundland, and also a graduate of General Motor's Manpower Training Program and the Industrial Acceptance Corporation Financial Planning Program. He is the owner, president and general manager of Bob Mercer Motors Ltd. in Corner Brook. He is also a member of the West Coast Interfaith Social Welfare Council, the Royal Canadian Legion Branch 38, the Knights of Columbus, the St. Vincent de Paul Society, Our Lady of Perpetual Help

Parent Teacher Association, and the Corner Brook Automobile Salesman Association. Mr. Mercer has been appointed for a five year term.



### **CALVIN PATEY**

Mr. Calvin Patey graduated from Memorial University of Newfoundland with a Bachelor of Arts (Education), a Bachelor of Arts (History/English/Classics), and a Masters in Education degree. He is currently employed as Program Co-ordinator for Language Arts, Library Services, French and Religious Education with the Labrador East Integrated School Board in Happy Valley/Goose Bay. He has held various positions with this School Board since 1975. He is a member of the Newfoundland Teachers Association and holds a number of positions on

Special Interest Councils. He received the Newfoundland Teachers Association Barnes Award for Professional Development in 1989. He is Chairperson of the Melville Public Library Board, Co-ordinator of the Labrador Creative Arts Festival, and Chairperson of the Happy Valley/Goose Bay Arts Council. Mr. Patey has been appointed for a three year term.



### **BERT RIGGS**

Mr. Bert Riggs is a graduate of Memorial University of Newfoundland with a Bachelor of Arts (Honours - English Language and Literature), Bachelor of Education, and has completed some work towards a Masters of Arts degree. He also completed an archival training program at the National Archives of Canada in 1988. Mr. Riggs is currently employed as Archivist with Centre for Newfoundland Studies, Memorial University of Newfoundland. He has been actively involved in the Newfoundland and Labrador Human Rights Association, a volunteer based

education and advocacy organization, dedicated to the protection and enhancement of human rights and is currently president of that Association. He has also been involved as a member of the Canadian Rights and Liberties Federation and a member of a Working Group On Child Sexual Abuse. He has also been a member of the St. John's Folk Arts Council and is Vice-Chairperson of the Heritage Coalition of Newfoundland and Labrador. Mr. Riggs is also president of the Association of Newfoundland and Labrador Archivists and a member of the Executive of the Newfoundland and Labrador Council of Archives. Mr. Riggs was appointed for a three year term.



### **WENDY WILLIAMS**

Wendy Williams graduated from Memorial University of Newfoundland with a Bachelor of Nursing. Since that time she has held several positions within the nursing profession, including Clinic Director of Planned Parenthood of Newfoundland and Labrador. She is currently employed as a nurse practitioner with a medical practice in St. John's. Ms. Williams is a member of the St. John's Status of Women Council, the Provincial Advisory Council on the Status of Women, the Community Services Council and is a founding member of the newly established

AIDS Support Group in Newfoundland. Ms. Williams is a former Vice-President of the National Action Committee Status of Women, and has previously been a board member of Iris Kirby House, the Children's Centre Co-operative Pre School, and the MacDonald Drive Elementary School Parents Committee. Ms. Williams is a well known public speaker and has organized and conducted many workshops for such agencies as YM-YWCA, Masonic Park Senior Citizens Complex, Revenue Canada, Memorial University of Newfoundland School of Social Work. Several of her articles have been published. Ms. Williams has been appointed for a three year term.



**FROM THE DESK OF  
GLADYS VIVIAN  
EXECUTIVE DIRECTOR**

1989 was a year of change for the Newfoundland Human Rights Commission. We said goodbye to old friends and welcomed several newcomers to our Commission. Our two Human Rights Officers accepted promotional opportunities in other areas. We extend best wishes to Keith Garland and Bruce Fillier and welcome their replacements, Patricia Corbett and John Van Gulick. Patricia and John commenced employment with the Commission in September.

Eve Roberts was appointed as Chairperson in July, 1989, filling the position which had been vacant since the resignation of Gillian Butler in November, 1988. Seven other Commissioners were appointed at the same time. Only one of these Commissioners had served with the previous Commission. The new Commission moved quickly to clear up the backlog of complaints awaiting Commission decision.

The Human Rights Commission also reported to a new Minister in 1989. The Honourable Paul Dicks was appointed Minister of Justice in May, 1989. The Commission is pleased that Mr. Dicks will be working towards amending Section 7 of the Code during the coming year.

In spite of the changes in staff and Commissioners, the Human Rights Commission had a busy and productive year. Staff at the Commission handled a 34 per cent increase in complaints over 1988. Most of these complaints were in the area of employment.

The Commission also had a busy year in meeting the public demand for educational programs. Commission staff, in addition to speaking engagements in St. John's, travelled throughout the province to speak to interested community groups and school classes as part of an ongoing initiative to inform all Newfoundlanders about *The Human Rights Code, 1988*. In addition to dealing with complaints on a case-by-case-basis, the Commission is committed to educational programs which it believes are essential if attitudes are to be changed and discrimination is to be eradicated.

I would like to take this opportunity to thank staff and Commissioners for their hard work in 1989 and look forward to joining with them to meet the challenges of 1990.

## **THE HUMAN RIGHTS CODE, 1988**

### **(AN OVERVIEW)**

*The Human Rights Code, 1988* came into effect October 1, 1988.

### **PROHIBITED GROUNDS**

The Code lists the following grounds on which discrimination is prohibited:

- Race
- Religion
- Religious Creed
- Political Opinion
- Colour or Ethnic Origin
- National or Social Origin
- Sex
- Marital Status
- Physical Disability or Mental Disability
- Age 19 - 65 (Employment)

### **AREAS**

The Code prohibits discrimination in the areas of:

- Accommodation, services or facilities of public places (except for bona fide limitations for persons with physical or mental disabilities)
- Occupancy of commercial or self-contained dwelling units or harassment of occupants
- Employment (between ages of 19 - 65 except for bona fide retirement, pension plan or minimum service requirements)
- Employment agencies
- Employment forms, advertisements or inquiries
- Attachment or seizure in satisfaction of a claim against wages
- Equal pay for same or similar work (except for a seniority or merit system) and opportunities for training, advancement, pension rights and insurance benefits for female employees (in the same establishment performing same or similar work with same or similar skills, effort, responsibilities and conditions as those applicable to male employees)
- Notices, signs, symbols or emblems or other representations (published or displayed on lands or premises or in a newspaper, through a radio or television station or by means of any other medium)
- Harassment in an establishment by another person in the establishment



- Unwelcome sexual solicitations or advances in conferring, granting or denying a benefit or advancement; penalizing, punishing or threatening reprisals for the rejection of a sexual solicitation or advance
- Retaliation

## **NEWFOUNDLAND HUMAN RIGHTS COMMISSION**

The Newfoundland Human Rights Commission is composed of three or more members appointed by the Lieutenant-Governor in Council. The Commission reports to the Minister of Justice.

### **COMPLAINTS PROCEDURE**

If you believe that you have been discriminated against, file a complaint on an official complaint form with the Commission within **six months** after the last incidence of the alleged contravention. The Commission will inform the respondent prior to the commencement of an investigation, investigate the complaint and endeavour to effect a settlement. Where a settlement is not reached, the Executive Director of the Commission will report on the case to the Commission. The Commission will determine whether or not to refer the matter to the Board of Inquiry. The Commission is empowered to enter buildings, factories, workshops or other premises to inspect records, documents, accounting books, work material, or equipment and to question persons or to obtain a warrant authorizing such entry and search.

Where a settlement is reached, the Commission will notify the parties that no further action will be taken unless the terms are not complied with.

### **BOARD OF INQUIRY**

A Board of Inquiry, appointed by the Chief Adjudicator, shall hear the complaint and order in writing that:

- (a) the complaint be dismissed
- (b) The respondent cease the contravention and refrain from it in future, or make available the rights, opportunities or privileges denied
- (c) compensate the complainant for all or part of income lost or expenses incurred.



## **APPEALS**

Either party may appeal to the Trial Division within 30 days of the receipt of the order of the Board of Inquiry.

The court may confirm, reverse or vary the order of the Board.

## **PUBLICATION**

The Commission may publish an order, reasons for an order or recommendations of a Board of Inquiry.

## **WHERE TO FILE A COMPLAINT**

Executive Director  
Newfoundland Human Rights Commission  
P. O. Box 8700  
6th Floor  
345 Duckworth Street  
St. John's, Newfoundland  
A1B 4J6  
(709) 576-2709  
576-5812  
Toll Free 1-800-563-5808

## COMPLAINT PROCEDURE

*The Human Rights Code, 1988* is provincial anti-discrimination legislation designed to protect Newfoundlanders and Labradorians against discrimination on certain grounds. The Newfoundland Human Rights Commission administers the Act and all services of the Commission are available to the public without charge.

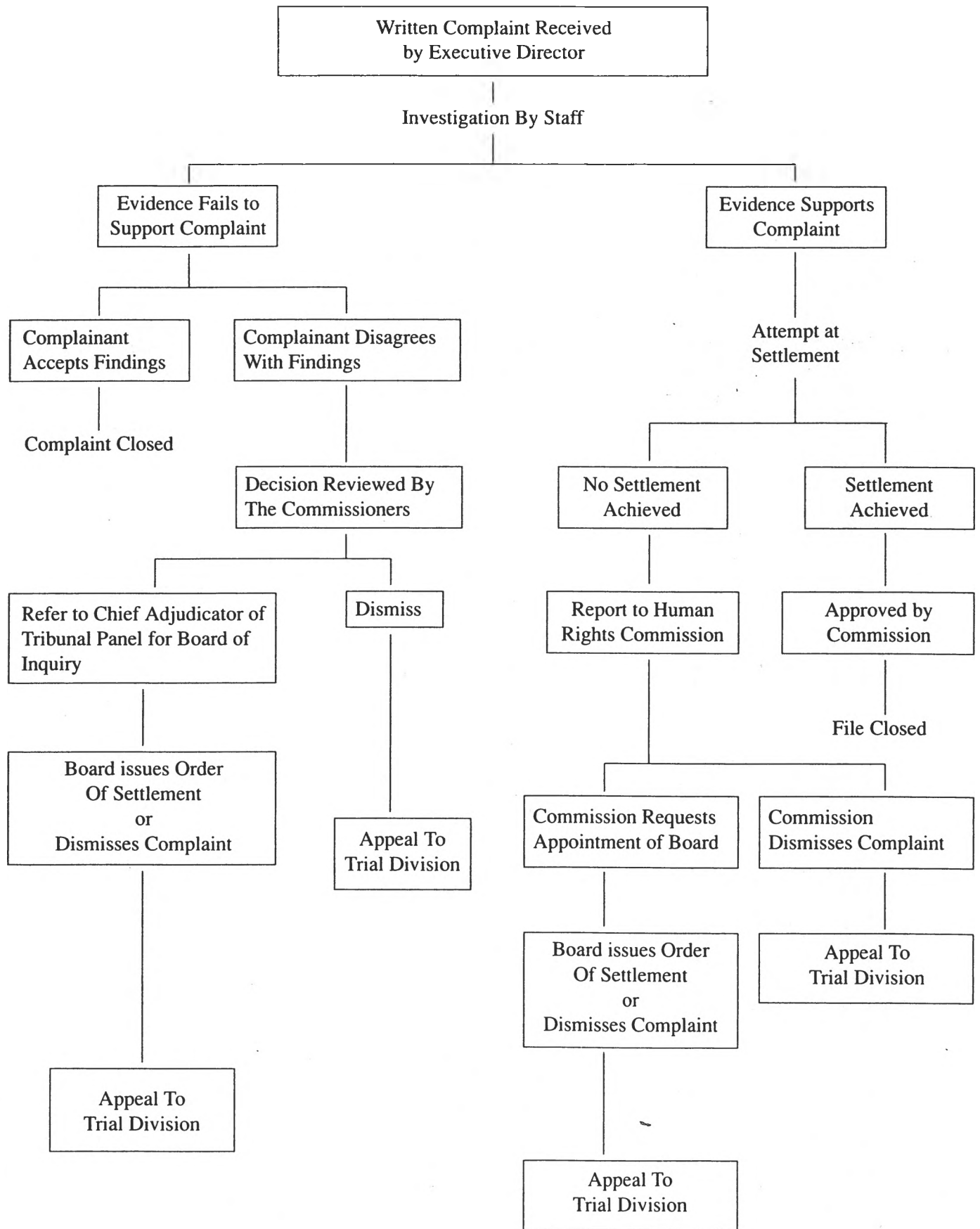
Should a person suspect that he or she may have been a victim of discrimination as prohibited under the legislation, that person can file a complaint with the Human Rights Commission. All complaints must be examined to ensure that the matter falls within the jurisdiction of the Commission and the scope of the Act.

Upon acceptance of a complaint by the Commission, the respondent is notified of the pending investigation, in writing. The complaint is assigned to a Human Rights Officer who will conduct the investigation. The investigation is aimed at determining the facts of the matter. Pending an assessment of the findings of the investigation, conciliation attempts may be made to resolve the matter.

During the conciliation stage, the findings of the investigation are disclosed to the parties. The goal of conciliation is to resolve the complaint amongst the parties without requiring the convening of a Board of Adjudication. If the complaint is not resolved during the conciliation stage, the matter is reviewed by the Commissioners who may refer the complaint to the Chief Adjudicator who shall appoint a Board of Inquiry.

A Board of Inquiry is a formal public hearing where the complainant and respondent present their arguments. The Human Rights Commission shall have carriage of the complaint, but either party can be represented by legal counsel. The Adjudicator, after hearing all the evidence from parties and witnesses, will determine if there has been a contravention of *The Human Rights Code, 1988*. If there is a finding of contravention, the Adjudicator may order the respondent to cease the contravention, to make available denied opportunities or privileges and to provide compensation. The order of the Adjudicator is legally binding on the parties but is subject to appeal to the Trial Division of the Supreme Court.

# THE COMPLAINT PROCEDURE



# COMPLAINT FORM

(Please print clearly)

YOUR NAME: _____	TELEPHONE NUMBERS
ADDRESS: _____	Home _____
Postal Code _____	Work _____
	Other _____

Parties against whom you are complaining.

NAME OF COMPANY/ ORGANIZATION: \_\_\_\_\_ ADDRESS \_\_\_\_\_  
TELEPHONE \_\_\_\_\_

CHIEF EXECUTIVE OFFICER AND/OR OWNER: \_\_\_\_\_ ADDRESS \_\_\_\_\_  
TELEPHONE \_\_\_\_\_

NAME OF PERSON: \_\_\_\_\_ ADDRESS \_\_\_\_\_  
TELEPHONE \_\_\_\_\_

Section of The Human Rights Code, 1988.	Ground of discrimination/harassment where applicable (race, religion, sex).	Date or period of alleged contravention.
_____	_____	_____
_____	_____	_____

DESCRIBE WHAT HAPPENED \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**MAIL TO:** Newfoundland Human Rights Commission  
P. O. Box 8700  
St. John's, A1B 4J6  
Telephone: 576-2709 Toll Free: 1-800-563-5808

## EDUCATION

The Newfoundland Human Rights Commission, in addition to enforcing *The Human Rights Code, 1988*, has the mandate to conduct educational programs designed to create an awareness of the legislation and to eradicate discrimination.

### Examples of Activities for 1989

- Mall displays and booth displays at various seminars including Avalon Consolidated School Board, St. John's; Multiculturalism Seminar, St. John's; Newfoundland Teacher's Association Art Council Conference, Gander; and Research Canada Seminar, St. John's.
- Media contact including TV and radio interviews; press releases; publications in recognition of special occasions — Human Rights Day, National Access Awareness Week, International Race Relations Day and Women's Day.
- Seminars on Employment of Persons with Disabilities.
- Regional visits to be available to meet with the public.
- Presentations for Atlantic Consumers Co-op Managers Association, Gander; Grace Hospital Psychiatric Outpatients; YM-YWCA; Training for Tomorrow, Avalon Community College; Labrador Community College; Students at Memorial University of Newfoundland; Keyin Technical College; Seventh Day Adventist High School; Compu College; Students at Marine Institute; Institutional and Home Support Aid, Grand Bank; Orientation to non-traditional occupations, Burin; Career Planning and Development, Burin; Seafood Management Education Association, Fogo; Central Community College, Grand Falls; Central Community College, Springdale; Law Day Committee, St. John's; Avalon Community College, Bell Island; Fisher Institute, Corner Brook; Nurses at Southcott Hall, St. John's; Students at Bishop Feild School, St. John's; YMCA Job Generation; Newfoundland Association of Insurance Women; and government employees responsible for investigating harassment complaints.
- Letters were sent to all school principals noting the importance of including discussions on human rights in the classroom and encouraging participation of students in our 1989 poster contest.
- Individual certificates were sent to the approximately 1100 students who participated in the poster contest.
- Approximately 1500 copies of our 1988 annual report were distributed to schools and businesses throughout the province. 4000 pamphlets were distributed to students at Memorial University of Newfoundland. Copies of the legislation, pamphlets and posters were distributed throughout the province, as required.

## **ACTIVITIES FOR DECEMBER 10, 1989 INTERNATIONAL HUMAN RIGHTS DAY**

The Honourable Clyde Wells, Premier of Newfoundland, signed a Proclamation declaring December 10, 1989 to be Human Rights Day in Newfoundland. He noted that the Government of Newfoundland and Labrador believes firmly in the principles embodied in the Universal Declaration of Human Rights and urged all citizens of the province to promote the observance of human rights as a shared responsibility and to reaffirm commitment to eliminate discrimination in all its forms. This Proclamation was published in local newspapers by the Human Rights Commission.

The Human Rights Commission sponsored a poster contest for grades 5, 6 and 7 to mark the event. Approximately 1100 posters were received from across the province. The Commission, in showing appreciation to participants, sent certificates to all entrants noting the significance of the day. To promote ongoing awareness, the Commission is distributing copies of the winning poster throughout the province. (See cover of this report)

Hotel Newfoundland hosted a reception on December 10 to provide an opportunity for poster contest winners to meet the Commissioners and staff of the Human Rights Commission. The reception was attended by the Honourable Paul Dicks, Minister of Justice, who presented plaques to the contest winners and the sponsors.

The Human Rights Commission sent letters to all school principals in the province urging them to include discussions on human rights in the classroom. Press releases, noting the 41st anniversary, were distributed to all media throughout the province. Staff of the Commission displayed posters at schools in Labrador City and discussed human rights with teachers and students. These events, including an interview with the officer, were covered by local television.

All outgoing government mail during the week preceding December 10th was stamped with the United Nations logo.

## **ISSUES OF INTEREST**

### **AIDS/HIV INFECTION**

*The Human Rights Code, 1988* prohibits harassment and discrimination based on a person's physical disability in admission to public places, services and facilities; in the rental of self-contained dwelling units and commercial units; and, in employment. This protection would include protection from discrimination and harassment because a person has AIDS or HIV Infection. (Acquired Immunodeficiency Virus Infection).

Persons with AIDS, as with other disabilities, have a right to file a complaint with the Human Rights Commission if they encounter discrimination.

### **PREGNANCY**

The Supreme Court of Canada in the *Canada Safeway Limited* decision states that discrimination on the basis of pregnancy is discrimination on the basis of sex.

This decision states that "pregnancy discrimination is a form of sex discrimination simply because of the basic biological fact that only women have the capacity to become pregnant."

Based on this decision, while pregnancy is not listed in *The Human Rights Code, 1988* as a protected ground, the Human Rights Commission will accept complaints from people who encountered discrimination due to pregnancy as discrimination on the basis of sex.

Discrimination and harassment on the basis of sex is prohibited in all sections of the legislation. It should be noted that employment may also include employee benefit plans since employee benefit plans are considered to be a term or condition of employment.

### **SPECIAL PROGRAMS**

*The Human Rights Code, 1988* permits the Commission to approve special programs designed to prevent, reduce or eliminate disadvantages respecting services, facilities, accommodation or employment that are suffered by a group of individuals protected under the code. Certain groups of people have historically been disadvantaged and have faced limited opportunities to participate in employment, obtain housing or utilize services.



Special programs targeted at a particular group should be designed to meet the needs of that group in a direct and immediate manner. When these programs are approved by the Human Rights Commission, they will not constitute a violation of *The Human Rights Code, 1988*. Examples of programs approved by the Human Rights Commission are An Accelerated Management Development Program For Women and A Program to Increase the Representation of People with Disabilities in Employment.

## **SEXUAL HARASSMENT**

Sexual harassment and sexual solicitation is prohibited under the human rights code. And, as workers and students become more aware of this protection, they are filing more complaints with the Human Rights Commission. The Commission has found, during the investigation of these complaints, that there are considerable hidden costs to employers when sexual harassment occurs in the workplace. Employee morale and productivity drops, absenteeism occurs due to stress and staff turnover is high which involves the cost of replacing and new staff training.

A Supreme Court of Canada decision has indicated that employers are responsible for the actions of employees in cases of proven sexual harassment. Lack of awareness by upper management does not necessarily eliminate a company's liability regarding the harassment.

Sexual harassment may be reduced where management develops a company-wide policy to prevent harassment of its employees and to deal effectively with any incident that might occur. Managers are encouraged to educate supervisors and employees in the area of sexual harassment. They should leave no doubt in anyone's mind that sexual harassment is an unacceptable and serious problem and that management is committed to its policy prohibiting such behaviours in the workplace.

## FROM OUR FILES

### CASE SUMMARIES

When the Human Rights Commission receives a complaint alleging a violation of *The Human Rights Code, 1988*, it is assigned to a Human Rights Officer for investigation. The officer will investigate and attempt to settle the matter. In many cases, complaints which are found to have merit are satisfactorily settled between the complainant and respondent. Some examples of these complaints settled in 1989 are given here, as are some examples of dismissed complaints.

### EXAMPLES OF SETTLED COMPLAINTS

#### Area of Employment (Section 10)

(1) Ground: Sex

A lady complained to the Human Rights Commission after the insurance company providing disability benefits through her place of employment refused to pay her benefits because she was pregnant at the time of her injury. The Supreme Court of Canada decision in the case between Susan Brooks and Canada Safeway was handed down during the investigation and may have played a part in reaching a quick settlement between the parties. The complainant agreed to settle the complaint when the company paid her \$1,347.00, an amount equal to what she would have normally been entitled to had she not been pregnant. The settlement was approved by the Commission.

(2) Ground: Marital Status

A lady complained to the Human Rights Commission after repeatedly being refused employment as a cleaner at the same company where her husband was employed. She realized that she had more experience than some males hired and endeavoured to find out why she was unsuccessful in job competitions. She learned that the reason she was not hired was because her husband was employed with the company as a cleaner. The complaint was settled when the company offered the complainant a job and the complainant accepted the job offer.

(3) Ground: Physical Disability

A lady who was employed as a part-time sales clerk had her employment terminated while she was in receipt of workers' compensation for a job related injury. The reason given by the employer for the lay off, as stated on the Record of Employment Form, was the complainant was on proba-

tion and found to be unsatisfactory. The complaint settled for a cash settlement of \$200.00 and the completion of a new Record of Employment Form, by the employer, noting that the complainant had been terminated because of injury or illness.

### **Harassment (Section 13)**

(1) Ground: Sex

A lady complained of harassment after she was suspended from her job for two days without pay and had letters of reprimand placed on her file. She alleged that the real problem behind this action was she refused to endure harassment from the supervisor responsible. The settlement reached in this complaint agreed to the removal of letters from her file and compensation for the two days lost wages. There was also agreement that the complainant be transferred to an appropriate job in another division.

(2) Ground: Sex

A clerk complained to the Human Rights Commission that the Director in her division made comments of a sexual nature over an extended period of time that she found to be upsetting. When she complained to the employer, it was noted that they had received other complaints regarding this individual. The employer suspended the Director pending the investigation. The investigation supported the allegation and a settlement was reached in the matter. The complainant accepted a letter of apology and the Director was asked for his resignation by the employer. The employer also agreed to develop a Sexual Harassment Policy to avoid future problems of this nature.

## **Area of Services (Section 7)**

### **(1) Ground: Physical Disability**

A lady filed a complaint on behalf of her son who has a disability confining him to a wheelchair. The son's school, which was a two storey building, had been built prior to *The Building Accessibility Act* and was not wheelchair accessible. The laboratories and some of the son's classes were held on the second floor. In order for him to move from one floor to another he had to be carried up or down the stairs. The investigation substantiated the allegation and the complaint was settled when the school board was able to obtain money for the installation of an elevator. The cost was anticipated to be in the \$85,000.00 to \$100,000.00 range.

### **(2) Ground: Religion**

A gentleman who had been repeatedly refused admission into a nurses training program complained that he was discriminated against on the basis of religion after he had been questioned regarding his willingness to give blood transfusions. He is of the Jehovah's Witness Faith. The investigation supported the complainant's allegations and the complaint was settled when he was admitted into the training program by the School of Nursing.

### **(3) Ground: Physical Disability**

A gentleman complained to the Human Rights Commission that he was discriminated against by a community college when he was denied entrance into the Construction Trades Helper Program because of a disability. The complainant, who is an epileptic, alleged that he was informed that he was not admitted into the program because of his disability. The investigation supported the allegation. The complaint was settled when the school agreed to accept the complainant into the program commencing September 1989. Also, the school agreed to review its criteria for screening applicants to ensure all policies were in keeping with human rights legislation.

### **(4) Ground: Physical Disability**

A lady complained to the Commission when she was refused service at a local restaurant because she was accompanied by a seeing eye dog. The investigation showed that the manager of the restaurant was new and was attempting to obtain information regarding the admission of seeing eye dogs into restaurants when the complainant left. The parties agreed to settle this complaint with a public apology in the local newspaper.

(5) Ground: Physical Disability

The parents of a 13 year old boy with Downs Syndrome complained to the Human Rights Commission alleging their son was discriminated against by the educational system because of his disability. The school was providing only a half day instruction for the boy. The settlement reached in this complaint was an improved school schedule for the child. All parties were satisfied that the child was now receiving the best services the Board had to offer. He received one on one instruction in life skills from a special education teacher and was also integrated into the regular class program so he would have a classroom which he could call "his class".

## **EXAMPLES OF DISMISSED COMPLAINTS**

### **Area of Service (Section 7)**

(1) Ground: Sex

A gentleman complained of discrimination on the basis of sex when a local restaurant required men to wear a shirt and tie. The advertisements in local papers also specified that a jacket and tie was required. The Manager of the restaurant, when contacted, agreed to change the wording of the advertisement to read "proper dress required". The complainant would not agree with this as a suitable settlement because men were still required to wear a tie and women were not. The complaint was dismissed by the Commission.

### **Sexual Harassment (Section 13)**

(1) A lady complained of being sexually harassed by a co-worker after her employment was terminated by her employer. The investigation showed that the two had been having a mutually agreed upon affair and the complainant had never discussed the issue with her employer. The co-worker was not in any position of authority and did not have any input into the decision to terminate the complainant's employment.

### **Area of Employment (Section 10)**

(1) Ground: Age

A lady complained to the Human Rights Commission when her employer reduced her hours of work to half days. She alleged the reason for the reduced hours was because she was approaching retirement age and the company would be required to pay her less benefits. The investigation showed that the reduction in hours stemmed from reorganization within the company. There

were other people who had their hours cut, including a lady who is approximately 20 years younger than the complainant. The company had offered to meet with the complainant to discuss retirement options but the complainant refused. The complaint was dismissed.

(2) Ground: Sex

A lady complained that she was discriminated against on the basis of sex. She alleged that she was unsuccessful in obtaining a job as a head teller in a local financial establishment because she was on maternity leave when the vacancy occurred. The investigation showed that the position referred to in the complaint had been made redundant and the duties assigned to the position were shared among other employees. The action was taken by the company because of pending reorganization. The complainant took the position that because of her seniority and because the duties of the job were still being performed, the position should have been retained and she should be given the job. When the company disagreed, she resigned her position. The Commission dismissed her complaint.

## **EXAMPLES OF ONGOING COMPLAINTS**

### **Area of Employment (Section 10)**

(1) Ground: Discrimination in Pay

A lady complained to the Human Rights Commission of discrimination in pay on the basis of sex when a male hired to replace her while she was on maternity leave was paid a higher salary. The position of the company is that in order to get temporary workers they must pay a higher wage. The investigation is ongoing.

(2) Ground: Sex

Three ladies complained of harassment on the basis of sex against their employer when he repeatedly made comments regarding pregnancy and its interference with work. One complainant also alleges that the President of the Company noted that he would like to zap all his female employees with a ray gun so they wouldn't get pregnant. The investigation is ongoing.

(3) Ground: Sex

A lady complained of discrimination on the basis of sex because of problems she experienced due to receiving Workers' Compensation while she was pregnant. Her employer, who mailed the compensation cheques to her, advised the complainant that they had overpaid her because she was not eligible for Workers' Compensation during the period around the birth of her baby.

The complainant has appealed the decision of the Workers' Compensation Commission. The Human Rights Commission has this file on hold pending the outcome of this decision.

(4) Ground: Sex

Two ladies complained to the Commission when they were told, upon arrival for a job interview for a goldsmith trainee, to go home because the Company had decided to hire only a male. The investigation supported the allegation. Settlement negotiations are ongoing.

## **EXAMPLE OF APPEALS**

### **Area of Service (Section 7)**

(1) Ground: Physical Disability

Russell Rogers v. Her Majesty The Queen In Right Of Newfoundland  
(Department of Culture, Recreation and Youth - Wildlife Division)

The Human Rights Commission has appealed the decision of William Finn in the above noted complaint to the Trial Division of The Supreme Court of Newfoundland. Mr. Rogers, who is blind, alleged discrimination on the basis of physical disability when the Wildlife Division of the Department of Culture, Recreation and Youth would not amend their policy to accommodate his disability and qualify him to partake in a party license for big game.

Mr. Finn's decision noted that Mr. Rogers had been discriminated against on the basis of physical disability but he said the exclusion is based upon a bona fide qualification within the meaning of Section 7 (2) of the Code. No date has been set for the appeal.



## COMPLAINTS REFERRED FOR BOARD OF INQUIRY

1. Dr. Olga Aavik v. A. J. Ashbourne and Baie Verte Hospital Board

Allegation of harassment and sexual harassment. This complaint was filed with the Commission on May 6, 1988. It will be heard by W. J. Gallant on February 14, 15 and 16, 1990 in St. John's.

2. Lorraine Edwards v. Notre Dame Integrated School Board and Her Majesty The Queen In Right Of Newfoundland, Department of Education

Mrs. Edwards alleges discrimination in the provision of a service (education) on the basis of physical disability and mental disability. Bruce Winsor has been appointed to hear the matter. No date has been yet set.

3. P. W. MacMillan v. Catholic Education Council and Burin Peninsula Roman Catholic School Board

This complaint alleges discrimination in employment on the basis of religion. Wayne Thistle has been appointed to hear the matter. No date has yet been set for the hearing.

4. Anna Mary Foley v. The Waterford Hospital

Ms. Foley filed a complaint with the Commission in February 1988 alleging a job offer was withdrawn because a medical examination indicated that she had eczema on her hands. George Furey has been appointed to hear this complaint. No date has been set for the hearing.

5. Janice Murray v. Carmelite House

Ms. Murray filed a complaint with the Commission in February 1989 alleging discrimination on the basis of sex and/or marital status after her employment was terminated. Gillian Butler, Chief Adjudicator, will hear this complaint on February 13, 1990 in Grand Falls.

**THE HUMAN RIGHTS CODE, 1988.**

(Admission to Public Places,  
Services and Facilities)

— Religion

— Religious Creed

— Sex

### — Marital Status

### — Physical Disability

### — Mental Disability

### — Political Opinion

— Color or Ethnic

— National or Social Origin

## (Rental of Accommodations)

— Race

— Religion

— Religious Creed

— Sex

### — Marital Status

### — Physical Disability

### — Mental Disability

— Political Opinion

— Color or Ethnic

### — National or Social Origin

(Harassment of Occupant)

— Race

— Religion

— Religious Creed

— Sex

### — Marital Status

### — Physical Disability

### — Mental Disability

### — Political Opinion

— Color or Ethnic

— National or Social Origin

**Brought Forward**  
**1988**

**SECTION 10**

(Employment)

- Race
- Religion
- Religious Creed
- Sex
- Marital Status
- Physical Disability
- Mental Disability
- Political Opinion
- Color or Ethnic
- National or Social Origin
- Age

**SECTION 11**

(Attachment of Wages)

**SECTION 12**

(Equal pay for same or similar work)

**SECTION 13**

(Harassment in establishment)

- Race
- Religion
- Religious Creed
- Sex
- Marital Status
- Physical Disability
- Mental Disability
- Political Opinion
- Color or Ethnic
- National or Social Origin

**SECTION 14**

(Sexual Solicitation)

Brought Forward 1988	New Cases 1989	Settled	Withdrawn or Dismissed	Referred to other Agency	Did not meet time limitation	Referred for Board oard of Inquiry	Undisposed
2	2	1	1			1	1
2	16	5	5			1	7
1	6		3			1	3
5	16	2	7	2		1	9
1			1				
1			1				
	8		1				7
2	9		6				5
1	1		1				1
1	1	2					
1	10	5	3			1	2
	1		1				
1	1		1				1
2	3	2	1			1	1

NOTE: A complaint may include one or more alleged grounds of **discrimination**.

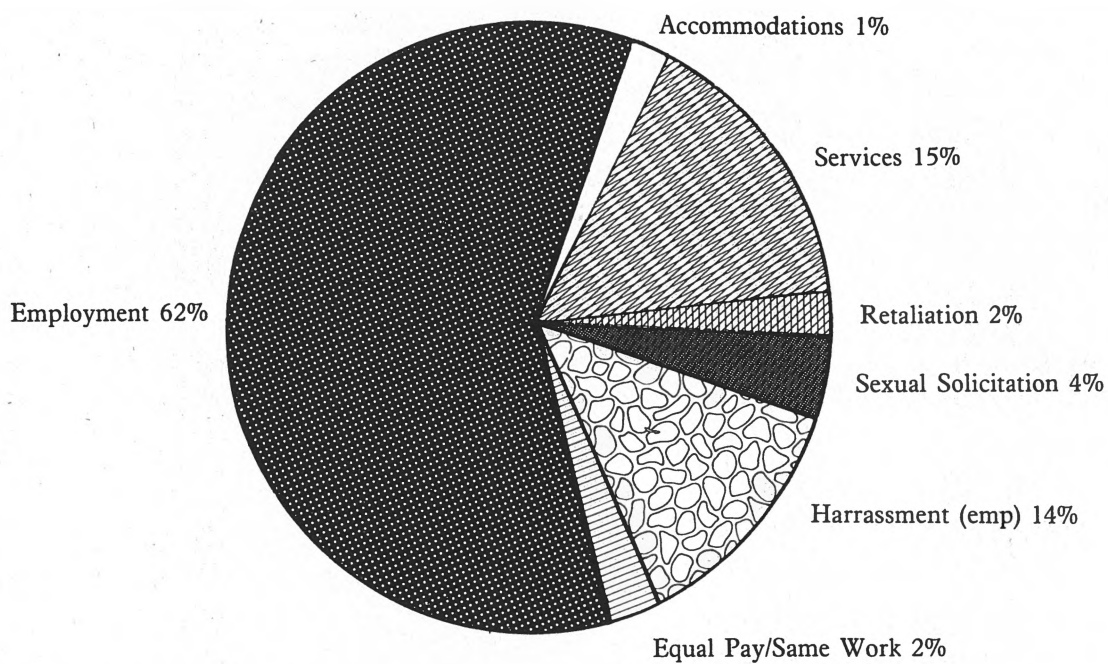
**SECTION 16**  
(Retaliation)

**TOTALS**

31		Brought Forward 1988
84	2	New Cases 1989
22		Settled
40	1	Withdrawn or Dismissed
2		Referred to other Agency
1		Did not meet time limitation
7		Referred for Board of Inquiry
38	1	Undisposed

**TOTAL FILES FOR 1989**  
(Including Transfers From 1988)

	Transfers from 1988	New cases 1989	Total files in Section	Percentage of total complaint
Section 7 (Services)	8	8	16	15
Section 8 (Accommodation)	1	0	1	1
Section 9 (Harassment of occupant)	0	0	0	0
Section 10 (Employment)	14	54	68	62
Section 11 (Attachment of Wages)	0	0	0	0
Section 12 (Equal pay for same or similar work)	1	1	2	2
Section 13 (Harassment in establishment)	3	12	15	14
Section 14 (Sexual Solicitation)	2	3	5	4
Section 16 (Retaliation)	0	2	2	2
Totals	29	80	109	100%



**COMPARISON OF FORMAL COMPLAINTS**  
**1985 - 1989**

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1989	80
1988	60
1987	75
1986	46
1985	28

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**NOTE:** In 1987, the 75 complaints included 18 separate complaints against the same respondent alleging harassment on the basis of sex. Domestic violence in a local motel were required to sign cards to be placed in guests' rooms which they thought were derogatory against women. Thus, there has been a steady increase in the number of complaints received over the past five years.



### **List of Publications Distributed by The Commission**

1. Office Consolidated copies of **The Human Rights Code, 1988**
2. Human Rights: A Guideline for Employers and Job Applicants.
3. **The Human Rights Code** - Questions and Answers.
4. Sexual Harassment in the Workplace.
5. Poster - "No one should be left out - Human Rights."
6. 1988 Annual Report (The Newfoundland Human Rights Commission)
7. Lapel pins with the Commission's logo.

The following VHS tape is available on loan:

1. The Charter and You: The Canadian Charter of Rights and Freedoms, VHS tape along with booklets. Produced by Confederation College. Time: 59 Minutes.

The Human Rights Commission has a small resource library and encourages students and interested individuals to use the facility.

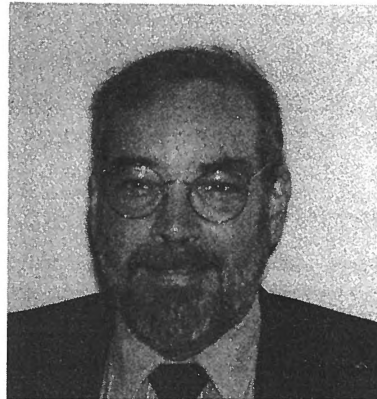
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