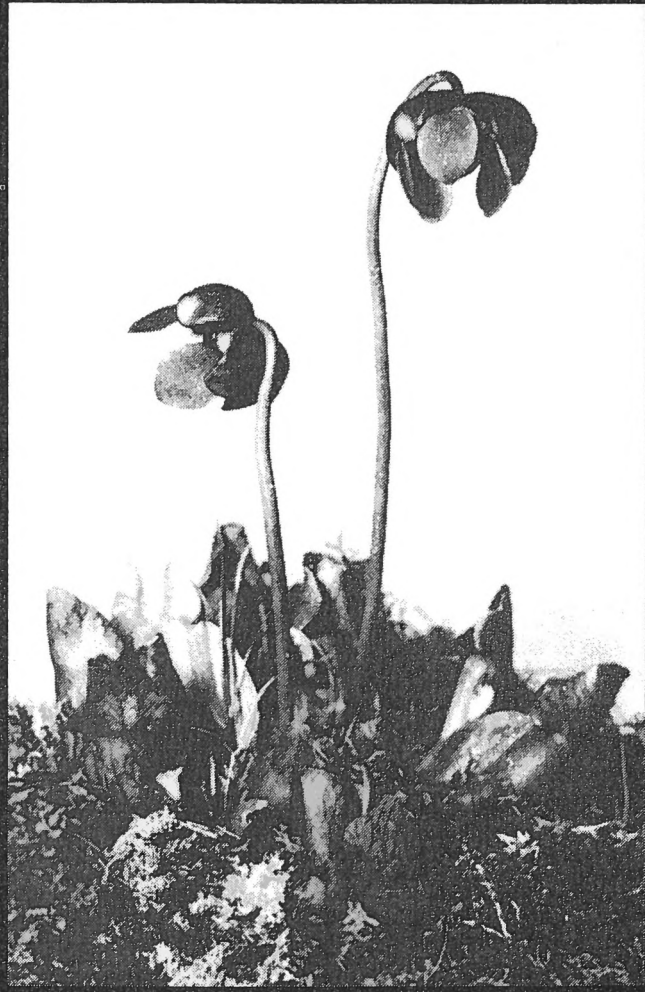


NEWFOUNDLAND
HUMAN RIGHTS
COMMISSION



ANNUAL REPORT 1990

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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 became a Queen's Counsel in 1989. She is a member of the Law Societies of Alberta and Newfoundland and the Canadian Bar Association. She is also contributing editor, Carswell's Practice Cases. Mrs. Roberts was a Director of Women's Legal Education and

Action Fund (LEAF) from 1985 to 1987 and Chairperson of Leaf Newfoundland and Labrador from 1987 to 1989. Mrs. Roberts was a Director of Lieutenant-Governor's Family Life Institute; a member of Terra Nova Chamber Players since 1985; and a member of St. John's YM-YWCA from 1986 to 1990. She is also a member of the Women's Network, as well as a member of Planned Parenthood. Her appointment is for a five year term.



E. JANE HOUSE, Vice-Chairperson

Jane House has a Bachelor of Arts (Psychology), a Master of Education in Educational Psychology, Guidance and Counselling from Memorial University of Newfoundland and a Master of Education (Deaf Education) from the University of Moncton. Ms. House is currently employed as a teacher at the Newfoundland School for the Deaf. Previously she was a guidance counsellor and social science instructor at the St. John's General

Hospital School of Nursing. Ms. House is involved in various professional and voluntary organizations including the Newfoundland Teachers' Association, the Newfoundland and Labrador Council of Educators of the Deaf, and the Association of Canadian Educators of the Hearing Impaired in which she has served a term as Regional Director from Newfoundland. She was also a founding member and served on the executive of the Newfoundland and Labrador Physically Handicapped Association and the Newfoundland Wheelchair Sports Association. Ms. House is presently involved in youth work at her church and is Chairperson and President of the Canadian Paraplegic Association, Newfoundland and Labrador, Inc. Ms. House was appointed for a four year term.



LINDA COLES

Linda Coles is a teacher presently employed by the Avalon Consolidated School Board, St. John's. Ms. Coles holds a B.A. (ED.), a B.A. and a Masters degree in Education from Memorial University of Newfoundland. She has also attended summer schools at Laval University in Quebec and Oxford University in England. Ms. Coles has served on a number of committees and working groups with the Department of Education and the Newfoundland

Teachers' Association, including the NTA Collective Bargaining Committee, Curriculum Committees, Education Week Committees, MUN - NTA Liaison Committee and various executive positions with Primary and Elementary Teachers' Councils and the St. John's Branch of the NTA. For the past three years she has been a member of the Communications and Publications Centennial Committee for the NTA and prior to that was the Provincial President of the Elementary Teachers' Special Interest Council. Ms. Coles has written and edited various publications and documents to be used for educational purposes including the script for the APEN Centennial Video for the Association of Professional Engineers, "Tickles the Clown" and "Susie's Visit to the Janeway" and "The Role of Play in Child Development." Ms. Coles has been appointed for a four year term.



ROBERT J. MERCER

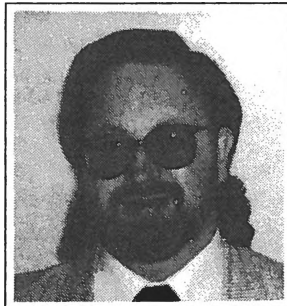
Robert J. Mercer is a graduate of St. Joseph's High School and St. Michael's College in St. George's, Newfoundland. He is also a graduate of General Motors Manpower Training Program and the Industrial Acceptance Corporation Financial Planning Program. Mr. Mercer is the owner, president and general manager of Bob Mercer Motors Limited in Corner Brook. He is also a member of General Motors Grand Sales Masters Club; West

Coast Interfaith Social Welfare Council; Royal Canadian Legion Branch #38; Knights of Columbus; and the Canadian Progress Club. Mr. Mercer has been appointed for a five year term.



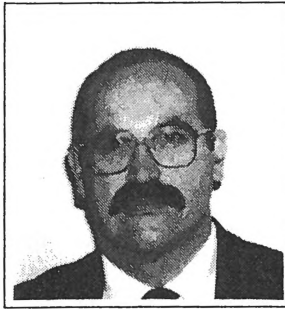
LORRAINE EDWARDS

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; past Chairperson of the Local Service District Committee of Stanhope; member of the Integration Committee for the 1990 Winter Games; member of Reye's Syndrome Foundation; and a member of Blissymbolics Association of Newfoundland and Labrador. Mrs. Edwards has a diploma from Lethbridge Community College in Program Designing for Children who are Handicapped. Presently Mrs. Edwards is employed as Business Manager of L & J Edwards, Plastering & Painting Co. Ltd. Mrs. Edwards has been appointed for a four year term.



BERT RIGGS

A native of Grand Bank, Bert Riggs is a graduate of Memorial University of Newfoundland with a Bachelor of Arts (Honours), Bachelor of Education and course work towards a Master of Arts degrees. In 1988 he completed an archivist training program at the National Archives of Canada and is presently employed as Archivist with the Centre for Newfoundland Studies at Memorial University of Newfoundland. He has been actively involved with the Newfoundland-Labrador Human Rights Association, a volunteer-based education and advocacy organization, since 1980, and served for a number of years on the Board of the Canadian Rights and Liberties Federation. He is Secretary-Treasurer of the Working Group on Child Sexual Abuse, Vice-President of the St. John's Folk Arts Council and President of the Association of Newfoundland and Labrador Archivists. He was appointed for a three year term.



CALVIN PATEY

Calvin Patey holds a Master in Education degree from Memorial University and is currently employed as Assistant Superintendent with the Labrador East Integrated School Board. He is a former member of the Newfoundland Teachers' Association and received the Association's Barnes Award for Professional Development in 1989. He is a past member and chair of the Melville Public Library Board; a co-ordinator of the Labrador Arts

Festival; regional co-ordinator of Children's Book Week and the National Book Festival; and chair of the Happy Valley/Goose Bay Arts Council. Mr. Patey has been appointed for a three year term.



WENDY WILLIAMS

Wendy Williams was appointed President of the Provincial Advisory Council on the Status of Women in January 1990. She had been a board member of the Council for the previous six years. Ms. Williams was elected to St. John's City Council in November 1990. Prior to these appointments Ms. Williams had worked as a registered nurse. She graduated from Memorial University of Newfoundland with a Bachelor of Nursing in 1971. In

1975 she returned to Memorial University and received a diploma in Family Practice Nursing. Ms. Williams has worked in a variety of community settings including: the public health nurse in Badger's Quay, a staff nurse with the V.O.N. in St. John's, a nurse in a camp for Jewish Children in Sudbury, Ontario, as well as clinic coordinator at Planned Parenthood Birth Control and Counselling Clinic. For two years she ran her own nursing practice which included working with individuals and groups. Ms. Williams' volunteer work has been at both the national and local level. She was chair of the Time Capsule Committee of the Newfoundland Historic Trust and chair of the Board of Iris Kirby House for battered women and their children. While Vice President of the National Action Committee on the Status of Women, Ms. Williams chaired their Health Committee. As a result of this work she was asked to be a member of a National Advisory Panel on Women and the Pharmaceutical Industry. She is a founding member of Newfoundland and Labrador AIDS Committee. She is married to Gordon Higgins, a general practitioner with an interest in acupuncture. Their two sons, Christopher, age 12 attends Macpherson Junior High and Billy, age 10, MacDonald Drive Elementary School.

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 in 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 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 may 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.

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

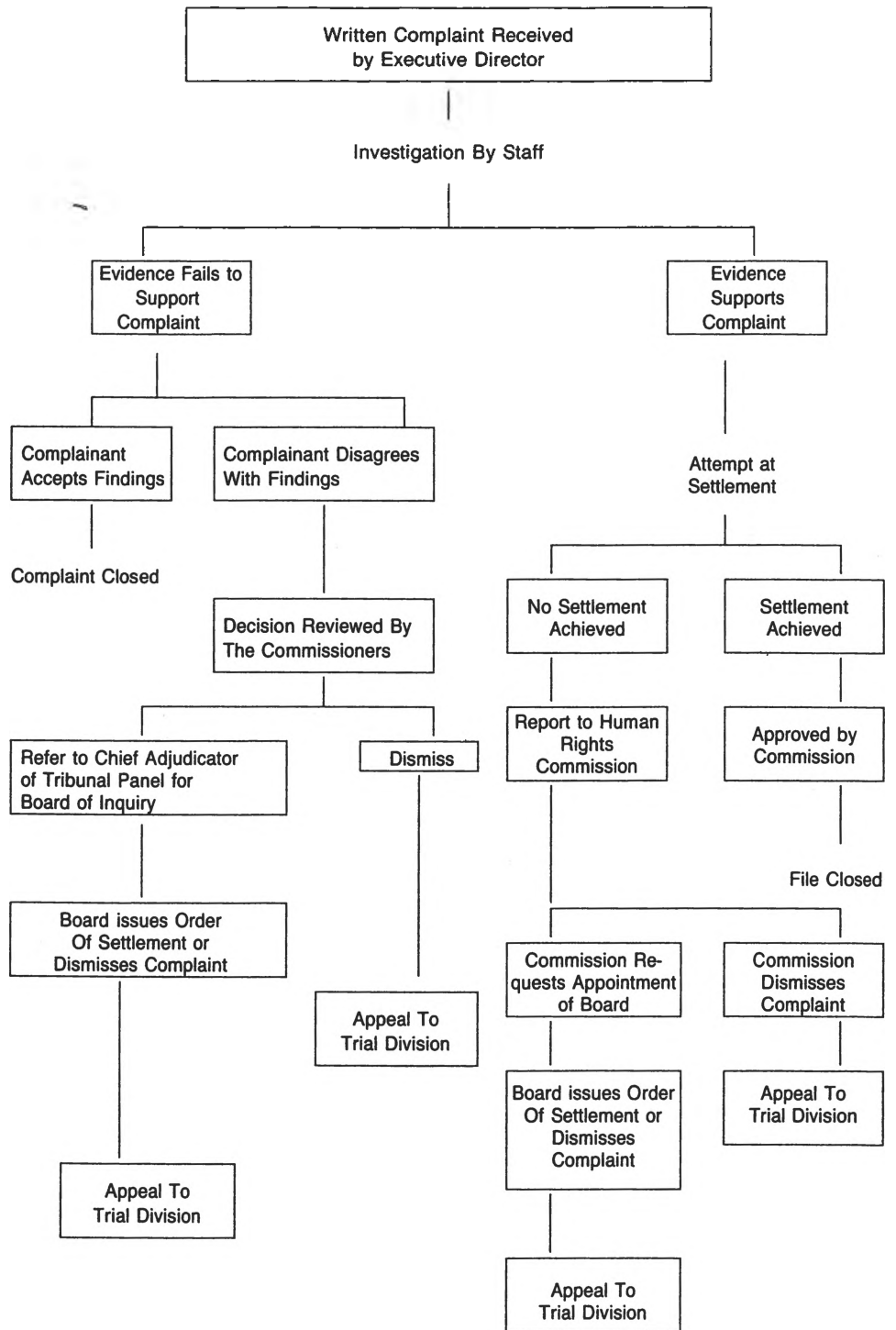
The Commission may publish an order, reasons for an order or recommendations of a Board of Inquiry.

WHERE TO FILE A COMPLAINT

Executive Director

~ Newfoundland Human Rights Commission
P. O. Box 8700, St. John's, Newfoundland, A1B 4J6
(709) 729-2709, 729-5812
Toll Free 1-800-563-5808, Fax (709) 729-0790

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, eg., 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: 729-2709 Toll Free: 1-800-563-5808

ISSUES OF INTEREST

HARASSMENT

Section 13 of **The Human Rights Code, 1988** states:

“No person in an establishment shall harass another person in the establishment because of the race, religion, religious creed, sex, marital status, physical disability, mental disability, political opinion, colour or ethnic, national or social origin of that person.”

The following are a few tips for preventing harassment of minority groups in the workplace:

HOW TO . . .

Prevent Harassment in the Workplace

1. **DO** remember that more than just sexual harassment is a contravention of human rights legislation. Prohibited harassing activity can include racial harassment, racial slurs, harassment based on disability, or pressure to convert to a certain religion.
2. **DO NOT** condone a “poisoned atmosphere” at your workplace, even if no one seems to mind. An atmosphere can become poisoned for members of minorities because of posters, racial slurs, name calling and jokes directed at certain groups.
3. **DO** take seriously any complaints you receive from employees who are members of minority groups. **DO NOT** tell the employee to simply grin and bear it.
4. **DO** fully investigate the complaints or allegations you receive.
5. **DO** follow up on the employee’s complaint, get back to the employee to ensure that the matter has been corrected and let the employee know that you responded to the complaint. Try to prevent a recurrence of the activity.
6. **DO** check the physical environment in which your employees work to see what kind of posters are present, what kind of name-calling takes place, what type of joking occurs, what kind of graffiti is found on the walls and what kind of stickers are present.
7. **DO** educate your leadhands, supervisors and managers to ensure that they are also sensitive to racial, sexual, religious and other harassment. Ensure that they are instructed on how to deal with such complaints, as well as how to deal with situations that come to their attention in the absence of a complaint.
8. **DO** ensure that employees know that they can complain to someone in confidence if they are affected by such harassment — for example, you may have an open-door policy or a formal written human rights complaint procedure.

9. **DO NOT** provide corporate sponsorship of employee events which could be discriminatory or create very uncomfortable situations for members of certain minorities.
10. **DO** document the preventive measures you take as well as the steps you take following any complaints received and where necessary the discipline meted out to an harasser.

COURT RULES DISCRIMINATION ON THE BASIS OF PREGNANCY IS DISCRIMINATION ON THE BASIS OF SEX

In May 1989 the Supreme Court of Canada brought down a decision in the case of *Brooks et al v. Canada Safeway Limited* which may have an impact on the payment of disability benefits to women on maternity leave. Certainly, it has caused many employers to re-evaluate their current maternity leave provisions.

Background

Having been denied disability benefits while they were pregnant, three female employees of Canada Safeway Limited brought a complaint against their employer to the Manitoba Human Rights Commission. The women had been denied disability benefits because of a provision in the company's group benefits plan which stated that no benefits would be payable during a 17-week period, the ten weeks prior to and the six weeks after delivery. This meant that during the 17-week period, pregnant employees of Safeway who suffered from an ailment totally unrelated to pregnancy were not entitled to any compensation under their group insurance plan.

The Ruling

The Supreme Court ruled that the provision in Canada Safeway's plan was discrimination on the basis of pregnancy and sex, and as a consequence, it was in contravention to the *Manitoba Human Rights Act*. In a unanimous judgment, Chief Justice Dickson stated:

"Pregnancy while not properly characterized as a sickness or as an accident, is a valid health-related reason in our society for absence from work and as such should not have been excluded from the respondent's plan. The respondent's plan is designed to compensate employees who are absent from work for health related reasons. Further, in distinguishing pregnancy from all other health related reasons for not working, the plan imposed unfair disadvantages on pregnant women. Everyone in society benefits from procreation but one of its major costs is placed, under this plan, on one group in society — pregnant women . . . [Moreover] pregnancy discrimination is a form of sex discrimination simply because of the basic biological fact that only women have the capacity to become pregnant. . . Those who bear children and benefit society as a whole should not be economically or socially disadvantaged. It is thus un-

fair to impose all of the costs of pregnancy upon one half of the population.”

As a consequence of this decision, benefit plan and actuarial consultants are advising employers to re-examine their policies with respect to maternity leave in order to ensure that women on maternity leave are treated no less favourably than staff who are on other types of leave.

AMENDMENT TO SECTION 7 OF THE HUMAN RIGHTS CODE, 1988

The proposed amendment to section 7 of **The Human Rights Code, 1988** received Royal Assent on December 7, 1990. The amendment is as follows:

1. (1) Subsection (1) of section 7 of **The Human Rights Code, 1988** is repealed and the following substituted:

“Fair Access to Services

7.(1) No person shall deny to or discriminate against a person or class of persons with respect to accommodation, services, facilities or goods to which members of the public customarily have access or which are customarily offered to the public because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability or mental disability of that person or class of persons.”

(2) Subsection (2) of section 7 of the Act is amended by deleting the phrase “as determined by the Commission”.

(3) Section 7 of the Act is further amended by adding immediately after subsection (2) the following:

“(3) Subsection (1) does not apply

- (a) to accommodation in a private residence;
- (b) to the exclusion of a person because of that person’s sex from accommodation, services or facilities upon the ground of public decency;
- (c) to accommodation where sex is a reasonable criterion for admission to the accommodation;
- (d) to a restriction on membership on the basis of a prohibited ground of discrimination, in a religious, philanthropic, educational, fraternal, sororial or social organization that is primarily engaged in serving the interests of a group of persons identified by that prohibited ground of discrimination; or

(e) to other situations where a bona fide reason exists for the denial of or discrimination with respect to accommodation, services, facilities or goods.

(4) Notwithstanding paragraph (a) of subsection (3), subsection (1) shall apply to a private residence that offers a bed and breakfast accommodation for pay.

(5) For the purposes of this section "accommodation, services, facilities or goods to which members of the public customarily have access or which are customarily offered to the public" shall include accommodation, services, facilities or goods which are restricted to a certain segment of the public".

This amendment to section 7 will now allow the Human Rights Commission to accept complaints against insurance companies, provided the complaints are made under the prohibited grounds of the Code. Prior to the amendment, a Supreme Court decision stated that insurance was not considered a service within the meaning of section 7.

ADVERSE EFFECT DISCRIMINATION

The following is an excerpt from the Canadian Human Rights Reporter, December 1990 edition:

"The Supreme Court ruled that Central Alberta Dairy Pool discriminated against an employee by failing to accommodate his need to be absent from work on Easter Monday in order to respect his religious faith.

Jim Christie was an employee of the Dairy Pool who became a prospective member of the World Wide Church of God. The Church recognizes a Saturday sabbath and ten other holy days throughout the year. Members of the Church are expected not to work on these days. Mr. Christie asked his employer for permission to take unpaid leave on Monday April 4, 1983 because this was a holy day in his Church. He was denied leave because Mondays were especially busy days at the Dairy Pool. When he was absent on April 4 without permission, his employment was terminated.

The Board of Inquiry ruled Mr. Christie was discriminated against because his religious faith had not been accommodated. However, this decision was overturned by the Alberta Court of Queen's Bench and the Alberta Court of Appeal. These courts, relying on the Supreme Court of Canada's decision in *Bhinder*, decided that regular attendance at work was a *bona fide* occupational requirement (BFOR) and, consequently, the employer had no duty to accommodate Mr. Christie.

The majority of the Supreme Court of Canada repudiated, in part, its decision in *Bhinder*. It found that the defence of *bona fide* occupational

requirement must be approached differently depending on whether the discrimination occurs directly or through adverse effect.

To use the BFOR defence successfully, an employer must show that there was no reasonable alternative to the impugned rule which would not cause undue hardship to the employer. If an employer fails to provide an explanation as to why individual accommodation cannot be accomplished without undue hardship, this will ordinarily result in a finding that the duty to accommodate has not been discharged, and therefore that the BFOR has not been established. In the case of direct discrimination, the majority upholds *Bhinder*. It finds that where an employment rule discriminates directly, and where the rule is found to be a BFOR, there is no duty on the employer to accommodate. However, where an employment rule that is a *bona fide* requirement has an adverse effect on an individual because of his religion or some other ground, then the employer has a duty to accommodate that individual to the point of undue hardship.

The majority found that Mr. Christie was discriminated against because of his religion and that the employer failed to accommodate him.

In a minority judgment three members of the Court agree with this disposition, but gave different reasons for their finding. They reasoned that the duty to accommodate must be read into the defence of BFOR whether the *bona fide* requirement discriminated directly or through adverse effect.

The appeal was allowed by all members of the Court and the decision of the original Board of Inquiry is restored."

Reprinted from (1990), 12 C.H.R.R. i

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.

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

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.

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 1990 are given here, as are some examples of dismissed complaints.

EXAMPLES OF SETTLED COMPLAINTS

Areas of Employment (Section 10)

(1) Ground: Sex

Two women complained to the Human Rights Commission alleging discrimination on the basis of sex after they were referred by the Canada Employment and Immigration Commission for interviews for the position of clerk in a Jewellery Store. Upon arrival at the store they were told by the manager they would not be interviewed because they were women and the owners/operators wanted to hire a man because the job required heavy lifting, shovelling snow, cleaning windows, etc. A man was hired for the position. Neither of the complainants wanted the man removed from the job (even though one was more qualified) but accepted, as settlement of their complaints, a guarantee that their resumes would be held on file for any future positions that might become available, and letters of apology from the owner and the manager. Time was spent with the manager explaining the Human Rights Code as it pertains to employment.

(2) Ground: Sex

A woman applied for one of several positions with an industrial firm. She was qualified and felt she should have been hired for one of the positions. She was the only female who applied and when she did not get one of the jobs she felt it was because of her sex. Upon investigation it was discovered that this woman presented herself well during the interview and scored in the upper quadrant of the group. The company hired the other applicants because they scored higher in the interviews and had more extensive work related experience and qualifications. The company was not

discriminatory and the complainant was satisfied with the outcome of the investigation and withdrew her complaint. The company offered to interview her again during the next set of interviews but she had decided to return to school and commence further training.

(3) Ground: Physical Disability

A nurse who was assaulted while on duty and had suffered serious back and neck injuries as a result, filed a complaint with the Commission. She stated that during the period she was off work because of her injuries (approximately 4 - 5 years), in addition to receiving medical treatment, she upgraded her education at Memorial University. She alleges that when it came time for her to return to work she was denied the opportunity to work by her employer because she had some limitations or restrictions with respect to lifting patients. The investigation revealed that the complainant understood that she would not be rehired as a Nurse 1 and consequently felt she could only apply for management positions. The hospital in question felt that the complainant was only interested in management positions and these she would have to win through competition. When the confusion was cleared up, the complainant was given the opportunity to return to work on the Ease-Back Program. The Hospital requested a medical certificate stating that she was medically fit to return to nursing and also a letter of recommendation from her doctor as to what she was best suited to do. The complainant was pleased with this conclusion.

(4) Ground: Marital Status

A man complained that he had been forced to leave his job as divisional manager in a retail store because he had a common-law relationship with another member of the staff and this was considered contravention of store policy. This policy, although not written in a specific mandate, was known to exist and allegedly forbade such close relationships between the staff. As a result of the investigation by the Commission, the respondent offered the complainant \$8,500.00 in lieu of notice; revenue of \$3,000.00; a letter of reference based on the complainant's work history (prior to his making the complaint); and the destruction of his personal file. The complainant accepted this settlement.

(5) Ground: Physical Disability

A woman was awarded the position of telephone operator with a local company. Upon receiving a work related medical it was discovered that she had a hearing impairment and wore a hearing aid. The job offer was withdrawn but she was advised that the company would try to find her an alternate position with the company. During the investigation it was discovered that the company came under the jurisdiction of the Federal Human Rights Commission. The company agreed to conciliate without an admission of liability. The facts of the complaint were not disputed. The company did take the position that the complainant's hearing ability did not meet

the level of requirement to work as an operator. The complaint was settled when the complainant accepted a clerical position at a higher rate of pay.

Area of Service (Section 7)

(1) Ground: Religious Creed

In early 1990 a woman filed a complaint with the Commission alleging that her son was denied the opportunity to register at a denominational school operated by one of the churches because he was not of that particular faith. The child's older brother was already in attendance at this specific school. An investigation revealed that the policy of the School Board for this particular school stated that if one child of a particular faith is already within the school system then, regardless of space, a sibling should also be admitted. The complaint was successfully resolved when the boy was accepted into the school for 1990 - 1991 school year.

(2) Ground: Marital Status

A woman in rural Newfoundland filed a complaint alleging that she was being discriminated against by the owner/operator of a local grocery store on the basis of marital status. The complainant alleged that she was prohibited from shopping in the respondent's store because her husband worked for his competitor and the respondent believed she was telling her husband the prices in his store. The complaint was settled with the respondent agreeing to allow the complainant to shop in his store and a written apology for his discriminatory actions.

(3) Ground: Religion

The complainant, wife of a clergyman, alleged that when she tried to hire a cleaning company to clean her carpets, she was refused the service because the owner of the company was of another faith. The respondent believed he would be violating the precepts of his religion by doing work in the home of the complainant. The investigation revealed that the respondent felt he had been unnecessarily rigid and was willing to apologize to the complainant and provide the service if she so desired. The complainant no longer needed the services of the respondent but wanted the respondent to be aware of the human rights legislation and that if he was offering a service to the public, then the public should be able to avail of the particular service without fear of religious prejudice. The complainant accepted the apology of the respondent.

EXAMPLES OF DISMISSED COMPLAINTS

Harassment (Section 13)

Sexual Solicitation (Section 14)

(1) Ground: Sex & Sexual Solicitation

A woman complained that she had been harassed in employment on the basis of sex and alleges she had been subjected to sexual solicitation. She alleged that her employer made sexual overtures toward her, e.g. propositioning her to sleep with him, kissing her neck, patting her buttocks, etc. She further stated that he promised her a new position in return for sexual favours. The investigation could not substantiate the allegations made by the complainant. It did reveal that the complaint had been made in bad faith and that sexual comments had been made to the respondent by the complainant. The complaint was dismissed.

Employment (Section 10)

(1) Ground: Ethnic Origin/Political Opinion/Marital Status

A male filed a complaint alleging that he was discriminated against during an employment interview. He stated that during the interview he was asked discriminatory questions and a job related questionnaire solicited answers regarding his racial origin, political opinion and marital status. The investigation revealed that the questions on the questionnaire did not violate Section 10 of the Human Rights Code either with reference to marital status or political opinion. With respect to his complaint of ethnic origin, the respondent admitted he may have asked, out of curiosity, as the complainant's name was unusual for this province. The complainant did not get the job because he was unsuitable. The case was dismissed because the allegations could not be substantiated.

Area of Services (Section 7)

Ground: Physical and Mental Disability

A couple alleged that their son, who is physically and mentally handicapped, had been forced to leave school for seven weeks. The investigation revealed that the boy was not expelled from school but suspended, pending a medical assessment. The boy's behaviour had changed drastically from the year before and the school requested an assessment to determine if it was due to a medical problem. It was discovered that the boy was suffering from a reaction to new medication. The child was returned to school. Other problems related to the specific needs of this special needs child were discussed with the school board officials, teachers and parents. Because it was determined that everyone was doing their best for the child, the case was dismissed.

EXAMPLES OF ONGOING COMPLAINTS

Area of Employment (Section 10)

(1) Ground: Age

A male alleged that he was denied a position as a driver because of his age — 22 years. The respondent alleged that age was a bona fide occupa-

tional qualification for this position. The investigation is ongoing.

(2) Ground: Marital Status and Discrimination in Pay

A woman filed a complaint with the Commission alleging that she was discriminated against because of her sex. She alleges that while she was co-divisional manager of a large retail store a male counterpart held a similar position but earned \$60.00 per week more than she did.

The woman further alleges that she had to resign her position due to stress associated with the dismissal of her common-law spouse who worked at the same establishment. This retail store had implemented a new store policy prohibiting married couples from working together. The investigation appears to substantiate her allegations and settlement negotiations are ongoing.

Sexual Harassment (Section 13)

(1) A woman alleged she was forced to leave her place of employment because of the constant sexual advances made by her employer (manager). The investigation is 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. The appeal was heard on September 28, 1990, in the Supreme Court. A decision has not yet been handed down in this matter.

EXAMPLE OF COMPLAINTS SETTLED BY BOARD OF INQUIRY

Area of Employment (Section 10)

(1) Ground: Sex and/or Marital Status

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. This case was heard by Gillian Butler, Chief Adjudicator, on February 13, 1990, at Grand Falls. Ms. Murray was awarded the sum of \$5,000.00 when Ms. Butler found Ms. Murray to have been discriminated against on the basis of sex.

COMPLAINTS REFERRED FOR BOARDS OF INQUIRY

1. Janet Bradley v. C. Ryder and Ryder Enterprises Limited

Allegation of discrimination based on physical disability. This complaint was filed with the Human Rights Commission on July 11, 1989. A date has yet to be set for this Board of Inquiry.

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. The Board of Inquiry has been scheduled for April 16 and 17, 1991, at the Brittany Inn, Lewisporte.

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. One date has been cancelled and no new date has yet been set.

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. One date has been cancelled and no new date has yet been set.

5. Paul Matthews v. Memorial University of Newfoundland and the Faculty of Medicine

The complainant, a fourth year medical student at the time of filing the complaint in September 1989, alleges he was harassed by doctors responsible for his performance evaluation because of a speech impediment. The hearing took place on November 27 and 28, 1990. Glenda Best was appointed by the Chief Adjudicator to hear this complaint. A decision has not yet been received by the Commission.

**COMPLAINTS INVESTIGATED ACCORDING TO GROUNDS OF
DISCRIMINATION IN 1990 UNDER
THE HUMAN RIGHTS CODE, 1988.**

	Brought Forward 1989	New Cases 1990	Settled	Withdrawn or Dismissed	Referred to other Agency	Did not meet time limitation	Referred for Board of Inquiry	Undisposed
SECTION 7								
(Admission to Public Places, Services and Facilities)								
— Race								
— Religion		2	2					
— Religious Creed								
— Sex	2	1	1	2				
— Marital Status	2	4		2	2			2
— Physical Disability	1	3	3					1
— Mental Disability								
— Political Opinion								
— Color or Ethnic								
— National or Social Origin								
SECTION 8								
(Rental of Accommodations)								
— Race								
— Religion								
— Religious Creed								
— Sex								
— Marital Status		1						1
— Physical Disability								
— Mental Disability								
— Political Opinion								
— Color or Ethnic								
— National or Social Origin								

**COMPLAINTS INVESTIGATED ACCORDING TO GROUNDS OF
DISCRIMINATION IN 1990 UNDER
THE HUMAN RIGHTS CODE, 1988 (continued).**

	Brought Forward 1989	New Cases 1990	Settled	Withdrawn or Dismissed	Referred to other Agency	Did not meet time limitation	Referred for Board of Inquiry	Undisposed
SECTION 9								
(Harassment of Occupant)								
— Race								
— Religion								
— Religious Creed								
— Sex								
— Marital Status								
— Physical Disability								
— Mental Disability								
— Political Opinion								
— Color or Ethnic								
— National or Social Origin								
SECTION 10								
(Employment)								
— Race								
— Religion	1	3	2	2				
— Religious Creed								
— Sex	7	9	4	8				4
— Marital Status	3	4	1	4				2
— Physical Disability	10	17	7	10			2	8
— Mental Disability		5		2				3
— Political Opinion								
— Color or Ethnic		1						1
— National or Social Origin	7			7				
— Age	5	3		5	2			1
— Discriminatory Applications		2	2					

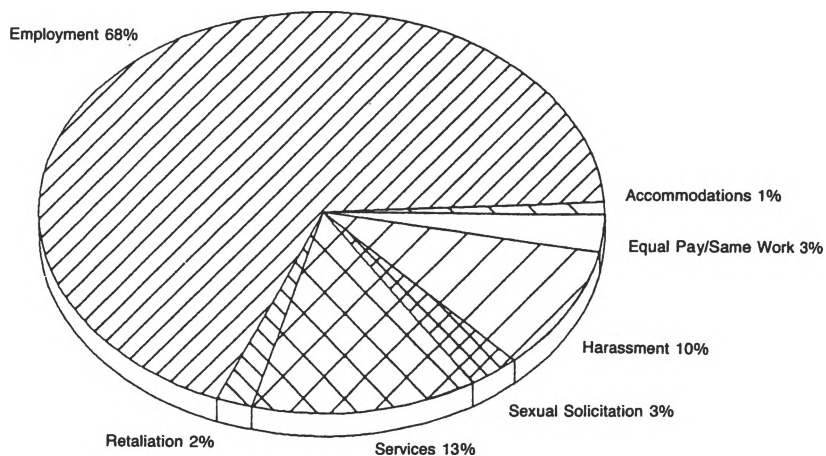
**COMPLAINTS INVESTIGATED ACCORDING TO GROUNDS OF
DISCRIMINATION IN 1990 UNDER
THE HUMAN RIGHTS CODE, 1988 (continued).**

	Brought Forward 1989	New Cases 1990	Settled	Withdrawn or Dismissed	Referred to other Agency	Did not meet time limitation	Referred for Board of Inquiry	Undisposed
SECTION 11 (Attachment of Wages)								
SECTION 12 (Equal pay for same or similar work)	1	3		2				2
SECTION 13 (Harassment in establishment)								
— Race								
— Religion		1		1				
— Religious Creed								
— Sex	2	2		1				3
— Marital Status								
— Physical Disability	1	4	2					3
— Mental Disability								
— Political Opinion								
— Color or Ethnic		1						1
— National or Social Origin								
SECTION 14 (Sexual Solicitation)	1	2		2				1
SECTION 16 (Retaliation)	1	1		1				1
TOTALS	44	69	24	49	4	0	2	34

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

TOTAL FILES FOR 1990
(Including Transfers From 1989)

	Transfers from 1989	New cases 1990	Total files in Section	Percentage of total complaints
Section 7 (Services)	5	10	15	13%
Section 8 (Accommodation)	0	1	1	1%
Section 9 (Harassment of Occupant)	0	0	0	0%
Section 10 (Employment)	33	44	77	68%
Section 11 (Attachment of Wages)	0	0	0	0%
Section 12 (Equal pay for same or similar work)	1	3	4	3%
Section 13 (Harassment in establishment)	3	8	11	10%
Section 14 (Sexual Solicitation)	1	2	3	3%
Section 16 (Retaliation)	1	1	2	2%
Totals	44	69	113	100%



LIST OF PUBLICATIONS DISTRIBUTED BY THE COMMISSION

1. Office Consolidated copies of **The Human Rights Code, 1988**
2. **HUMAN RIGHTS: An Employer's Guide To The Human Rights Code**
3. Pamphlets:
 - Sexual Harassment in the Workplace
 - Sexual Harassment in the Schools/University
 - Guideline For Employers and Job Applicants
 - The Human Rights Code, 1988: Our Provincial Law Against Discrimination — Questions and Answers
4. Posters:
 - No One Should Be Left Out — Human Rights
 - Give People A Chance In Life
5. 1989 Annual Report
6. Lapel Pins with the Commission's logo

The following VHS tapes are available on loan:

1. The Charter and You: The Canadian Charter of Rights and Freedoms
2. Sexual Harassment: Sexual Harassment on Campus

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

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EXECUTIVE DIRECTOR

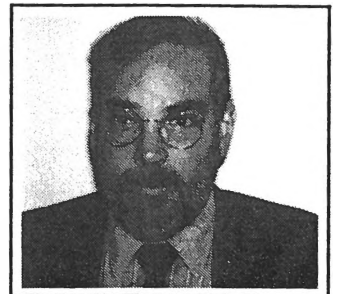


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