



FINAL ARGUMENT

-Robert Metz

(**Robert Metz** is a founding member and president of **Freedom Party**. The following essay is an edited version of his final argument before an **Ontario Human Rights Commission Board of Inquiry**. The board was investigating an alleged "racist" comment made by **London landlord Elijah Elieff** in reference to Asian tenants occupying his buildings on Cheyenne Avenue. An official complaint against the landlord was filed with the Human Rights Commission by **Chippeng Hom**, a Cambodian tenant who was recruited by **Rev. Susan Eagle** for the task. Hom was represented by **Geraldine Sanson** who was appointed by the Human Rights Commission at taxpayer expense to do so. Since the respondent, Mr. Elieff, was not accorded the same privilege, Metz volunteered to represent the landlord after the fourth day of hearings by the board. Full coverage of the background details of this tragic miscarriage of justice have been published in past issues of **FP's** newsletter, **Freedom Flyer** (one of which was banned by the Board of Inquiry!), and are available to the reader on request. The following argument was presented by Metz (who is not a lawyer) on September 28, 1993 to Board of Inquiry chairperson **Ajit John** who, as a member of the Law Society for Upper Canada, was appointed to hear the case by the Human Rights Commission. Though the board was obligated to render a decision by the end of October 1993, as of this writing there has still been no decision handed down. Bracketed references throughout the text refer to the transcripts of the hearings.)

WITHOUT PREJUDICE:

Before I begin, I think it only fair to open with a few comments relating to my own personal involvement with this Board of Inquiry hearing --- both as an individual who has agreed to represent Mr. Elieff, and as a representative of the Freedom Party of Ontario, which is an officially-registered Ontario political party.

I believe that these comments are necessary, as they bear upon this hearing heavily. I would put it to you that the forces that ultimately brought me here were the very same forces that brought Mr. Elieff here. As a consequence, I have some severe criticisms to make, not only about the specific chain of events that have transpired thus far, but also about the PROCESS, POWERS, LEGAL JUSTIFICATIONS, and VERY NATURE of this Board of Inquiry, and indeed, the HUMAN RIGHTS COMMISSION itself.

I wish to preface my comments with the clear understanding that they are being made WITHOUT PREJUDICE towards any specific individuals personally involved with the process of this hearing --- that I have the utmost respect for all involved.

As you know, I have not represented Mr. Elieff from the beginning of these hearings. In fact, when these hearings began, I was only vaguely aware of a man called Elijah Elieff and of his predicament with his Cheyenne Ave. apartment buildings.

My interest in this case began as a secondary by-product of my interest in the Human Rights Commission itself. In April of 1992, I had the opportunity to address the ONTARIO HUMAN RIGHTS CODE

REVIEW TASK FORCE, known also as the Cornish Commission. The task force was investigating the enforceability of SYSTEMIC DISCRIMINATION, the concept of bypassing an investigation of any specific events leading to a Human Rights complaint in favour of being able to legislate and order remedies on the basis of racial and ethnic STATISTICS as they would apply to EMPLOYERS, LANDLORDS, and SERVICE PROVIDERS.

I was most disturbed with the recommendations that came out of this task force. Among them were the establishment of tribunals with the "power to make rules and procedures", that "will not be bound to follow strict legal precedent", that would have "the power to compel evidence", and would have "exclusive jurisdiction... to determine all questions of fact or law", and would be allowed to accept evidence "whether it is allowed as evidence in a court or not".

These tribunals, it was recommended, should, "where a business is sold, have the discretion to add successor businesses as necessary parties and to make any necessary order against them." The tribunals should have the "power to amend claims", eliminate "a full appeal right", and have "no requirement to record evidence." Worst of all, it was recommended that, apart from its own power to reconsider, "the Tribunal's decision should be final and protected from review from the courts."

These recommendations, Mr. Chairperson, which are only a few of the 88 specific recommendations made by the task force, WERE TO BE FULLY IMPLEMENTED BY SEPTEMBER 30, 1993.

IT IS NOW SEPTEMBER 28, and I would suggest to you that many, if not all, of these arbitrary and utterly unjustifiable powers are already

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To those who consent, no injustice is done

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fully entrenched in the proceedings I have been witness to and participated in, and that Mr. Elieff has been made a victim of a process that he could not possibly have understood or prepared himself for.

I know this now, but I did not know this when I first attended the third day's hearings where --- AS A SPECTATOR --- I found myself being ASKED TO IDENTIFY MYSELF, AND THE GROUP I REPRESENTED, FOR THE RECORD BEFORE THIS BOARD. Curiously, many other spectators who attended the hearings were never asked to identify themselves. While this may not be unusual, I was surprised.

No less was I surprised when I awoke the next morning to read, in the pages of the London Free Press, a headline reading "London landlord finds fans in Freedom Party" (which is among the exhibits submitted to this board), and which reported that I and the political party I represent had "PLANS TO TURN LONDON LANDLORD ELIJAH ELIEFF INTO A SYMBOL OF THEIR CAMPAIGN TO PROMOTE THE RIGHT TO DISCRIMINATE."

Since we had no such plans, and no such campaign (and my subsequent letter to the editor which was published in the London Free Press made that point very clear), I could only conclude that the London Free Press, in some way, felt threatened by the fact that we might find out more about this case than we could otherwise learn from reading the pages of the London Free Press.

So it was, that nearing the end of DAY FOUR of these hearings (when I was still attending as a spectator), I happened to pass Hank Daniszewski (the London Free Press reporter who wrote the article) in the hall and asked him: How was it possible, in view of the fact that virtually every witness called by Mr. Elieff the previous day had recounted the involvement and tactics of Susan Eagle, that his Dec 29/92 coverage of that day's hearings did not even mention this once?

His less-than-candid and somewhat embarrassed reply told me more than I'm sure he wanted me to know.

It was at this point that I first began entertaining the possibility of representing Mr. Elieff, since by this time I was convinced that something was afoot, and that clearly (to me, at least) Mr. Elieff was not aware of what was happening to him. His attention was, after all, focused on dealing with the particulars of a SINGLE COMPLAINT filed against him, while the REAL nature of the COLLECTIVE ACTION being taken against him, and his vulnerability to this action, went unnoticed by all.

So it is that I find myself before you today, after representing Mr. Elieff for six of the ten days of the filing of evidence, in the unenviable position of having to present my arguments before the very Board whose AUTHORITY AND BIAS I am forced to address, before certain members of the MEDIA whose OBJECTIVITY I must challenge, before the COMPLAINANT and other witnesses whose CREDIBILITY I must challenge, and ultimately, before the RESPONDENT, who must rely upon my arguments and the decision of this board to have the record set straight regarding this matter in his favour.

OUR CASE:

With these considerations in mind, I intend to argue the following on behalf of Mr. Elieff:

"I find myself in the unenviable position of having to present my arguments before the very Board whose authority and bias I am forced to address..."

1. THAT THE COMPLAINT filed against Mr. Elieff by Chippeng Hom IS NOT ONLY UNFOUNDED, BUT TRIVIAL, FRIVOLOUS, and VEXATIOUS;

2. That the BASIS of the complaint was generated by an ARTICLE printed in the LONDON FREE PRESS, which MISLEADINGLY IMPLIED that Elieff's comment regarding destructive and irresponsible behaviour at his Cheyenne Ave. apartments constituted a racial attitude.

3. That the PURPOSE of the complaint filed against Mr. Elieff was to create an environment of moral justification for the LOBBY EFFORT directed against him by SUSAN EAGLE, and to deflect his attention from her ultimate objective: control or ownership of his Cheyenne Ave apartment buildings.

DENNIS BY HANK KETCHAM



"Do all fairy tales begin with 'Once upon a time'?" "No, some begin with 'If I am elected.'"

4. That the CONTINUAL PERSONAL HARASSMENT of Mr. Elieff BY SUSAN EAGLE and the NEGATIVE, BIASED AND INACCURATE PUBLICITY given by THE LONDON FREE PRESS to Mr. Elieff is all part of a campaign designed to justify to provincial and municipal governments --- and the public --- that they should fund SUSAN EAGLE's dream of a government-funded co-op housing project. (See Oct. 29/91 London Free Press & S. Eagle's Speaker's Corner & Free Press editorials.)

5. That a SYSTEMIC EVASION of dealing with the direct responsibility that TENANTS have had in the continued conditions at the Cheyenne Ave. apartment buildings is PREJUDICED to Mr. Elieff's defence not only before this Board of Inquiry, but also before the municipality, health department officials, the London Free Press, and ultimately, the general public.

6. That the campaign against Mr. Elieff is a COLDLY-CALCULATED, WELL-ORCHESTRATED LOBBY EFFORT, which has included DIRECT PERSONAL HARASSMENT in the form of picketing his place of business, the direct lobbying of PROVINCIAL AND MUNICIPAL GOVERNMENTS for funds to acquire his buildings, and a continual stream of filed complaints and work orders, all calculated to DEVALUE HIS PROPERTY and to DEMORALIZE him to the point where he would either sell or have his building taken over. Susan Eagle is a self-admitted PAID LOBBYIST and an IDEOLOGUE who has a dream to promote.

7. That the specific events and charges which have brought Mr. Elieff before this

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"Justice is truth in action." - Disraeli

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Board of Inquiry hearing are now, and have always been, BEYOND HIS CONTROL and thus not his responsibility.

8. That the HUMAN RIGHTS COMMISSION itself is being used in a frivolous manner, for purposes unrelated to its mandate (though parallel to its mandate), as one element of the over-all campaign against Mr. Elieff.

9. That both the HUMAN RIGHTS COMMISSION and its BOARDS OF INQUIRY harbour a PREJUDICED VIEW OF THE MINORITY GROUPS THEY PURPORT TO SUPPORT, and that they ADVANCE RACIST AGENDAS.

10. That the NOTORIETY of this case is due to the BIASED and inaccurate coverage in the London Free Press.

11. That the "poisoned environment" IS the London Free Press publicity, and the persistent actions of Susan Eagle.

THE COMPLAINT AND THE COMPLAINANT:

I must preface my comments about the complaint itself by making it clear that the copy of the complaint provided to me by Mr. Elieff is NEITHER SIGNED, NOR DATED by the complainant. However the text of my copy seems consistent with what has been read into the record, and therefore I can only assume that there is a signed and dated copy in existence somewhere. I have only a copy of a December 2, 1992 letter to Mr. Elieff by Daniel Pascoe, registrar of Boards of Inquiry which suggests that the complaint is dated December 20, 1989.

My copy of Hom's unsigned complaint lists contravention grounds of 'ancestry', 'place of origin', 'ethnic origin', and 'harassment', though Mr. Pascoe's letter does not include the latter (harassment). It was during the course of these hearings that 'race' and 'reprisal' have been added -- not by the complainant, but by the Commission itself.

When the grounds of 'race' was added to the complaint, at the beginning of the first day's hearings, Mr. Elieff was informed by the chair that "the box which is now blank under 'race' will now be marked." "The Commission

is seeking to add 'race' which is above there. It is just adding that as a ground. None of the other information is going to be changed, none of the allegations were changed, IT IS JUST THERE." (Nov. 16/92 pg. 4)

Despite Mr. Elieff's objections to its addition, and despite any specific grounds for adding 'race' to the complaint, I believe that the comment "IT IS JUST THERE" is particularly appropriate with regard to ALL the contravention grounds.

"Going by the pre-printed HRC complaint form, a potential complainant has only 19 possible grounds for complaint, thus forcing all arguments into its narrowly-defined pre-determined mandate."

Going by the pre-printed HRC Complaint Form, a potential complainant has only 19 possible grounds for complaint, THUS FORCING ALL ARGUMENTS into its narrowly-defined PRE-DETERMINED MANDATE. Clearly, it would be to the

advantage of any complainant to fill in as many of the boxes as possible, irrespective of the particular circumstances leading to the complaint. That certainly appears to have been the case here.

Now, on to the specifics:

1. The COMPLAINT was NOT INITIATED BY THE COMPLAINANT.

As per the testimony of SUSAN EAGLE, and as per numerous LONDON FREE PRESS newspaper articles, we know that a COLLECTIVE EFFORT was made to SEEK OUT A COMPLAINANT, an effort that DID NOT EXIST BEFORE -- AND BEGAN ON THE DAY FOLLOWING the appearance of the November 8, 1989 article quoting Mr. Elieff's alleged racist comments.

It was NOT CHIPPENG HOM who sought out the aid of the community. It was the 'COMMUNITY', meaning SUSAN EAGLE, that sought out the aid of CHIPPENG HOM. Said Susan Eagle: "...so therefore although it is CHIPPENG filing the Human Rights complaint, it came out of the process of about 20 families gathering together to discuss what a com-

munity solution might be. Certainly, part of my job is to PUSH PEOPLE..." (Nov. 27/92, pgs. 136-7)

And we have then-municipal councillor PAT O'BRIEN, whose support was solicited by SUSAN EAGLE, and on whom it was openly reported in the London Free Press that: "O'Brien said he is confident the city will find members of the Cambodian community willing to file a human rights complaint if needed. 'They have to be counselled, there has to be grounds for a complaint and they have to be shown how to do it -- I don't think that's a problem.'" (Nov. 10/89 London Free Press)

O'Brien further reiterated his commitment to deal with Mr. Elieff on the video news clip that was entered as evidence by Ms. Sanson. (Sept 12/93, pg 1292) "O'Brien says Elieff won't get away with his remarks..." says the narrator. (It should be noted that O'Brien happens to be a member of London's Race Relations Committee -- and that he also happens to live one block from the Cheyenne Ave. apartments, which he has personally regarded an eyesore.)

The fact that an effort to seek out a complainant was INITIATED ONE DAY AFTER the appearance of the Nov. 8/89 London Free Press article ATTESTS TO THE FACT THAT THE ARTICLE ITSELF was the source of the offensive implications attributed to Elieff.

One must question the need for a complainant in the first place. Given the supposed "moral outrage" by the community, one would have assumed that any member of that community could have taken advantage of Pt IV, Sec 31(2) of the HUMAN RIGHTS CODE which states that: "The Commission may INITIATE a complaint BY ITSELF or at the REQUEST of ANY

"Hom is as much a victim of this proceeding as is Mr. Elieff. We already know that she was sought out, encouraged and counselled to file a complaint..."

person." Why didn't SUSAN EAGLE, PAT O'BRIEN, or the LONDON FREE PRESS simply ASK the HRC to INITIATE a complaint?

Could it be that they did not want it known that one or more of them was conducting a LOBBY effort to get Mr. Elieff's buildings? HOW CONVENIENT it would be TO DEFLECT ATTENTION FROM THE COLLECTIVE LOBBY against Elieff by causing us all to focus on

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"It's amazing how much time and money people will spend to get something for nothing." - Karol Newlun

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ONE INDIVIDUAL's contrived complaint of racism! What a convenient way to evade the responsibility for the collective's actions!

Which brings us to the complaint itself. Taken in context not only with the testimony of other witnesses, BUT WITH THE TESTIMONY OF HOM HERSELF, the GLARING CONTRADICTIONS AND INCONSISTENCIES of her claims constitute an EMBARRASSING degree of evidence of manipulation by others. So much so that I did not even bother to cross-examine Ms. Hom during my last opportunity to do so. I believe SHE IS AS MUCH A VICTIM OF THIS PROCEEDING AS IS MR. ELIEFF.

We already know that she was sought out, encouraged and counselled to file a complaint, according to both SUSAN EAGLE and PAT O'BRIEN. However, on Sept 1/93, under questioning by Ms. Sanson, Ms. Hom EXPLICITLY DENIED having been counselled to file a complaint by either Pat O'Brien or the LONDON FREE PRESS. (Sept 1/93, pg 1388) And yet, when confronted about a discrepancy between her testimony and her filed complaint under cross-examination by Mr. Elieff on Nov 16/92, she responded by saying "I have to say before there was a group of us who went up to the Commission to complain about that. So therefore I CANNOT TAKE THE CREDIT ALL BY MYSELF..." (Nov. 16/92, pgs 42-3)

That group, of course, was "...a WHOLE DELEGATION" that went to the HUMAN RIGHTS COMMISSION office to discuss "concerns" (Nov. 16, p93) according to SUSAN EAGLE's testimony, who obviously must have been present and who conveniently is the one person Ms. Sanson did NOT ask Hom about being counselled to file a complaint. (There is certainly strong evidence of a close relationship between Hom and Eagle. According to Eagle, "I have been in Hom's apartment AT LEAST ONCE A MONTH OVER SEVERAL YEARS..." (Nov. 16, p93) This would be AT LEAST 36 VISITS OVER A THREE YEAR PERIOD.)

2. BOTH THE PARTICULARS OF THE COMPLAINT AND THE COMPLAINANT LACK CREDIBILITY.

(1) In the first point of the particulars, Hom claims that upon her arrival in apartment 17, it was very messy and infested with

cockroaches. In testimony Hom denied that the apartment was shown to her (Nov 16, p37). This glaringly contradicts the testimony of Sultana Elieff, who repeatedly confirmed that SHE showed apartment 17 to Hom and a male companion, and that Hom liked the apartment and that the apartment was "nice and clean" before Hom moved in (Dec. 28, p146). It also contradicts the testimony of Mr. Elieff himself, and is inconsistent with the experiences of the various past and present tenants called to testify by Mr. Elieff. All reported that they were shown their apartments BEFORE paying first and last month's rent, and all were generally satisfied with the condition of their apartments when they first moved in.

In the same point, Hom claims that

Elieff told her "Your custom like that cockroaches. What can I do?" -- a comment Mr. Elieff has denied from the start. It is curious that this comment was purportedly made in May/89, at least six months before the Nov. 8/89 Free Press article precipitated the search for a complainant.

(2) In her second point of the complaint's particulars, Hom alleges that she "had no choice but to stay and suffer... ..Mr. Elieff's prejudiced view of my Cambodian ancestry..." She testified that she would move IF SHE HAD MONEY (Nov 16, p35), though under cross examination by Mr. Elieff she immediately contradicted that testimony twice, stating that the reason she stayed in Elieff's apartment buildings "...is not because the apartment is cheap or because I couldn't afford it. It is... because it is close to the bus for me to travel and I don't have a car and it is close to the school for my children." (Nov 16, p45)

Moreover, if Hom truly believes that she "had NO CHOICE but to stay and suffer...", we would suggest that her obligation to stick it out at the Cheyenne Ave. apartments has more to do with the promises made to the tenants by Susan Eagle. One of these promises was that if Eagle's co-op housing could be built, the current tenants would have the first oppor-

tunity to move in at rent-geared-to-income levels.

(3) In her third particular, Hom refers to Elieff asking her "Are you a good girl or a bad girl?" when she asked him to transfer to apartment #18 from #17. Hom claims that "he never explained when I questioned him as to what he meant," and flatly denies Elieff's suggestion that "I said because you are a nice lady you can pay whatever you want to pay any apartment that is vacant..." (Nov 16, p43)

It is also in direct contradiction with the testimony of Sultana Elieff (Dec 28, p131-133) who indicated that it was she who showed apartment #18 to Hom. When asked whether such a comment was made to Hom, Sultana Elieff replied: "No. You just said, 'My wife like you. You good lady,'" and went on to express that Hom was nice to both herself and Mr. Elieff -- and how surprised she was to hear that Hom had filed a complaint against Mr. Elieff.

The suggestion that Mr. Elieff would make such a comment is also inconsistent with the personal treatment accorded to his tenants, as per the testimony of EACH AND EVERY ONE of Mr. Elieff's past and present tenants who have come before this board.

From a legal point of view, as an attempt to justify her grounds of harassment, the inclusion of such a suggestive inference, is understandable. According to the HUMAN RIGHTS CODE (Definitions), 'harassment' need only occur once

under such circumstances, and is further evidence that the complainant was counselled to include this charge in her complaint, since such knowledge is not readily available. Given the English language difficulties of both the complainant and respondent, the attempt to twist the meaning of Mr. Elieff's benign and complimentary comments into something quite the opposite constitutes a shallow and means-pirited affront to his dignity.

It would appear that the complaint has been so modified as to suit the requirements of the Human Rights Commission and its definitions, rather than to suit the actual circumstances.

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"Honesty doesn't need fine print." - William H. Walton

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(4) In her fourth particular, Hom tells us that she "learned of comments reportedly made public by Mr. Elieff that he felt his tenants of Cambodian ancestry regarded cockroaches as pets and that AS CAMBODIANS, 'They're like little pigs. They think they're still living in the jungle.'"

First and foremost, there are no -- and have never been any -- comments attributed to Elieff anywhere suggesting that cockroaches are "pets". The London Free Press has printed no less than six different versions of the alleged "cockroach" comment, and none of them used the word "pets". On Nov 11/89, the paper printed: "Your people are like cockroaches." On January 13/90: "Your people (are) like cockroaches." On Nov 17/92: "You people like cockroaches." On Nov 22/92: "They like living like cockroaches." And on the same day, elsewhere: "Cambodians like to live like cockroaches."

Furthermore, Mr. Elieff did not "make public" these comments, however misrepresentative and inconsistent they may have happened to be. THEY WERE ALL WRITTEN AND PRINTED BY THE LONDON FREE PRESS, and certainly not by any desire on the part of Mr. Elieff to do so. Moreover, Mr. Elieff has never personally made ANY RACIAL references in connection with ANY OF HIS ALLE-

GED COMMENTS, let alone to go out of his way to distinguish between his CAMBODIAN tenants, or VIETNAMESE tenants or his NON-ASIAN tenants.

In any event, by her own admission, the alleged comments were NOT MADE DIRECTLY TO HOM.

(5 and 6) The last two points of Hom's complaint are clearly catered to the mandate of the Human Rights Commission. Stating her

WE WILL ALSO ARGUE THAT BY PART (b) OF THE SAME SUB-SECTION, "UNDUE HARDSHIP" HAS BEEN "CAUSED TO THE PERSON COMPLAINED AGAINST".

WE ALSO ASK THAT THIS BOARD OF INQUIRY "ORDER THE COMMISSION TO PAY TO" MR. ELIEFF "SUCH COSTS AS ARE FIXED BY THE BOARD."

THE COMMISSION'S CASE AND BIAS - VERSUS THE EVIDENCE

Throughout these entire proceedings, Commission counsel Ms. Sanson has expended a great deal of

time and effort trying to prove things that are not in dispute: -- that Mr. Elieff's buildings at 95 and 105 Cheyenne Ave are in a constant state of disrepair; that there are numerous Board of Health complaint filings; that there has been harm done to the Asian community; that Mr. Elieff's alleged comments are "notorious"; that there exists a "poisoned environment BECAUSE of the notorious comments; that there are repeated instances of cockroaches in the buildings; etc. etc....

Ms. Sanson has entered VOLUMES OF EXHIBITS which include not only copies of the various documents relating directly to her evidence showing the obvious, but statistical reports, opinion polls, various precedents and a host of legal references.

I can well understand the necessity of her having to do so; in the absence of an objective argument linking the conditions at the Cheyenne Ave. apartments to racial discrimination on the part of the landlord, she must resort to focusing our attention away from the evidence at hand. It is clearly her hope that the decision this board may make will be more influenced by events and circumstances that have nothing whatsoever to do with Mr. Elieff -- and that have a lot to do with the mandate of the Human Rights Commission and of the government which prescribes that mandate. In the absence of substance, she is trying to add weight to her case in the physical sense -- by flooding us with unfounded, prejudiced, and irrelevant -- but VOLUMINOUSLY DOCUMENTED -- arguments.

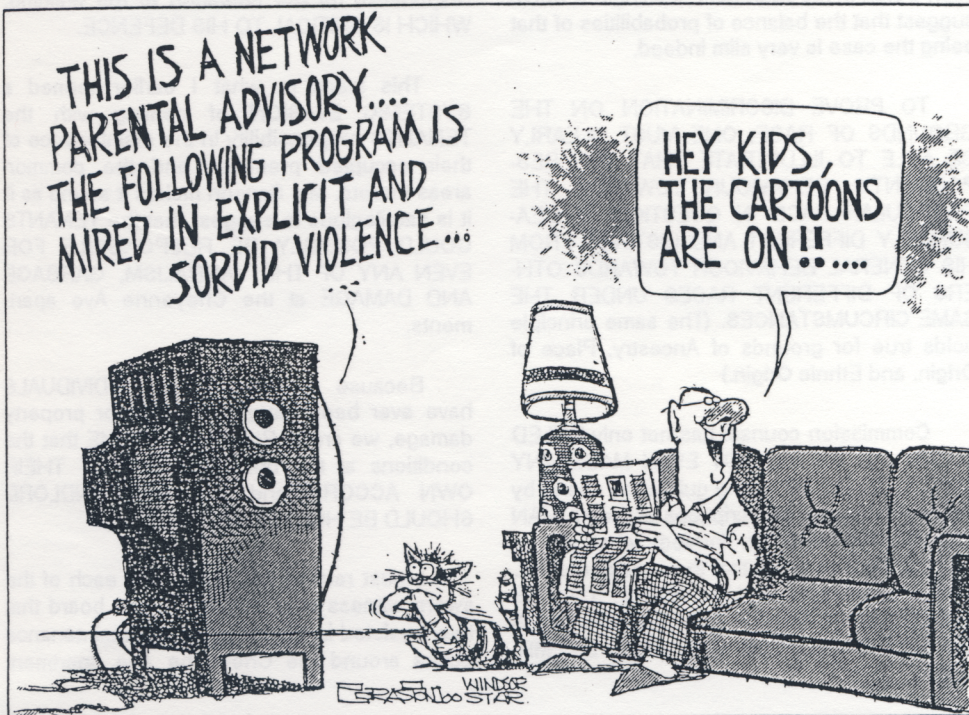
I do not envy her her task. She actually has little choice in this regard, as she must appeal to a PRESCRIBED WAY OF LOOKING AT THE EVIDENCE which is alien to common

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"We are here to ask that this complaint be dismissed on the grounds that it is trivial, frivolous, vexatious, and made in bad faith."

BELIEF that Mr. Elieff's comments "CREATED A POISONED ENVIRONMENT" -- a term which is highly subjective, but consistently used in other HUMAN RIGHTS cases, and citing Sections 2(1), 2(2), and 8 of the HUMAN RIGHTS CODE, these points are merely an appeal to the PROCESS of this board and to the legislated mandate of the HUMAN RIGHTS COMMISSION.

WE ARE HERE TO ASK THAT THIS COMPLAINT BE DISMISSED ON THE GROUNDS THAT IT IS, AS PER SEC 40(6)(a) OF THE HUMAN RIGHTS CODE, "TRIVIAL, FRIVOLOUS, VEXATIOUS, AND MADE IN BAD FAITH."



"If you have a job without aggravations, you don't have a job." - Malcolm Forbes

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sense and to PRINCIPLES OF EQUITABLE JUSTICE. It is a view that is PREJUDICED AGAINST THE RESPONDENT AND IN FAVOUR OF THE COMPLAINANT.

For example, Mr. Elieff was originally quoted by the LONDON FREE PRESS as having said, (a statement he denies having made) in reference to some of his tenants: "They're like little pigs. They think they're still living in the jungle" (London Free Press, Nov. 8, 1989). On CFPL television, Elieff was seen saying, while pointing to the vandalism and damage in one of his common areas, and in obvious response to a question that was posed to him regarding the newspaper article: "I'm not saying they are pigs, but what they are doing is only what pigs would do." Indeed, this was again confirmed when Free Press reporter Greg Van Moorsel read back his original notes from his meeting with Elieff (Aug. 30, pg 657).

To Mr. Elieff, this was a carefully reasoned-out response, clearly DISTINGUISHING his opinion of HIS TENANTS in general, from his opinion regarding DESTRUCTIVE BEHAVIOUR.

Clearly, MR. ELIEFF'S comments were, and always have been, directed towards a certain type of BEHAVIOUR, not toward any inference of RACIAL BIAS. But because STATISTICALLY, the MAJORITY OF ELIEFF'S TENANTS happen to be ASIAN (though perhaps not all CAMBODIAN, which we are told is the COMPLAINANT'S ORIGIN), the view of the Commission is that this constitutes a racially-motivated bias to Mr. Elieff's actions -- or inactions as the case may be -- and we are supposed to ASSUME that he discriminates

AGAINST them instead of in their FAVOUR! (In his buildings, Asians are a majority; in LONDON, Asians are a minority.)

To illustrate my point by way of analogy, consider the sign posted at the boundary of East Williams Township which was photographed and printed under the banner 'SILLY SIGNS' in the LONDON FREE PRESS on Jan 9/93. Under the sign which reads: "Welcome to East Williams Township", is posted a second sign reading: 'OINK IF YOU LITTER'.

The commentary under the picture reads: "Is that in the bylaws? It appears to be a small penance to pay for littering but the message is UNMISTAKABLE." The commentary goes on to ask readers who submit such pictures to explain what the sign means, "if the meaning isn't self-evident", which obviously was not the case in this instance.

"To prove discrimination on the grounds of race, one must prove that the respondent's behaviour towards the particular race in question is measurably different from his general behaviour towards others of different races under the same circumstances."

Now, applying the logic and perspective of the Commission to this instance, would we assume that whenever a person of a minority status passes this sign, it is deemed to be a racial slur? Would the LONDON FREE PRESS, which appeals to one perspective regarding the sign, appeal to that same perspective when dealing with Mr. Elieff, if he were to post such a sign in his apartment buildings? I would suggest that the balance of probabilities of that being the case is very slim indeed.

TO PROVE DISCRIMINATION ON THE GROUNDS OF RACE, ONE MUST CLEARLY BE ABLE TO ILLUSTRATE THAT THE RESPONDENT'S BEHAVIOUR TOWARDS THE PARTICULAR RACE IN QUESTION IS MEASURABLY DIFFERENT AND DISTINCT FROM HIS GENERAL BEHAVIOUR TOWARDS OTHERS OF DIFFERENT RACES UNDER THE SAME CIRCUMSTANCES. (The same principle holds true for grounds of Ancestry, Place of Origin, and Ethnic Origin.)

Commission counsel has not only FAILED TO DO SO, but has NOT EVEN MADE ANY EFFORT TO DO SO, being guided as she is by the mandates and prescriptions of the HUMAN RIGHTS COMMISSION. Indeed, what she is trying to do is to prove that the condition of Mr. Elieff's apartments is NOT EQUAL TO THE CONDITION OF OTHER APARTMENTS which are NOT OWNED OR OPERATED BY MR. ELIEFF.

Ms. Sanson has argued that she wishes "...to demonstrate Elieff's comments were of a RACIAL NATURE and conduct which amounts to UNEQUAL TREATMENT." (Nov 16, p11) Thus, the argument is a circular one: "UNEQUAL TREATMENT", based upon a comparison to circumstances not related to Elieff's properties or actions, therefore proves that his comments were of a "RACIAL NATURE", which in turn proves that he is guilty of "UNEQUAL TREATMENT".

This does not an objective case for discrimination make, yet this is the basis of reasoning for the Commission's entire case against Mr. Elieff.

Consider Ms. Sanson's following argument: "The denial of basic living SERVICES that the complainant continued NOT to receive is based on... STEREOTYPICAL ASSUMPTIONS that Cambodian persons SEEM TO THRIVE in

this kind of environment, that they don't deserve any better, and that THEY ARE TO BLAME FOR THE CONDITION OF THE BUILDING..." (Nov 27, p50)

This again is part of the same CIRCULAR ARGUMENT. It DENIES THE RESPONDENT the right to argue that certain tenants ARE responsible for the condition of the building, WHICH IS CRITICAL TO HIS DEFENCE.

This leads to what I earlier termed a SYSTEMIC EVASION of dealing with the TENANTS' responsibility in the maintenance of their occupied premises and the common areas thereto. Ms. Sanson makes it sound as if it is sacrilegious to suggest that the TENANTS COULD POSSIBLY BE RESPONSIBLE FOR EVEN ANY OF THE VANDALISM, GARBAGE AND DAMAGE at the Cheyenne Ave apartments.

Because no PARTICULAR INDIVIDUALS have ever been caught or fined for property damage, we are to BLINDLY ASSUME that the conditions at the building ARISE OF THEIR OWN ACCORD and that the LANDLORD SHOULD BE HELD RESPONSIBLE.

I must remind this board that each of the sworn witness who testified to this board that they assisted in the cleaning and maintenance duties around the Cheyenne Ave apartment

FARCUS — BY DAVID WAISGLASS AND GORDON COULTHART



"There is no sex discrimination here ... because we don't hire men."

(cont'd next pg)

"Wealth is always a relative matter. The more wealth you have, the more relatives you hear from." - Saying

(cont'd from prev. pg)

buildings, also testified to EYE-WITNESS accounts of tenants' children throwing garbage, vandalizing the property, breaking windows, etc...

They also testified that despite Mr. Elieff's repeated efforts at repairs, the same damage would reoccur WITHIN MINUTES AND HOURS, seldom longer than a few days. They also testified to the INACTION OF AUTHORITIES, including the police, to deal with the circumstances.

Yet, by asserting that some of his tenants could possibly be responsible for conditions in his buildings, Mr. Elieff is being labelled a racist. Why? On the surface, simply because HIS race is DIFFERENT from the ASSUMED RACIAL IDENTITY of those who may be responsible for the actions he has criticized. I am certain that if Mr. Elieff were Asian, or if his tenants were Macedonian, his comments would never have been considered racist.

But the REAL REASON Mr. Elieff has been labelled a racist, is because of the existence of the HUMAN RIGHTS COMMISSION and its BOARDS OF INQUIRY which AVOID THE COURTS TO SETTLE DISPUTES, and which require that grounds such as RACISM (and the 18 other prescribed grounds) must be present in order to effect a remedy.

It is all part of the Commission's general movement towards the direction I previously referred to, which was being advocated by the Cornish Commission.

USING STATISTICS, AND RATIOS, AND FINANCIAL RECORDS, AND LEGAL DEFINITIONS THAT OFTEN HAVE LITTLE OR NO BEARING TO THEIR DICTIONARY COUNTERPARTS, THE COMMISSION OPERATES ON THE PREJUDICED ASSUMPTION THAT THIS KIND OF "EVIDENCE" CAN SOMEHOW ACCURATELY DEFINE THE DEEPEST AND INNERMOST PERSONAL FEELINGS AND ATTITUDES THAT INDIVIDUALS MAY HAVE ABOUT EACH OTHER, FOR WHATEVER REASONS. THE COMMISSION FURTHER ASSUMES, THAT ONCE HAVING DEFINED SOMEONE'S ATTITUDE OR FEELINGS AS BEING "POLITICALLY INCORRECT", THAT FINES AND ORDERS ARE THE CIVILIZED WAY TO SUPPRESS THOSE ATTITUDES.

It is at this point that I must argue my case that the HUMAN RIGHTS COMMISSION and its BOARDS OF INQUIRY, by their actions and decisions, harbour a PREJUDICED VIEW of the very people they purport to support, and that in so doing, they ADVANCE RACIST AGENDAS.

For example, consider the HUBBARD DECISION in the matter of the complaint of ASHIT KUMAR GOSH against DOMGLAS INC., one of the authorities cited by Ms. Sanson. In his decision, Hubbard ruled: "While THERE IS NOTHING TO SUGGEST that Mr. Ghosh was harassed because of his race, in considering damages it is to be remembered that the wrongdoer takes his victim as he finds him. His membership in a VISIBLE MINORITY may have HAD NOTHING TO DO WITH THE HARASSMENT, but I have no doubt that that fact was a subjective element increasing his VULNERABILITY and anguish." (p51-52, Hubbard Decision).

IN OTHER WORDS, EVEN IN THE ACKNOWLEDGED ABSENCE OF ANY EVIDENCE to suggest racism, this Board still has the power to levy damages AS IF THAT WERE NOT THE CASE. Furthermore, it is Hubbard himself who admits that HE sees VISIBLE MINORITIES as being VULNERABLE.

IF THESE ARE THE TYPES OF PRECEDENTS TO WHICH I MUST REFER IN ORDER TO DEFEND MR. ELIEFF, I MUST RESPECTFULLY SUGGEST TO THIS BOARD THAT THIS WHOLE PROCESS OF HOLDING HEARINGS IS TOTALLY UNNECESSARY. IF THE EVIDENCE PRESENTED DOES NOT HAVE TO RELATE TO DECISIONS HANDED DOWN BY THE BOARD, WHY BOTHER WITH HEARINGS?

(Of course, this is exactly what the Cornish Commission has recommended!)

This same prejudicial view of the Asian tenants was illustrated by Ms. Sanson when she argued that "STEREOTYPICAL ASSUMPTIONS are used as a reason for denying basic living conditions to PEOPLE WHO ARE MOST VULNERABLE IN OUR SOCIETY..." (Nov 16, p83). Are we to assume that all RACIAL MINORITIES are weaker and less able to function in society than RACIAL MAJORITIES?

On what PRINCIPLE can such an assumption be based, other than on some implied PRINCIPLE OF RACIAL INFERIORITY OR WEAKNESS?

EQUITABLE PRINCIPLES?

We HAVE BEEN ASKED, by this board, to MAKE ARGUMENT ON "EQUITABLE PRINCIPLES FOR REQUIRING PARTIES TO CONCILIATE."

In response to this, I must refer to Pt IV, Sec 38(1) of the HUMAN RIGHTS CODE, "The Board of Inquiry shall hold a hearing (a) to determine WHETHER a right of THE COMPLAINANT under the Act has been infringed; (b) to determine WHO infringed the right."

By requiring parties to conciliate ON THE BASIS OF A COMPLAINT, the determination of WHO infringed the right has been bypassed. Both the conciliation process and the Board of Inquiry hearings proceed on the premise that a complaint is valid, and set about WEIGHING EVIDENCE AND ARGUMENT toward an end that, with the exception of a dismissed complaint, only affects the DEGREE or SEVERITY of the Board's orders against the respondent, not the fundamental justice of it.

In Mr. Elieff's case, his steadfast conviction and belief in his innocence with regard to the complaint filed against him, automatically precludes any discussion of conciliation, and targets him for a Board of Inquiry hearing. This accounts for a (April 7, 1990) London Free Press article quoting then-commission officer Rick Harrington as saying that the commission has skipped an initial fact-finding stage in its process because "that's just a waste of time in

"Commission counsel has not only failed to do so, but has not even made any effort to do so, being guided as she is by the mandates and prescriptions of the Human Rights Commission."

"I must argue my case that the Human Rights Commission and its Boards of Inquiry, by their actions and decisions, harbour a prejudiced view of the very people they purport to support..."

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this case, the views are so polarized."

Worse, once before the board, he is forced to respond to one or more of the 19 prescribed allegations as they are presented on the Complaint form, and is effectively handicapped from arguing the full context of his situation, since his defence depends upon focusing on a different culprit.

For example, to make an analogy, if this were a CRIMINAL trial, and Mr. Elieff was charged with a crime, surely evidence showing that Mr. X committed the crime would exonerate Mr. Elieff. Yet, this is not the principle on which this board has proceeded. We have been constantly reminded that SUSAN EAGLE or the LONDON FREE PRESS are (figuratively speaking) "NOT ON TRIAL HERE", yet Mr.

Elieff's response to the complaint has consistently maintained that THEY are the initiators of the whole process that has brought him to this hearing.

The HUMAN RIGHTS CODE also states in Pt III, Sec 28(f): "It is the function of the Commission... to inquire into incidents of the CONDITIONS LEADING OR TENDING TO LEAD TO TENSION OR CONFLICT based upon identification by a prohibited ground of discrimination and take appropriate action to eliminate the SOURCE of tension or conflict."

From Mr. Elieff's view, this function has not been performed properly. From his point of view, and with a great deal of evidence to support him, the "conditions leading to the conflict" between him and his tenants originate with SUSAN EAGLE'S LOBBY and with the repetitive racial references to his tenants in the LONDON FREE PRESS.

Mr. Elieff sees the conflict as being one over control and ownership of his buildings -- a struggle between himself and SUSAN EAGLE.

But instead of focusing on this issue, he must deal with the trivial matters of whether he said "good girl or bad girl" to one of his tenants, or whether his opinions regarding the behaviour of those who damage his property constitutes racial discrimination.

Equitable principles? Not by a long shot.

SUMMARY: NINE TO THREE:

We have heard a great deal of evidence pertaining to the physical conditions of Mr. Elieff's Cheyenne Ave buildings. We have heard a great deal about whether or not the terms "pigs" "cockroaches" "good girl/bad girl" and others were or were not appropriately used.

But have we spent as much time going deeper than that, to what WE believe to be, as per Pt III Sec 28(f), the SOURCE of this tension and conflict?

Unfortunately, no.

Fundamentally, THERE ARE THREE PERTINENT WITNESSES supporting the complainant's case: CHIPPENG HOM, who is herself the complainant; SUSAN EAGLE, whose interest in Mr. Elieff's Cheyenne Ave apartment buildings includes plans to have them turned into co-op housing; and GREG VAN MOORSEL of the LONDON FREE PRESS, whose Nov 8/89 article containing Mr. Elieff's alleged comments was the precipitating event leading to the complaint being filed.

Supporting the respondent's case, THERE ARE NINE PERTINENT WITNESSES: ELIJAH ELIEFF, who himself is the respondent; SULTANA ELIEFF, ZORANCO ELIEFF, AND KATRINA ELIEFF, who are members of his family and who each have worked in his Cheyenne Ave apartment buildings; and MIKE SUCUR, IRINA SUCUR, KEITH ACKWORTH, JOHN PIPE, and MARIE MOWAT, all of whom were past or present tenants of the buildings in question, and some of whom were directly involved in the maintenance efforts to keep the buildings and property in proper repair.

Also called as witnesses by the commission were TOM PARTALAS, NAVY CHAN, JAMES DALY, and DARLENE CLARK. All of

these witnesses were called in to express their opinions or expertise in areas deemed appropriate and necessary by this Board.

Given the numbers, it is alarming how many inconsistencies, contradictions, and LACK OF CREDIBILITY appear in the testimonies of the complainant's THREE witnesses, versus the CONSISTENCY and CREDIBILITY of the respondent's NINE witnesses. One would assume, given the odds, that more inconsistencies would appear given a greater number of witnesses. But that has not been the case.

Moreover, the weight of evidence offered by the other miscellaneous witnesses tended to favour the respondent's arguments.

SUSAN EAGLE, who is one of the Commission's three witnesses against the respondent, has testified to this Board that she is a HIRED, and therefore PAID employee of "FOUR UNITED CHURCHES" (Nov 16, p76) who "HAVE DESIGNATED SEVERAL BUILDINGS" (Nov 16, p94) in the Cheyenne Ave area, and that even as early as 1984 the churches she works for were "ASKING CITY COUNCIL TO TAKE ACTION... BEFORE any Cambodian or Vietnamese people moved in." (Nov 16, p80)

SUSAN EAGLE has also been very actively involved in a LOBBY CAMPAIGN to replace Mr. Elieff's apartment buildings with co-op housing. This campaign has included an appeal for funds to the provincial government, and her activities and plans have been well documented -- AND EDITORIALY SUPPORTED -- in the pages of the London Free Press.

This should not be surprising, given her connections to the paper and the fact that SHE IS MARRIED TO JOE MATYAS, a long-time LONDON FREE PRESS reporter and columnist, and who once covered the religious articles of interest at the paper. He has attended these hearings TWICE to the best of my knowledge, since I have represented Mr. Elieff, and it was he who I asked to have identified at the last day's hearings.

With the biased publicity and support afforded her cause in the LONDON FREE PRESS, Susan Eagle has been able to convince the community at large that Mr. Elieff is a prejudiced, stubborn, and bigoted landlord.

(...FINAL ARGUMENT cont'd on back cover)

"Fundamentally, there are three witnesses supporting the complainant's case, (while) there are nine witnesses supporting the respondent's case."

"Given the numbers, it is alarming how many contradictions appear in the testimonies of the complainant's three witnesses, versus the consistency of the respondent's nine witnesses."

REPRESENTING THE INDIVIDUAL

Elections In A Free Society

-William Frampton

(William Frampton is Freedom Party's Regional Vice-president, Eastern Ontario. An earlier version of this essay appeared in our Consent Special #1 (Can We Survive Democracy?) which was published in December 1990. This updated version includes a projection of how the last federal election might have turned out if Canadian voters used an electoral system called the **Single Transferable Vote (STV)**. Mr. Frampton, who brilliantly represented Freedom Party before the Special Joint Committee on the process for amending the Constitution of Canada (transcripts available), has also advocated the STV to numerous other governmental bodies.)

The proper role of government in society is to protect individual rights. In order to carry out this function, the institutions of government must be designed with the individual in mind. Regrettably, this is not the case with the system used to elect governments in Canada and the United States.

Both countries have inherited the electoral system used in Great Britain. This is known in political science as the single-member simple plurality system, or less formally as "first past the post." This electoral system reflects the philosophy of simple majority rule, and subordinates the individual voter and taxpayer to special-interest groups and political parties.

In the last few years, the public has grown increasingly cynical about the effectiveness of political institutions. Politicians now stand lower in the public's regard than almost any other profession one can think of, but many people may not realize that the system used to elect our governments has a great deal to do with this.

In Canadian and American elections, whether federal, state, or provincial, the candidate who receives the most votes in each constituency is elected. Sometimes the winner may actually have a majority of the votes cast, but increasingly there is no such majority, and the winner merely has a larger minority share than the others. In either case, he or she supposedly represents everyone in that constituency.

This claim to represent all constituents is clearly fallacious. On such diverse issues as abortion, capital punishment, free trade and government spending -- to name just a few -- there is always some disagreement about what, if anything, should be done. As a result, the elected member must always choose which of his constituents he will represent on each issue. In doing so, he or she inevitably chooses not to represent the others.

Even those who vote for the winner cannot be properly represented by this system. 'X'-voting forces the elector to vote as though he considers his preferred candidate ideal and all the others abominable. It presents the voters with a "package deal" in which they

must accept the bad along with the good. The voter's 'X' falsely implies complete endorsement of the candidate he votes for.

Traditional political parties wield power over individuals in two ways: (1) They have significant power to make legislators tow the party line, and (2) they restrict the choices open to voters.

Legislators who dissent from the party line and vote according to their conscience risk withdrawal of their party's support in future elections. If they run as independents, the most likely outcome is that they split votes with the official party candidate -- and another candidate wins the seat. There are rare exceptions to this rule, but few enough to keep most legislators firmly in line.

Votes are only meaningful in an election if they produce an elected representative. Voters who support unsuccessful candidates have no more effect on the outcome than they would if they stayed at home. In the 1993 federal election, only 53% of the 13,596,508 votes were cast for successful candidates. One of the winners received just 31.7% of the votes in his constituency!

Even more bizarre, the separatist Bloc Quebecois, which ran in only one province and came fourth in terms of votes, won enough seats to claim the title of official opposition. Is it any wonder Canadians are getting restless?

However, in examining alternatives to the present system, it is important to address the root cause of this problem.

(cont'd next pg)

"Election results are heavily influenced by electoral boundaries, and seats can be won and lost before any votes are cast."

THE WIZARD OF ID BY BRANT PARKER and JOHNNY HART



"There is no future in any job. The future lies in the man who holds the job." Dr. George Crane

(cont'd from prev. pg)

Election results are heavily influenced by electoral boundaries, and seats can be won and lost before any votes are cast. The practice of drawing boundaries to favour one party is called 'gerrymandering' after Elbridge Gerry, a nineteenth-century governor of Massachusetts. Gerry rigged the election of 1812 when he redrew the state Senate boundaries. His Republican-Democrats were narrowly defeated in terms of votes but won a landslide victory, taking 29 of 40 seats. Many cases of gerrymandering have been documented in the United States.

It is sometimes suggested that this can be prevented by making all constituencies equal in size, but this is not the case. A simple example will illustrate the problem. Consider a small country with an evenly-balanced two-party system. The East Party and West Party each wins 50% of the vote overall and 80% in their home regions. If four equal constituencies are created, the outcome will still depend upon how the boundaries are drawn. Two alternative outcomes are shown in the box below:

(a)

WP 130 EP 30	WP 30 EP 130
WP 130 EP 30	WP 30 EP 130

(b)

WP 130	WP 60 EP 90
	WP 60 EP 90
	WP 60 EP 90
EP 30	

The outcome in (a) produces two seats for each party but that in (b) does not. With precisely the same distribution of votes, EP now wins three of four seats and most of WP's votes are literally wasted. On these boundaries WP would need a swing of 10% to win a majority of the seats. EP could win three seats with as little as 41% of the vote.

Periodically there are calls for reform of this system. The usual suggestion is to change to the alternative vote, which is used in Australia. In this system, the voter chooses as many candidates as he wants, marking a '1' for his first choice, a '2' for his second choice, and so on. If no candidate wins a majority, the lowest one is eliminated and his votes are transferred according to second preferences. This process continues until one candidate

obtains a majority. Another variation on this theme can be found in the runoff elections used in some American primaries.

The alternative vote would eliminate minority representation and make legislators slightly less dependent on their party. However, it still reflects the philosophy of majority rule and cannot prevent electoral bias. These problems are inherent in any system based on single-member electoral districts.

Since it is impossible for any single elected member to represent the manifold opinions and interests of his constituents, the problem can only be resolved by adopting an electoral system which provides the voters with more than one representative. There are numerous alternatives to choose from, and the problems discussed above can only be solved by adopting one of them. There is no other way to remove the element of majority rule and limit the power of political parties.

Japan uses a multi-member plurality system that has been dubbed the single non-transferrable vote. If the constituency has five seats, then the top five candidates are elected. Whatever the number of seats to be filled, the elector has only one vote. If the party he decides to support fields more than one candidate, he must then decide which of them to support.

Gerrymandering is more difficult with this system, but not impossible. The constituencies vary in size, usually returning a minimum of three members. This allows the party in power to produce three-member constituencies where they are strong and larger ones where they are weak. The goal of such a strategy is to win where the party is strong and draw in other areas --- to lose nowhere.

Political parties exercise almost as much clout in this system as in "first past the post." An incumbent who finds himself dropped by his party still faces the prospect of splitting the vote if he decides to run for re-election. A party can ruin its chances if it nominates too many candidates --- they would simply split the party's vote and give seats to other parties.

All votes cast for unsuccessful candidates are still wasted, and those voters are not represented in the outcome. Legislators can

still be elected against the wishes of a significant portion of the electorate. The Japanese system does not reduce the power of political parties significantly, so we must consider others.

Many European countries use variations of proportional representation (PR). In these systems, constituencies return as many as ten or twenty members, and the seats are divided among the parties in proportion to the constituency vote. The voter does not choose individual candidates but instead votes for a party list. Most countries using this system allow the voter to indicate personal preferences within a party list, but some do not. If the party wins five seats, its top five candidates are elected.

List systems of proportional representation make it very difficult --- if not impossible --- for the governing party to practice gerrymandering. However, the power wielded by political parties is almost as great as in single-member systems. Since most voters opt for the straight party list, a candidate's position on that list has a major influence on his chances of being elected. The prospect of being moved down the list --- and out of office --- keeps most legislators firmly in line.

In addition, the voter can support only one party. Even if he casts a personal vote, his vote is arbitrarily counted as a vote for that candidate's party when seats are allocated. As a result, his vote could help elect another candidate from that party --- even when he does not support that candidate! List PR still leaves the voter subordinate to political parties, and therefore it is not a good alternative.

The only electoral system that can solve all the problems described above is the **single transferable vote (STV)**. This is a multi-member preferential system devised in the nineteenth century and popularized by John Stuart Mill. It gives the voter the widest possible freedom of choice and produces approximately proportional representation. The Irish parliament, the Australian Senate, and the Tasmanian state legislature are all elected using STV. It is also used by several non-governmental organizations, including the Church of England.

"The only electoral system that can solve all the problems inherent with other systems is the single transferable vote (STV)."

(cont'd next pg)

"Most rules for success won't work unless you do." - The Furrow

(cont'd from prev. pg)

The details of its use vary from place to place, but the general procedure is the same. The elector has one vote, and ranks the candidates in order of preference from 1 to 'n'. Irish voters can make their ballots non-transferable by not ranking all the candidates. When the voting is completed, the first preferences are counted and the electoral quota is determined. The number of votes a candidate requires in order to be elected is determined as follows:

$$\{\text{Total number of votes cast}\} \text{ divided by } \{\text{Total number of seats} + 1\}, \text{ plus } 1.$$

In a four-seat constituency with 100,000 votes cast, the quota would be: $(100,000 / 5) + 1 = 20,001$. It is evident that if four candidates each had 20,001 votes, no other candidate would possibly have more.

Once the first preference votes are counted, candidates who have reached the quota are declared elected. Their surplus votes are transferred according to the voters' second preferences.

If the quota is 20,001 and candidate 'A' has 21,000 votes, his surplus of 999 is transferred. Which 999? Since there can be no answer to this, all 21,000 ballots are transferred -- but weighted by $999/21,000$ so that only 999 'votes' are transferred.

When all surpluses have been transferred, the lowest candidate is eliminated. His or her votes are redistributed among the remaining candidates according to the second and, if necessary, lower preferences. This process of transferring surpluses for elected candidates and eliminating the lowest candidate is repeated until all the seats are filled.

Under STV, every vote counts, since the voters can transfer their support to other candidates if their first choice is not elected or piles up a landslide victory. They no longer need to worry about wasting their vote; if they are impressed with a particular candidate who they think may not attract enough votes to win election, they can indicate second and third choices.

STV means people power as opposed to party power, since it allows individual voters to choose between candidates as well as parties. If a voter thinks an incumbent member of his preferred party is not doing a good job, he can vote against him without voting against his party. This allows the voter to replace legislators they are unhappy with and substitute members of the same party. They can bring

new blood into the legislative chamber without having to throw out the government in the process.

Voters in Tasmania took advantage of this feature when they went to the polls in 1986. Fifteen of the thirty-five incumbents were defeated, including the Speaker of the Legislature and two former Cabinet ministers. Despite this, the party standings remained exactly the same as before the election.

When vacancies occur, they can be filled in either of two ways. A byelection -- known to Americans as a special election -- can be held to fill the vacant seat, just as it is now. But the vacancy can also be filled using a procedure known as a "count-back," in which the unsuccessful candidates at the previous election are reconsidered. The retiring member's votes are distributed as though he or she had not been elected, and the votes are recounted from that point. This allows his supporters to decide who his replacement will be and avoids the expense of a byelection.

The constituency size is an important consideration for elections held under STV. If the constituencies are too large, the ballot grows too long and the counting process is more involved. If they are too small, it is possible to gerrymander them. The optimum size is probably five seats, with a minimum of four and a maximum of seven.

Political parties wield much less power under STV than under any other system. None of the candidates can be elected without reaching the quota unless the others have all been eliminated. Consequently, the candidate's standing with the voters is more important than his position within his party. The voters decide who will represent them -- not the party hierarchies or the electoral boundaries.

One objection that is sometimes raised against the STV is its alleged complexity, but this is a spurious argument. The fact that the counting takes longer is not a serious disadvantage. The most important feature of an electoral system is how well it accommodates the individual citizen, not whether the results are known an hour after the polls close.

The individual is not well served by the single-member plurality system. This system reflects the philosophy of majority rule, produces "representatives" who are elected against the expressed wishes of many voters, and gives political parties undue power over all citizens.

The single transferable vote (STV) is the only system that seems to solve all of these problems. Therefore, it has my vote as the best system that meets the requirements of a free country. <END>

The 1993 Canadian Federal Election Under STV

	Liberal	Reform	PC	BQ	NDP
Newfoundland	5		2		
Nova Scotia	7	1	3		
Prince Edward Island	3		1		
New Brunswick	6	1	3		
Québec	25		7	43	
Ontario	60	18	18		3
Manitoba	7	3	2		2
Saskatchewan	5	4	1		4
Alberta	8	15	3		
British Columbia	10	13	4		5
Northwest Territories	2				
Yukon					1
	-----	-----	--	--	---
Totals	138	55	44	43	15

Above: The 1993 Canadian federal election as it might have turned out based on 63 multi-member constituencies and the single transferable vote (STV). Actual seat totals could vary slightly depending on voters' allocation of lower preferences.

"The greatest mistake you can make is to be continually fearing that you'll make one." - Elbert Hubbard

(... FINAL ARGUMENT cont'd from pg 8)

She was even able to express her "MORAL OUTRAGE" against Mr. Elieff on the front pages of the LONDON FREE PRESS when she seized the opportunity to exploit an innocent but truthful comment made by the landlord that was reported in the by now famous FREE PRESS article of Nov 8/89.

Her harassment of Mr. Elieff has gone to the extreme of having pickets placed outside his downtown Submarine shop where, as she has testified to this board, it was her intention "TO PUT PRESSURE on (Elieff) AS A BUSINESSMAN. Not as a LANDLORD, but as a BUSINESSMAN. Not at his APARTMENT BUILDINGS, but at his SUBMARINE SHOP.

Her harassment of Mr. Elieff has been continuous, relentless, and determined. Seizing every opportunity to file every type of complaint possible about Mr. Elieff's buildings, organizing tenants' meetings', seizing his rents and having them directed into a trust fund, actively searching for a complainant to file a HRC complaint, moving his tenants out into some co-op housing called the GENESIS CO-OP (Nov 16,p78) etc. etc., SUSAN EAGLE with the support of the LONDON FREE PRESS has made Mr. Elieff's life miserable from their first meeting onward.

Though EAGLE has testified that "...it is BEYOND ME WHY ANYONE WOULD WANT

TO LIVE in the Cheyenne apartments..." (Nov 16, p109), both the testimony of Chippeng Hom and Eagle's own editorial printed in the LONDON FREE PRESS make it very clear that LOCATION and the existence of a "vibrant Cambodian community" are reasons why anyone would want to live there. Not to mention the cheap price.

"Can we avoid asking ourselves if (rent control) isn't a disincentive for tenants to keep their apartment units in good condition?"

In addition to all the aforementioned things Susan Eagle has done, she has also instigated the filing of many RENT REVIEWS arguing that "...under NEW (RENT CONTROL) LEGISLATION, WE CAN APPLY ON THE CONDITION OF APARTMENTS TO ROLL THE RENTS BACK... (EVEN BEYOND LEGAL LIMITS)" (Nov 27, p123)

This certainly helps explain why Mr. Elieff has been purportedly charging "illegal rents", as it was phrased by the LONDON FREE PRESS, but CAN WE AVOID ASKING OURSELVES IF THIS ISN'T A DISINCENTIVE FOR TENANTS TO KEEP THEIR APARTMENT UNITS IN A GOOD CONDITION?

SUSAN EAGLE has told us that a part of her work is to "FIND COMMUNITY RES-

PONSES and DO THINGS COLLECTIVELY..." Were it not for her efforts, "NOT ONE SINGLE TENANT WAS WILLING... TO FILE PAPERS (AGAINST) MR. ELIEFF..." (Nov 27, p136-7)

To date, SUSAN EAGLE's campaign has been remarkably successful in that her only remaining obstacle to acquiring control of Mr. Elieff's buildings is the matter of getting the necessary government funding to make her move.

As you know, Mr. Elieff's buildings are now under POWER OF SALE, his Submarine Shop is closed and out of business, and he is now training to pursue the career of a truck driver to earn a living.

Thus the THREE WITNESSES who effectively have placed Mr. Elieff before this board REALLY REPRESENT ONE SINGLE INTEREST.

FINAL REQUEST:

We would once again ask that this complaint be DISMISSED as per Sec 40(6)(a) of the HUMAN RIGHTS CODE, as being "trivial, frivolous, vexatious, and made in bad faith."

We would also ask that this Board of Inquiry "order the commission to pay to" Mr. Elieff "such costs as are fixed by the Board."

<END>

CONSENT

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