



New Brunswick Human Rights Commission

Gordon Porter

The need for proper resourcing and independence

I don't think we ever thought the Commission was properly staffed and organized to do the several things that it needs to do when I was there, either as a member or as Chair. The education function, for example, is a big one, and it sort of was very much a secondary consideration, and I guess it had to be because we had all these cases that had been on the docket for years and not dealt with. And, you know, we had to clean up all these old cases in order to bring some integrity to the process. But clearly, education is an issue. I think having the right staff doing the right job is an important issue. My own view is that New Brunswick has missed the boat in having the New Brunswick Human Rights Commission not be a stand-alone agency that reports directly to the Legislature. I always talked about this in my time there. It's been reviewed and people decided not to do it—to leave it as a mechanism within a department of government—Post-Secondary Education and Labour. It started in Labour; it started in Labour because it was about employment back 50 years ago. It's about a lot more than that now. My own view, that since the Commission was created, we've added important protections for people in areas, you know. I don't know whether the Ombudsman was there before the Human Rights Commission or not, but both were creatures of the 60s. The Ombudsman reports to the Legislature, the Human Rights Commission doesn't. We added a Language Commissioner, we added a Privacy Commissioner, we have an Ethics Commissioner, we have—what else?—we have the Child and Youth Advocate position. All of these are creatures of the Legislature where the politicians have the control in the sense that through the Legislature they establish the law and they establish their budgets, but they don't deal with the mechanisms inside, what those agencies do to protect the rights of New Brunswickers. And somehow, it seems people—many people—seem to think that human rights doesn't reach the same level. Well I think it's higher than that. I think, if anything should be independent, it should be the Human Rights Commission. And, so I think that that's a disappointment for me. I think that's what it should be. And I have to say, that during the time I was on the Commission and Chair of the Commission, the fact is, that many of the cases that the Commission has to deal with are by government departments that do things and, you know, their employees or people affected by them complain. And when you have—if you have the government department that controls the Commission, the Finance Department, the Department itself—Post Secondary Education Training and Labour—controlling, through the middle of the bureaucracy, the Human Rights Commission, their budget, their staffing. If there's a vacancy, theoretically the Department can send somebody over to fill it, to fill a gap. I think that when I was there, we negotiated a memorandum of understanding that many of these things would be done to keep at arm's length, but that's just an agreement. It's not the basic structure. And I think that the Human Rights Commission should be seen by citizens as standing directly between them and the Legislature, and it shouldn't be subject to the vagaries of particular ministers, particular deputy ministers. Remember that the deputy minister who determines the Human Rights Commission's budget is the same deputy minister who could have to solve problems that the Human Rights Commission will take them to court with, and in many cases, that conflict has been very evident. There weren't very many cases of inappropriate behavior, but there were shades of it that Commission staff and members, in my experience, quickly said, "No, this is a line you can't cross. You know, we can deal with the organizational aspect of things, but you cannot deal

with the programmatic side of things.” But I think that’s a danger, and I think that’s something, going forward, that we would be well advised—the next 50 years—let’s make the Human Rights Commission independent of any particular government department.