

WITH Nigel Hannaford, *Calgary Herald* Columnist and Editorial Board Member



Nigel Hannaford, 60, is a 32-year newspaperman, for many years in operations but now serving on the editorial board of the *Calgary Herald*. British by birth, Hannaford has worked in Canada for most of his professional life. Educ: B.Sc (Southampton) 1969, Politics and Strategic Studies. Licenced to drive a semi as a result of early foray into Canadian Arctic oilpatch, Hannaford also maintains a commercial pilot's licence in case the newspaper thing doesn't work out. Married, two children, two grandchildren. Various professional memberships, and past experience on government boards during a former incarnation. The *Herald* is part of the CanWest chain, which also owns the *National Post*, most of the large city dailies outside Toronto, and Global Television. He was interviewed following his Lunch on the Frontier speech in Winnipeg on May 2, 2008.

Frontier Centre: Do you think that free speech is a part of the Canadian tradition?

Nigel Hannaford: It's more than a part of the Canadian tradition, although it is a tradition. But it's also part of the Canadian Constitution. It's guaranteed in the *Charter of Rights and Freedoms*.

FC: Can it be overridden?

NH: Yes, and it's overridden all the time in the courts and the Human Rights Commissions when they decide under another clause of the *Charter of Rights and Freedoms* that they demonstrably justify, in a free and democratic society, that it should take second place to something else.

FC: What are those limits? What do you think are the legitimate things that trump the right to free speech?

NH: Well I don't think anything trumps the right to free speech other than when somebody is inciting somebody else to do something dastardly. If I say "I hate teenagers" I have said a nasty thing but I shouldn't be prosecuted for that. If I say "I hate teenagers and somebody should go and kill them" then I have definitely crossed a line. That's where the limit is, when you incite harm to somebody else.

FC: I could argue playing Devil's advocate that you could incite indirectly, "will someone rid me of this troublesome teenager?" Who gets to decide what is direct incitement and what is permissible speech?

NH: Not the Human Rights Commissions, that's for sure. Take it to the court where you've got the available defenses and you can argue your case before people who are legally trained and who have a respect for the law.

FC: Do you think it's fair to say that for legitimate complaints, about which we should limit free speech, the courts are a sufficient remedy?

NH: Now what legitimate complaints are we talking about here? The incitement to hatred? Those are the only ones I'm recognizing. Absolutely take them to court and have it out. We do have legislation, we have section 318 or 319 in the *Canadian Criminal Code* which sets out what you can and cannot do. The reason that people go to the Human Rights tribunal rather than take something to court is that when they go to court then they have to follow the rules, they are dealing with lawyers, they are dealing with judges, they are dealing with people who have statutory defenses.

FC: And they have to pay for it.

NH: And of course they have to pay for it. And they have to take the risk that if they're wrong, they will face the costs. If they're wrong, not that it ever happens in a Human Rights tribunal – the victim always loses – but if the victim ever wins, they still walk out of there with all their expenses tied around their necks whereas the complainant does not.

FC: What are the constituencies who support or profit from Human Rights Commissions? Where is their support coming from?

NH: You've asked a very big question. There's been a fundamental change in people's expectations in society. When the *Constitution* was patriated in 1982, when we established the *Charter of Rights and Freedoms* in 1982, we took the first step in evolution in Canada from being a parliamentary democracy, in which Parliament would have the last say on anything, to being a constitutional democracy in which the judges would have the last say on any matter that was brought up. It was the moment when it made more sense if you had a problem to go and get a lawyer than to go see your Member of Parliament.

You're asking who benefits. Well the key item in the *Constitution*, the key value, is not actually liberty, it's equality. Which sounds like a good thing, but what does equality really mean? If it means that all of us stand equal before the law, then most people are going to say that's a good thing. But if it means that in the name of equality you can't have an opinion that offends someone else because they claim that by expressing that opinion you are diminishing them as a person, well then of course it means something completely different, which we as liberty loving people don't support.

So who has actually used the legislation? The key human rights cases have been determined in the first place on women's issues, that is when someone is denied a job as a bus driver because gosh, everybody knows you have to be a man to be a bus driver and look your feet don't even reach the pedals. But nevertheless you would win that case and the employer would be told to give you a bus that you could drive, you know adjust the seat or something. So certainly the feminist strand has been a beneficiary of this new approach. The Jewish lobbies have used it very effectively to out and silence Holocaust deniers and hate speech purveyors. The gay lobby has used it to silence its critics in a number of cases. I think what you're seeing now with the Mark Steyn case and the Ezra Levant case is an

attempt by Muslim advocacy groups to limit discussion in areas that are of interest to them, but overall it is the replacement of the old idea of equality before the law with equality in some hard to define way that somehow places a person's right not to be offended above somebody else's right to free speech.

Canada's original free speech hero was Joseph Howe. He was a newspaper publisher who saw things that were wrong in government, published it, the government objected, they sued him for seditious libel, they told him that he was an irresponsible journalist for bringing this stuff up, because if you say bad things about the government well how can anybody ever respect the government. Nevertheless he faced them in court and a jury found him not guilty and ever since that time, which was 1835, if you're a history buff, ever since that time Canadians have thought that they've had free speech. Now they didn't always really have it, certainly the Communists, Jehovah's Witnesses have had their problems, trade unionists have had their problems with people trying to silence them. There's a great Supreme Court of Canada case in 1877 where the Roman Catholic Church had to be told that they couldn't recommend to their parishioners that they not vote for the Liberals because the Liberals were sinners. There have been lots of people who from time to time have had problems in the free speech area, but it's always been against the backdrop that free speech is important, that the right to express your opinion is fundamental to democracy and that the right to free speech is not to protect the opinions that we all like and agree with, it is to protect the opinions that we hate. And that's what we're losing at the moment.

FC: So you're not really supporting free speech if you only support free speech for people who please you, are you?

What do you think are the best practical steps public figures could take to deal with the threat presented by Human Rights Commissions? And by that I mean politicians but also columnists or even people who write a letter to the editor. And how should private figures behave other than simply contacting their Member of Parliament and that sort of thing? Are there any steps that you think people should take?

NH: First of all, it is important to contact your Member of Parliament. It is important to contact your Member of the Legislative Assembly because these commissions and the tribunals that serve them were established by politicians. They were established by provincial legislatures. They were established by the federal government. It is the federal government and the provincial legislatures that can undo the bad things that they have done. You're not going to do it by rioting in the streets. You're not going to do it by refusing to pay your taxes or anything else like that. You've got to get the people who have the power to do this to want to do it. Therefore you do have to contact your politicians and you do have to write your letters to the editor. You also have to talk about it with people at every opportunity because what we need is a mass market. We need people to be concerned about it. We have to generate that sense of urgency to do something about this because it's far too easy to let it go and let somebody else do it and not say "oh that was interesting, now let's go to the Sports pages."

FC: As a columnist, does the presence of Human Rights Commissions affect what you do? Do you find yourself reluctant to draw their attention? How does it influence the way you write if it does?

NH: The Bible tells us to be as "wise as serpents and as gentle as doves." You ask how it affects me? Obviously, I am not going to write something in a column for the sole and express purpose of seeing how much trouble I can generate for myself. However, when it comes to a matter of what is true and what is fair to print then I will write what I believe to be true and what is fair. If that sparks a complaint so be it.

FC: So you try to write the way you would if they didn't exist?

NH: Yes.

FC: What are your thoughts on similar free speech issues in other countries? I know Europe has in some ways gone much farther down the road of limits on free speech. In the States they have a more solid sense of free speech but there are still issues. There was someone in Philadelphia who was brought before something similar for having a sign up for asking his patrons to order at his restaurant in English, for instance. So how do you think Canada compares?

NH: It's neither the worst billet in the barracks nor is it the best. I do admire the American respect for free speech, even as I sometimes deplore where it takes them. But as we were talking about earlier, you have to take the rough with the smooth. You can't only allow the speech that you agree with. I do fear for Great Britain, because I think that those same kinds of influences that we contend with here in Canada are very much alive and active in that part of the world as well. There is a common feature to everybody who tries to influence speech and put their template upon public discussion. They all think they're doing it for a good cause. Nobody goes out and does it thinking that it is a bad thing. Thus, for instance, the Communists, when they insisted upon their orthodoxy felt that it was in the best interests of the working class that they should control public discourse. The Roman Catholic Church, when it had the Inquisition did so because it felt it was in the best interests of people to be constrained to orthodoxy that their souls would be saved if they were compelled to submit to the earthly authority of the Church. Certainly I have no doubts in my mind that people who serve in Human Rights Commissions do so with the highest motives, believing that they will have a part in creating a better society, according to their light, than the one that they live in now. It's just not a society that I want to live in.

FC: Now speaking of people trying to make it better by their lights, Soharwardy, who brought the complaint against Ezra Levant and sort of kicked off Ezra's adventure, one of the things he mentions in his complaint is that it is against Muslim law to criticize Mohammed. So essentially what he is trying to do is to get Canadian Human Rights Commissions to impose Islamic law on non-Muslims. Now I'm sure he thinks that this would make us all in some way happier or get us into paradise but you mentioned that there are a number of different constituencies to which Human

Rights Commissions cater, one of which is this “Islamophobia” industry, so to the extent that this comes from a religious tradition that doesn’t have much of a tradition of co-existence with civil government, what do we do about it? Is this a symptom of a wider problem with assimilation? Did this just happen to be one group that is using Human Rights Commissions, could other groups try and remake society in the same way?

NH: I think that any group which has a distinct perspective, if it can find a way to bring the equality argument into play for itself will try to do that. It’s there to be used, and what’s more is it’s free and it’s fun. I think that that’s precisely what we’re dealing with here is how do we protect ourselves against that kind of interference. The fact is that this country, like a number of others, has a certain political culture and in that political culture disrespect of persons in form of satire or irony, disrespect in the form of political

cartooning is all part of it. When a person comes from another country they should know to expect that. If they feel that that is something that they can’t tolerate and don’t want to live with, then there are other countries that you can emigrate to, I guess, and you won’t have the same problems. I’m of the opinion that the truth is best arrived at by hashing out ideas in the public market place and those that actually have merit with finally prevail. There’s an expression that lawyers love to use, they say “Those who love sausages and love the law, shouldn’t watch either being made.” I think that that is so very descriptive of our political process. People’s sensitivities will be trampled on, they will be hurt but there isn’t a better way. There isn’t a way that certainly does the job and still leaves liberty to the individual in a better way than our own so it’s a question of fitting in.