

**CANADIAN
HUMAN RIGHTS
TRIBUNAL**



**TRIBUNAL CANADIEN
DES DROITS
DE LA PERSONNE**

BETWEEN/ENTRE:

RICHARD WARMAN

Complainant

le plaignant

and/et

CANADIAN HUMAN RIGHTS COMMISSION

Commission

la Commission

and/et

WESTERN CANADA FOR US AND GLENN BAHR

Respondents

les l'intimés

BEFORE/DEVANT:

JULIE LLOYD

THE CHAIRPERSON/
LA PRÉSIDENTE

LINE JOYAL

REGISTRY OFFICER/
L'AGENTE DU GREFFE

FILE NO./N^o CAUSE:

T1087/6805

VOLUME:

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CANADIAN HUMAN RIGHTS TRIBUNAL/
TRIBUNAL CANADIEN DES DROITS DE LA PERSONNE

HEARING HELD IN THE QUEEN ELIZABETH ROOM, DELTA EDMONTON CENTRE,
10222 102 STREET, EDMONTON, ALBERTA ON THURSDAY, MAY 25, 2006,
AT 9:30 A.M. LOCAL TIME

IN THE MATTER OF a complaint filed by Richard Warman dated June 8, 2004, pursuant to Section 13(1) of the Canadian Human Rights Act against Western Canada For Us and Glenn Bahr. The complainant alleges that the respondents have engaged in a discriminatory practice on the grounds of religion, sexual orientation, race, colour, national and/or ethnic origin and disability in the matter related to the usage of telecommunication undertaking.

APPEARANCES/COMPARUTIONS

Richard Warman	on his own behalf
Giacomo Vigna Ikrame Warsame	on behalf of the Commission
Paul Fromm	on behalf of Glenn Bahr

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1 Edmonton, Alberta

2 --- Upon commencing on Thursday, May 25, 2006

3 at 9:30 a.m.

4 THE CHAIRPERSON: Good morning,
5 everyone. You may be seated.

6 Okay, Mr. Fromm, you advised
7 yesterday afternoon that you had a motion that you
8 wanted to bring forward.

9 MR. FROMM: Yes. I have copies here.
10 How many copies do you need?

11 THE REGISTRAR: Two. Three, sorry.
12 Turn your mic on, please.

13 THE CHAIRPERSON: Okay, carry on,
14 Mr. Fromm.

15 MR. FROMM: Madam Chair, this is a
16 motion that I bring with no great pleasure, but it is a
17 motion seeking that you recuse yourself from this case.
18 You want me to get right into it or just read the
19 notice?

20 THE CHAIRPERSON: Yes, go ahead,
21 please.

22 MR. FROMM: Basically the summary
23 motion is that the tribunal member Julie Lloyd recuse
24 herself from the hearing and adjourn the matter so that
25 it may be heard by another tribunal member.

1 Grounds for the motion, in brief,

2 are:

3 "That the respondent is the
4 subject of a complaint alleging,
5 inter alia, that he exposed
6 persons to hatred on the basis
7 of sexual orientation;

8 that the Member Julie Llyod
9 is and has been a prominent and
10 outspoken advocate and partisan
11 for homosexual rights;

12 that the member is herself a
13 lesbian, is married to another
14 woman, and is emotionally and
15 psychologically committed to
16 ending what she perceives to be
17 discrimination against
18 homosexuals;

19 that in the media, socially,
20 and professionally, the tribunal
21 member Julie Lloyd has built a
22 public persona that promotes her
23 primary identity as a homosexual
24 and as an aggressive and
25 impatient homosexual rights

1 activist;

2 that the tribunal member's
3 identity is strongly based on
4 her sexuality;

5 that the Tribunal member has
6 received numerous awards from
7 homosexual lobby groups for her
8 work in aggressively furthering
9 homosexual legal rights;

10 that the tribunal member
11 perceives discrimination against
12 homosexuals as a moral issue and
13 does not see homosexuality
14 itself as a moral issue;

15 that the respondent, Glenn
16 Bahr, therefore, has a
17 reasonable apprehension of bias
18 that he cannot obtain a fair and
19 impartial hearing of the case
20 before the tribunal member."

21 And the submissions are in
22 documentary evidence.

23 THE CHAIRPERSON: Okay. So,
24 Mr. Fromm, why exactly? What exactly is it that is
25 your reason for saying that the tribunal is biased?

1 MR. FROMM: I am not saying the
2 tribunal is biased, I am saying I am arguing a
3 reasonable apprehension of bias. And if you want, I
4 can go into the submissions.

5 THE CHAIRPERSON: I beg your pardon?

6 MR. FROMM: If I may, I would go into
7 submissions.

8 THE CHAIRPERSON: Carry on.

9 MR. FROMM:

10 "The respondent, Glenn Bahr, is
11 the subject of a complaint
12 alleging, inter alia, that he
13 has exposed persons to hatred
14 and contempt on the basis of
15 sexual orientation.

16 The tribunal member assigned
17 to hear the case is Julie Lloyd,
18 a prominent, outspoken lesbian
19 married to another woman --"

20 THE CHAIRPERSON: Oh, I am sorry.
21 Are you just repeating what you just said?

22 MR. FROMM: No, I am carrying on.

23 THE CHAIRPERSON: Oh, you are
24 carrying on? Okay, carry on.

25 MR. FROMM:

1 "... who has worked for years as
2 a lawyer for homosexual clients
3 and organisations to further the
4 homosexual rights agenda.

5 The member is a spokeswoman
6 for Equal Alberta, a gay rights
7 organisation. She is described
8 regularly in the media as a
9 prominent gay rights activist
10 and is asked by the media to
11 comment on gay rights and issues
12 as a spokeswoman.

13 She has served as a co-chair
14 on Sexual orientation and Gender
15 Identity Conference of the
16 Canadian Bar Association, which
17 deals with legal issues of
18 concern regarding orientation.

19 She is a recipient of the
20 Maureen Irwin award in
21 recognition of service to the
22 lesbian and gay communities of
23 Edmonton and is an inductee to
24 the Edmonton Pride Committee
25 Hall of Fame."

1 That is Department of Justice Press
2 Release, February 21st, 2005.

3 The following are excerpts from some
4 of the media coverage of homosexual rights issues in
5 which the member was asked to comment as a prominent
6 and leading activist for homosexual issues.

7 April 21st of 1999, the Canadian
8 Press under the headline "Alberta Opens the Door for
9 Gay Parent adoption."

10 "The Alberta government is
11 introducing legislation to
12 change wording in the Adoption
13 Act so that gays and lesbians
14 can adopt children. The move,
15 announced Wednesday by Social
16 Services Minister Lyle Oberg,
17 was immediately applauded by gay
18 rights activists. "I think that
19 would be wonderful," said Julie
20 Lloyd, spokeswoman for Equal
21 Alberta."

22 The Canadian Press of June 29th,
23 2005, under the headline, "Alberta Could Still
24 Challenge Federal Same-Sex Laws," says Justice
25 Minister.

1 "Alberta's fight to stop gay
2 marriages has been lost, but the
3 justice minister suggested that
4 the province may not be ready to
5 throw in the towel just yet.
6 Human rights lawyer Julie Lloyd
7 said the only reason the
8 government would engage the
9 court process at this time would
10 be, as Premier Ralph Klein
11 suggested Tuesday, for optics.

12 "It's utterly ridiculous and
13 irresponsible and mean-spirited
14 to use a minority in Alberta for
15 a political end," she said."

16 Canadian Press of March 18th, 2005,
17 under the headline, "Alberta Has Already Spent \$110,000
18 In Legal Fees Fighting Gay Marriage."

19 "Alberta already spent about
20 \$110,000 in legal fees to fight
21 the proposed federal same-sex
22 marriage in front of the Supreme
23 Court of Canada. Next week, the
24 Alberta government is expected
25 to begin the process of renewing

1 the 2000 Marriage Amendment Act
2 due to expire on Wednesday,
3 which defines marriage in
4 Alberta as solely between a man
5 and a woman. Meanwhile,
6 Alberta's gay and lesbian
7 community is gearing up for a
8 fight over the Klein
9 government's position on
10 same-sex marriage. Lawyer Julie
11 Lloyd said she hopes the federal
12 government will take up the
13 case. "I hope they will take
14 this rogue province to court,"
15 she said."

16 Under another Canadian Press story
17 dated November 28th, 2003, under the headline, "Paul
18 Martin Phones Edmonton MP over Comments on Same-Sex
19 Marriages."

20 "Paul Martin has accepted an
21 Edmonton MP's assurances his
22 comments on same-sex marriages
23 were misconstrued, a spokesman
24 for the incoming prime minister
25 said Friday."

1 New Democrat MP Svend
2 Robinson and lawyer Julie Lloyd,
3 a leader of the Edmonton gay and
4 lesbian community, said Kilgour
5 dug a deeper hole for himself
6 Friday by issuing a written
7 clarification on his comments.

8 "I do not in any way believe
9 that homosexuality leads to
10 incest and/or polygamy and in no
11 way meant to imply they are
12 related," Kilgour's statement
13 said.

14 "My comments stem from a
15 concern that were a law to be
16 too broadly written, it might be
17 legally impossible to prevent
18 any individuals from marrying.
19 I deeply regret that my comments
20 may have been misinterpreted as
21 disparaging toward gay and
22 lesbian Canadians."

23 But Robinson and Lloyd said
24 even clarification disparaged
25 gay and lesbian Canadians, and

1 Robinson, who is openly gay,
2 called on Martin to kick Kilgour
3 out of the federal cabinet."

4 Another news story dated 30th of
5 April, 2003, aired by the Canadian Press under the
6 headline, "New Alberta Law Gives Same-Sex Couples Same
7 Rights As Married Couples on June 1."

8 "Alberta's new law giving
9 same-sex couples many of the
10 same rights as married couples
11 will come into force June 1.
12 The Adult Interdependent
13 Relations Act, passed last fall
14 in the legislature, amends 68
15 provincial laws and some
16 provincial regulations. The law
17 will mean gay and lesbian
18 couples will have marriage-like
19 obligations and rights, such as
20 financially supporting one
21 another or being eligible for
22 insurance coverage that is
23 currently available only to
24 married people.

25 "I anticipate that this goes

1 a long way to resolving any
2 difficulties or obstacles that
3 have been in the way of lesbian
4 and gay relationships," said
5 lawyer Julie Lloyd, one of the
6 province's most outspoken
7 proponents for same-sex couples'
8 rights."

9 Another Canadian Press story, which
10 was carried in The Edmonton Journal on July 19th, 2002,
11 under the headline, "Klein Says Alberta Will Use
12 Notwithstanding Clause to Oppose Gay Marriages."

13 "Premier Ralph Klein says he
14 will invoke the constitution's
15 notwithstanding clause to
16 prohibit gay marriages in
17 Alberta, even though legal
18 experts say the province is
19 powerless to stop it. Lawyer
20 Julie Lloyd said it would be
21 mean-spirited of the province to
22 refuse to grant marriage
23 licences to homosexual couples
24 and predicted it wouldn't be
25 long before that would be

1 successfully overturned in
2 court.

3 "Governments have a
4 responsibility to make sure
5 their laws are legal," she said.
6 "I would hope the government of
7 Alberta takes the responsibility
8 seriously. It shouldn't be
9 necessary for citizens to engage
10 in costly and time-consuming
11 litigation."

12 A January 25th story -- sorry,
13 January 25th of 2002 story carried by the Canadian
14 Press under the headline, "Alberta Government Approves
15 Pension Benefits for Same-Sex Management Couples."

16 "The Alberta government has
17 approved pension benefits for
18 the same-sex partners of senior
19 provincial managers to avoid a
20 legal challenge it could not
21 win.

22 "The reality is we changed
23 the pension regulations because
24 there was a challenge to them in
25 court," said provincial Justice

1 Minister Dave Hancock. "We were
2 going to lose that challenge."
3 The challenge came from a
4 30-year veteran of the public
5 service. He believed his
6 longtime, same-sex partner had a
7 right to the same pension
8 benefits granted to heterosexual
9 couples.

10 The public servant, who
11 wishes to remain unnamed, is
12 considering retirement but
13 wanted his partner to receive
14 full survivor benefits if he
15 should die, said his lawyer
16 Julie Lloyd. Lloyd has worked
17 on several high-profile cases
18 involving rights for same-sex
19 couples."

20 A June 11th, 2003, story written in
21 the Canadian Press under the headline, "Calgary Gay
22 Couple Married But Can't Get Marriage Licence in
23 Alberta."

24 "When Wayne MacLean and his male
25 partner got married in the

1 United Church, no one there had
2 any doubts about what they were
3 doing.

4 Julie Lloyd, a lawyer who
5 has worked on several
6 high-profile gay rights cases in
7 Alberta, is more blunt.

8 "The province of Alberta
9 cannot unilaterally create its
10 own definition of marriage any
11 more than it can create its own
12 criminal code," Lloyd said.

13 "For the province of Alberta to
14 suggest they can has no academic
15 currency at all."

16 An April 3rd, 2001, story carried by
17 the Canadian Press Under the headline, "Alberta Court
18 Rules that Gays Deserve Equal Rights under Estate Law."

19 "In a decision that could
20 sharply expand gay rights in
21 Alberta, an Edmonton Court of
22 Queen's Bench justice has
23 declared the province's estate
24 law unconstitutional because it
25 does not give homosexual couples

1 the same rights to the estate of
2 a deceased partner as it gives
3 heterosexuals. Lawyer Julie
4 Lloyd said the ruling will have
5 implications on about 50 other
6 pieces of provincial legislation
7 that define couples as
8 exclusively heterosexual. That
9 includes everything from welfare
10 to banking legislation.

11 "Clearly, the writing is on
12 the wall for the other statutes
13 in Alberta," said Lloyd, who
14 represents the dead man's gay
15 partner.

16 "The government has a job to
17 make sure its legislation is
18 fair and complies with the
19 Charter. "The judgement is
20 saying, 'Let's treat everyone
21 the same. Quit picking on the
22 little people.'"

23 From The Edmonton Journal of August
24 4th, 2005, also carried by the Canadian Press under the
25 headline, "Lesbian Couple Exchange Wedding Vows at

1 Edmonton Folk Festival."

2 "A prominent civil rights
3 lawyer married her long-time
4 girlfriend in front of about 100
5 people gathered near the Family
6 Stage at the Edmonton Folk Music
7 Festival on Thursday night.

8 Julie Lloyd, a member of the
9 Canadian Human Rights Tribunal
10 and spokeswoman for Equal
11 Alberta, wed Tina Taylor, a
12 maker of hand-crafted willow
13 furniture.

14 "The folk festival is a
15 profoundly special place for me
16 and for Tina," said Lloyd.

17 "It's a metaphor for
18 inclusiveness and embracing
19 diversity. It's a magical
20 place, like Brigadoon, that
21 arises once a year on the hill
22 and then disappears."

23 The crowd on hand broke into
24 loud applause and hoots of
25 laughter as Reverend Mickey

1 Wilson of the Lambda Christian
2 Community Church pronounced the
3 couple married "by the power
4 invested in me by the province
5 of Alberta."

6 The new federal law allowing
7 same-sex marriage has been only
8 reluctantly endorsed by the
9 Alberta government.

10 The province has said it
11 could invoke the notwithstanding
12 clause of the Charter of Rights
13 to prevent marriage
14 commissioners from having to
15 perform same-sex marriages.

16 The province also intends to
17 pass a law to shield officials
18 from potential human rights
19 complaints if they refuse to
20 conduct same-sex marriages
21 because of moral or religious
22 beliefs."

23 From the May 14th, 2002, report from
24 the Canadian Press under the headline, "Gay Man Sues
25 Alberta Government for Pension Benefits for Same-Sex

1 Partner."

2 "A provincial civil servant is
3 suing the Alberta government to
4 ensure that his same-sex partner
5 of 22 years will be able to
6 collect pension benefits when he
7 dies. Julie Lloyd, Lawrence's
8 lawyer, also questioned why
9 Alberta has to be legally forced
10 to change discriminatory laws
11 since the Supreme Court has
12 ruled that people in same-sex
13 relationships must be treated
14 the same as married or
15 common-law couples.

16 The cost of such lawsuits is
17 a waste of taxpayers' money, she
18 said. "I hope they will fairly
19 quickly concede," Lloyd said.

20 "It is unfair. Why suffer the
21 death of a thousand cuts?"

22 From the December 10th, 2004, report,
23 Canadian Press by John Cotter and under the headline,
24 "Alberta Gays Say They Won't Stand For Same-Sex
25 Marriage Discrimination."

1 "Alberta's staunch opposition to
2 same-sex marriage is no
3 different than discriminatory
4 laws once faced by Jews and
5 non-whites around the world, gay
6 and lesbian leaders said
7 Tuesday.

8 Premier Ralph Klein said
9 earlier this month that same-sex
10 marriages are morally wrong, and
11 his government will not allow
12 them despite a Supreme Court
13 ruling on the issue.

14 Gay and lesbian activists
15 say they have sent a letter
16 demanding a meeting with Klein
17 in hopes of changing his mind.
18 If not, they promise to
19 challenge Alberta's position in
20 court.

21 "I have heard the premier of
22 Alberta describe the issue as a
23 moral issue, and I agree," said
24 Julie Lloyd, a lawyer who has
25 been a driving force behind

1 human rights cases in Alberta.
2 "However, the moral issue is not
3 and cannot be homosexuality.
4 The moral issue is
5 discrimination."

6 I may have given the wrong date.
7 That is a story from December 21st, 2004, for the
8 Canadian Press.

9 December 10th, 2004, also from the
10 Canadian Press and also authored by John Cotter under
11 the headline, "Klein Says Unsure of Numbers, But Most
12 Albertans Oppose Same-Sex Marriage."

13 "Premier Ralph Klein weighed in
14 on the Supreme Court ruling on
15 same-sex marriage for the first
16 time Friday, saying the fight is
17 far from over.

18 Edmonton lawyer Julie Lloyd
19 said it is too early to say when
20 the challenge will be filed.
21 There is a slim chance the
22 province may change its position
23 next week after the Alberta
24 Tories meet to discuss how the
25 government will respond to the

1 issue, she said.

2 "I would be happy to hear
3 from the government of Alberta
4 that they will start issuing
5 marriage licences," she said.

6 "The information is to the
7 contrary, so it would appear
8 that we don't have any choice
9 but to bring a challenge to the
10 law."

11 Such a court challenge could
12 take years to make its way
13 through the Alberta Court of
14 Queen's Bench and appeal courts,
15 she said."

16 March 15th, 2000, news item carried
17 by the Canadian Press under the headline, "Alberta
18 Introduces Legislation Banning Gay Marriages."

19 "The Alberta government passed
20 legislation Wednesday banning
21 gay marriages, even if that
22 means using a Charter veto.
23 Julie Lloyd, an Edmonton lawyer
24 and lesbian, said the message
25 Alberta is sending is troubled.

1 changes, particularly since the
2 courts have been clear that the
3 changes need to be put in
4 place," Lloyd said."

5 Another news story from June 28th,
6 1999, carried by the Canadian Press, written by Reg
7 Curren, headline, "Judge Reserves Decision in Lesbian
8 Adoption Case."

9 "There is no scientific, family,
10 or legal reasons to deny two
11 Alberta lesbian couples from
12 adopting a child, their lawyer
13 said. Julie Lloyd, a lawyer and
14 spokeswoman for the gay and
15 lesbian advocacy group Equal
16 Alberta, said no matter how the
17 court rules, the law will remain
18 vague. The Court of Queen's
19 Bench ruling is not binding on
20 other judges, so if a similar
21 case arises elsewhere in
22 Alberta, it won't necessarily
23 aid the next couple facing the
24 same situation.

25 The province left a gap by

1 not including a definition of
2 step-parent in the legislation,
3 she said.

4 "We remain in a very
5 unsatisfactory state in this
6 area," she said."

7 A story from The Edmonton Sun January
8 15th, 2006, "Gays Go For McLellan." It is written by
9 Brookes Merritt of The Edmonton Sun.

10 "Gay and lesbian community
11 advocate Julie Lloyd says Anne
12 McLellan is the only choice for
13 MP in the Edmonton centre riding
14 among gays and lesbians.

15 "She knows more drag queens
16 than I do," Lloyd quipped.

17 "Anne's been attending gay and
18 lesbian events since the early
19 1990s, has been the marshal of
20 our parades, and hasn't ever
21 voted against a bill that would
22 advocate our rights."

23 From the CTV website from May the
24 10th, 2006, under the headline "Time Runs Out In
25 Alberta For Anti-Gay Marriage Bill."

1 "A controversial private
2 members' bill in Alberta,
3 denounced by critics as being
4 anti-gay, has died after
5 opposition members used stalling
6 tactics to prevent its passage
7 on Monday. If passed, Bill 208
8 would have allowed marriage
9 commissioners in Alberta to
10 refuse to perform same-sex
11 marriages.

12 Earlier in the day, several
13 leaders of Alberta's gay
14 community held a news conference
15 to condemn the bill and an
16 attack on gays and an attempt to
17 legislate discrimination.

18 "With this bill, the
19 government sends such a sinister
20 message," said gay rights
21 activist Julie Lloyd. "It sends
22 a message that hatred and
23 intolerance is acceptable when
24 directed at this particular
25 group. That is unconscionable."

1 case, which saw the Supreme
2 Court order that the Alberta
3 Human Rights Code be extended to
4 protect homosexuals. She
5 handled the lawsuit that forced
6 the provincial government to
7 give inheritance rights to
8 same-sex couples.

9 Most recently, she launched
10 a successful Charter challenge
11 to obtain full pension benefits
12 for provincial employees in
13 same-sex relationships.

14 Although she's a gay
15 activist, she said she's not one
16 for lobbying, describing the
17 practice as akin to saying,
18 "Please don't hate us, please
19 treat us fairly."

20 Her derision is loud and
21 clear over the phone, "I don't
22 have the stomach for that,
23 frankly," she says. Lloyd says
24 the province's continued
25 reluctance to change laws that

1 clearly violate the Charter of
2 Rights and Freedoms is
3 "irresponsible and
4 mean-spirited." She's not being
5 disingenuous, she says, but she
6 doesn't get it.

7 The Supreme Court of Canada
8 ruled three years ago that
9 people in same-sex relationships
10 must be treated the same way as
11 couples in a marriage or a
12 common-law relationship. In
13 other words, gay couples have
14 the same rights as straight
15 couples.

16 Ontario, Quebec, and British
17 Columbia have already changed
18 their laws, but Alberta
19 continues to drag its heels.
20 The government prefers being
21 challenged in court to quietly
22 making the changes. When
23 changes are made, they are
24 dished out piecemeal.

25 Take pensions. The

1 government introduced Bill 30
2 last month to give a few
3 marriage-like benefits to those
4 in committed same-sex
5 relationships, but Lloyd says
6 the province hasn't changed its
7 regulations and laws so that all
8 same-sex couples receive full
9 pension benefits.

10 Conversely, recognition has
11 been extended to "adult
12 interdependent partners." It is
13 an unwieldy title referring to
14 non-sexual relationships. Think
15 two older siblings living
16 together or an adult with a
17 grown child who has moved back
18 home.

19 But Lloyd had said that this
20 legislation is bound to make
21 those in the platonic
22 relationships nervous. No one
23 knows how long an adult will
24 have to pay for their
25 interdependent partner.

1 Lloyd's primary focus in the
2 last year-and-a-half has been on
3 Charter challenges regarding
4 pensions, but she calls her law
5 office a general practice. She
6 just happens to have quite a
7 number of gay and lesbian
8 clients.

9 "To me as a lesbian, it
10 feels very important to have a
11 role in making my world a better
12 place."

13 While she currently has no
14 actions ongoing, Lloyd has had
15 discussions about the remaining
16 statutes, an excess of 60, that
17 affect relationships, almost
18 none of which, she says, include
19 homosexuals.

20 The act most in need of
21 reform, she says, is the
22 domestic Relations Act, a statute
23 that allows a spouse to apply
24 for support when a couple breaks
25 up but only if its members

1 aren't of the same gender.

2 Lloyd wishes the government
3 could understand how
4 "destructive, wrong, and
5 poisonous" its message is to
6 young people and how it keeps
7 others in the closet.

8 "What if we said the same thing
9 about Jewish people or Natives,"
10 she asks. "The government needs
11 to get over it already."

12 It is for that reason that
13 Lloyd likes to initiate charter
14 challenges.

15 "I'm not a very patient
16 person, so this makes me willing
17 to take a run at the government.
18 Its laws are illegal."

19 Justice Minister Dave
20 Hancock had publicly called
21 Lloyd a "media hound".
22 Laughing, Lloyd says, "You know
23 how to get me out of the papers?
24 Hancock, do your damn job."

25 The next item is from SEE Magazine,

1 issue 650 of May 11, 2006. The headline is "Phair:
2 "Hate" Protections Sought by Tories. Gay and Lesbian
3 Community Step Up To Fight."

4 "Bill 208 may be dead, but the
5 wounded inflicted wouldn't soon
6 be forgotten. Gay and lesbian
7 rights advocates came together
8 Monday to deprive the
9 conservative momentum behind the
10 private members' bill that they
11 said would have endorsed,
12 encouraged, and
13 institutionalised hatred.

14 Edmonton counselor Michael
15 Phair, one of Canada's earliest
16 "out" politicians, was vehement
17 in his criticism of the bill.

18 "Bill 208 and its author are
19 trying to turn back the clock,
20 institutionalising prejudice
21 and, I think, hatred. It's a
22 cheap, uncalled-for ploy to
23 undermine tolerance and
24 acceptance in this province. It
25 is truly appalling and

1 frightening to see the votes
2 from government MLAs that this
3 bill has garnered."

4 Phair said at a Monday press
5 conference.

6 Bill 208, the "Protection of
7 Fundamental Freedoms (Marriage)
8 Statutes Amendment Act," would
9 have allowed marriage
10 commissioners to opt out of
11 civil same-sex marriages and
12 give teachers the right to
13 refuse to discuss same-sex
14 marriage.

15 Since same-sex marriage
16 became the law of the land under
17 Paul Martin's ill-fated
18 government, provincial
19 Conservatives had asserted
20 marriage commissioners would be
21 permitted to opt out of such
22 ceremonies, but no legal
23 provisions existed to support
24 that assertion. Morton's Bill
25 would have changed that. While

1 most private members' bills
2 tinker with specific aspects of
3 existing legislation, Bill 208,
4 however, proposed a widespread
5 shift, affecting not just
6 schools and marriage but
7 Alberta's own, hard-fought-for
8 Human Rights Act.

9 Premier Ralph Klein said he
10 supported the bill because it
11 affirmed existing government
12 policy.

13 "It sends the message that
14 hatred and intolerance are
15 legitimate when it's directed
16 against this minority. This is
17 unconscionable," said Julie
18 Lloyd, a lesbian who is an
19 Edmonton-based human rights
20 lawyer and a member of Canadian
21 Human Rights Tribunal.

22 She warned the precedent of
23 such a bill, if passed, would
24 encourage others in the public
25 sphere to see discrimination

1 against gays and lesbian as a
2 uniquely permissible offence.

3 "People are allowed to have
4 their private opinions, but they
5 are not allowed to discriminate
6 against minorities in a public
7 sphere," she said.

8 Lloyd was unequivocal.
9 "Remember that gays and lesbians
10 had to fight through the courts
11 to have the government include
12 sexual orientation into the
13 human rights legislation. That
14 was six, seven years ago that
15 that fight finally ended. This
16 bill brings us right back to
17 that problem," she said."

18 From Vue Weekly -- and that is
19 spelled V-U-E, Weekly -- from the 13th to the 19th of
20 June, 2002, this was reprinted by the Alberta Teacher's
21 Association under the headline, "Lloyd Llikes
22 Lliteration." And that is spelled in kind of a cute
23 way: Lloyd, L-L-O-Y-D, llikes, L-L-I-K-E-s,
24 lliteration, L-L-I-T-I-G-A-T-I-O-N. Double "L" Lloyd,
25 double "L" likes, double "L" litigation.

1 "Prominent local lawyer Julie
2 Lloyd, who represents the
3 plaintiffs in the recent
4 same-sex pension case, agrees.
5 And to her, inclusion is a moral
6 issue above and beyond someone's
7 particular sexuality.

8 "The constant struggle of
9 our society is a struggle
10 towards inclusion," she says.
11 "Lesbian and gay people are the
12 reviled population now, but
13 there are going to be other
14 communities coming down the
15 road.

16 Cruelty and exclusion happen
17 a lot. There could be whole
18 other groups of people suffering
19 in the same way."

20 Lloyd is encouraged by the
21 way courts and human rights
22 tribunals are starting to
23 recognise the societal costs of
24 discrimination in schools.

25 To wit, the April 8th

1 decision by the British Columbia
2 Human Rights Tribunal, which
3 found the North Vancouver School
4 Board Number 44 liable for
5 failing to prevent and respond
6 to homophobia and homophobic
7 harassment by students.

8 A gay student named Azmi
9 Jurban had been punched, kicked,
10 and spit upon. His shirt was
11 burned, and his tent was
12 urinated on. His school's
13 administration knew Jurban was
14 being assaulted, yet the attacks
15 continued for three years.

16 Now the board will have to
17 pay damages.

18 "This spirit of litigation
19 warms my heart," says Lloyd,
20 "and it's being driven by all
21 these young kids."

22 That is the end of the documentary
23 evidence that we were able to put together in 36
24 hours -- I might say without having the proper
25 equipment to do so.

1 The issue before us, though, is do
2 the political, social, and legal activism and beliefs
3 of the tribunal member with respect to sexual
4 orientation raise a reasonable apprehension of bias
5 against the respondent, Mr. Bahr? And the argument, in
6 my respectful submission, the Canadian Human Rights
7 Tribunal is a quasi-judicial tribunal, and the
8 respondent is entitled to have his case heard by an
9 independent and impartial tribunal member.

10 In Zündel versus Citron -- and I have
11 a court citation there:

12 "A case which dealt with
13 apprehension of bias, the
14 federal Court of Appeal held as
15 follows: "In my opinion, the
16 provision in Subsection 48.1(2)
17 respecting qualifications of
18 persons appointed to the New
19 Tribunal on or after June 30th,
20 1998, does not, without more,
21 give rise to a reasonable
22 apprehension of bias. The
23 phrase "sensitivity to human
24 rights" connotes awareness of
25 and interest in human rights.

1 It does not connote a
2 predilection in favour of human
3 rights, as Cory J. observed.

4 True impartiality does not
5 require that the judge had no
6 sympathies or opinions. It
7 requires that the judge,
8 nevertheless, be free to
9 entertain and act upon different
10 points of view with an open
11 mind.

12 It is obvious that good
13 judges will have a wealth of
14 personal and professional
15 experience, that they will apply
16 with sensitivity and compassion
17 to the cases that they must
18 hear."

19 In this case, it is clear that the
20 member has been and continues to be a prominent
21 spokesperson for homosexual rights and the homosexual
22 agenda. She does not simply have a "wealth of personal
23 and professional experience." She has been, in fact, a
24 deeply committed partisan, an advocate of homosexual
25 rights in what is called a homosexual agenda.

1 It is submitted that she does not
2 have an open mind on issues pertaining to sexual
3 orientation. She perceives any dissent from the
4 homosexual agenda she has fought for over the years as
5 discrimination and, as such, as a moral issue and as
6 hatred.

7 And I point particularly in the
8 comments made about Bill 208 the rights of civil
9 servants in the province of Alberta to their own
10 religious beliefs, which would be guaranteed by Bill
11 208, are rights that the tribunal member feels should
12 not be allowed to be exercised. In fact, those civil
13 servants who might not want to perform the same-sex
14 marriage, that their attitude was deemed to be hatred,
15 not sincerely held religious beliefs. And that is very
16 much the case here with Mr. Bahr.

17 In our submission, he did not author
18 the inflammatory passage in Mr. Warman's complaint,
19 but, nevertheless, the issue of people's right to feel
20 that the homosexual lifestyle is perhaps immoral, just
21 not good, is in sharp conflict in this case with other
22 rights. And the comments by the member in the past
23 made it very clear that the rights of people who
24 disagree with homosexuality as a practice are simply
25 not to be respected. Her clearly expressed and

1 strongly held views indicate that she believes that any
2 deviance from the homosexual agenda as pursued by the
3 groups she represents amounts to hatred. Not dissent
4 but hatred.

5 As recently as several days ago, she
6 was described as a lesbian rights advocate, and she
7 participated in a condemnation of Bill 208 in Alberta,
8 a bill that sought to protect the rights of people who
9 view homosexuality as a moral issue, as a matter of
10 conscience.

11 She has derided lobbying, likening it
12 to saying, "Please don't hate us," and has preferred to
13 litigate to obtain homosexual rights. This comment
14 regarding lobbying and other comments regarding Bill
15 208 indicate that the member is ready to see hatred
16 against homosexuals in matters which do not indicate
17 hatred of all to others.

18 She is married to another woman. She
19 was married to another woman in 2005 at a folk festival
20 in a very public ceremony, which garnered much media
21 attention. For the member, these issues are deeply
22 personal and are issues she has spent much of her adult
23 life advocating for. It is clear that she cannot deal
24 with the issues with sexual orientation with an open
25 mind.

1 It has no doubt taken much courage to
2 fight this fight so publicly for years, because
3 certainly advocacy for homosexuals and lesbians is not
4 today a popular thing, and probably was even less
5 popular in years gone by, and it is perhaps for this
6 very reason the courage and commitment the member has
7 devoted to this.

8 In our submission, there is a
9 reasonable apprehension that she cannot be unbiased in
10 this issue and in the case against Mr. Bahr.

11 But the member must realise that in
12 doing so, she has become and is an advocate and a
13 partisan, not a person who should sit in judgment over
14 a person accused of discriminating against homosexuals.
15 And that is certainly part of the complaint made by
16 Mr. Warman. She has lost the ability to be impartial
17 and should recognise this fact.

18 Justice must not only be done but it
19 must be seen to be done. There is no doubt that she
20 would not want to be judged by a person who has been a
21 partisan advocate for years to recriminalise
22 homosexuality. Since the Mulroney government, they
23 won't appointed Reverend Ken Campbell to the Human
24 Rights Tribunal, I am sure. Might not be perceived to
25 be objective.

1 It is respectfully submitted that the
2 member should recuse herself from the case on the
3 grounds that her background and beliefs as a homosexual
4 advocate and activist and lesbian raise a reasonable
5 apprehension of bias against the respondent, Mr. Bahr.

6 The order requested, the respondent,
7 Mr. Bahr, respectfully requests -- because of the
8 late-night spelling, I left a "D" out of there --
9 requested. Order requested, the respondent
10 respectfully requests that the member recuse herself
11 from this case and adjourn the matter so that it may be
12 heard by another member. And that, as this reasonable
13 apprehension of bias should have been foreseen by the
14 member as a matter of fairness and prudence, Mr. Bahr's
15 costs thus far in this matter be paid.

16 THE CHAIRPERSON: Thank you.

17 Counsel, do either of you have
18 anything to say, or do you need some time to think
19 about it?

20 MR. VIGNA: Madam Chair, before
21 addressing the motion on its merits, I would like to
22 address the issue of the motion itself.

23 First of all, the motion does not
24 address anything in this hearing. It addresses the
25 subject matter that was known -- should have been known

1 to the respondents. And we are already today on the
2 third day of the hearing when this motion is presented.

3 I respectfully submit that the
4 tribunal should not entertain this motion, because the
5 respondent has waived his right to raise any issue of
6 reasonable apprehension of bias by recusing you of this
7 hearing, which is totally baseless in terms of the
8 connection of the evidence in the hearing of behaviour
9 of the tribunal member.

10 Also the motion is not supported by
11 any Affidavit, any evidence whatsoever, and is based
12 solely on the media clippings or the media information.
13 So I would like to submit respectfully that there
14 should be a decision on whether the tribunal should
15 even hear this motion at this moment in time,
16 particularly because of the fact that all the
17 allegations in the motion are not in connection to the
18 evidence that has been heard during the hearing but as
19 stuff that should have been raised at the very
20 beginning of the hearing or even during the conference
21 calls.

22 And since none of this has been
23 raised, I respectfully submit that the tribunal
24 shouldn't consider whether this motion should be heard,
25 because by not raising it at the first reasonable

1 opportunity, which is what the case law requires, the
2 respondent has waived the right to raise such a motion.

3 THE CHAIRPERSON: Do you have any
4 comments to make in the alternative?

5 MR. VIGNA: In the alternative, yes,
6 I would like to say, first of all, Madam Chair, that I
7 would like to make comments, but I reserve the right to
8 make comments because of the short notice of the motion
9 and all that.

10 But fundamentally what is being said
11 is the allegations that the respondent is raising have
12 no connection with the behaviour of the member in the
13 tribunal and is simply alleging the tribunal member's
14 professional activities as a subject matter of bias.

15 That would mean, I would like to
16 submit to you, Madam Chair, that, for example, a judge
17 who was a prosecutor or was a defence lawyer would
18 necessarily have a bias for the accused or bias for the
19 prosecution, which is totally ridiculous.

20 I would submit to you, Madam Chair,
21 that the case law which I will provide you basically
22 states that the first thing we have to consider is the
23 presumption of impartiality of the tribunal member.

24 That is the very first thing we have
25 to consider, that in order for a respondent to

1 successfully raise a reasonable apprehension of bias,
2 there has to be a very heavy test that has to be met.

3 None of the evidence -- and I submit
4 to you there is no evidence on the motion, because
5 there is no Affidavit, there is no connection to the
6 hearing even being an issue of evidence. It is totally
7 baseless.

8 And to quote from certain cases, for
9 example, in R versus RDS, which I would like to provide
10 to the parties of the tribunal. Madam Chair, I would
11 like to perhaps continue my pleading a bit more in
12 depth. Because of the short notice, I would like to
13 ask for maybe ten minutes so I can organise my notes.

14 THE CHAIRPERSON: Yes, I think that
15 is appropriate. We will come back in ten minutes.

16 MR. FROMM: Could I respond just to
17 the initial comments? I know he will also get into
18 case law. Before he gets into that, the ...

19 THE CHAIRPERSON: The issue of
20 waiver?

21 MR. FROMM: Yes.

22 THE CHAIRPERSON: Okay, go ahead.

23 MR. FROMM: Yeah. Madam Chair, the
24 issue of waiver was dealt with in some ways in that we
25 were not advised. And I was talking in a conference

1 call as recently as the 12th of May with Karen Jensen,
2 and I was advised that she was going to be the member
3 out here. We even had a certain understanding about my
4 request -- my non-availability for tomorrow afternoon.
5 So it was certainly the first we knew that it was not
6 Karen Jensen sitting up there was when we walked in on
7 Tuesday morning.

8 So we have raised this the first
9 available moment. We knew nothing about you, and I
10 advised Mr. Bahr that it would be in our best interest
11 to find out what we could. We did our research. We
12 are very limited. We have no staff, we have no budget,
13 it is whatever -- and Mr. Bahr can't use the computer,
14 so it is what I or one of the two can do. And we were
15 able to find some of this information on Tuesday
16 evening and Wednesday.

17 The first opportunity, which was
18 yesterday, I advised the commission and Mr. Warman
19 himself that I will be raising this issue. We have
20 done this in as timely a fashion as we possibly could
21 having, as I have pointed out to the point I am sure of
22 being a bore about it. We have no recourses and are
23 not given any.

24 THE CHAIRPERSON: Okay. Thank you.

25 So we will see you back here in ten

1 minutes.

2 --- Upon recessing at 10:35 a.m.

3 --- Upon resuming at 10:56 a.m.

4 THE CHAIRPERSON: Thank you. You may
5 be seated.

6 Carry on.

7 MR. VIGNA: Madam Clerk, before going
8 into the merits of the claim, just to add on to the
9 issue of the preliminary objection to the motion, I
10 would just like to mention that we are in day three of
11 the hearing, so it is not as if the respondent was
12 unaware that the member that is sitting here would be
13 sitting in this hearing. There is information on
14 members that is easily accessible on the Canadian Human
15 Rights website. He can access it at nighttime, the
16 information, and could have raised it the following
17 day. They haven't done it.

18 And I take issue with the fact that
19 the respondent believed that the Member Jensen would
20 hear their case, not yourself.

21 I would invite the tribunal to verify
22 the Court's record on that issue, and Mr. Warman can
23 elaborate more into that.

24 I will get now into the merits of the
25 motion. First of all, the issue that is being raised

1 by the respondent is a political, social, and equal
2 activism in belief the tribunal member, with respect to
3 sexual orientation, raised a reasonable apprehension of
4 bias against the respondent.

5 Right off the bat, Madam Chair, I
6 would like to submit this issue is a non-starter simply
7 because the professional background or political
8 background even, of an individual prior to his
9 appointment has no bearing whatsoever on the judge of
10 fact, the ability to judge a case on its merit, on the
11 evidence before it, and impartially.

12 This would mean, for example, that if
13 there is an ex-politician that is appointed to federal
14 court, people from all walks of life -- artists,
15 comedians -- that are appointed to the Senate, for
16 example. It is simply inconceivable to say that
17 somebody that has a professional background, it would
18 not be something that could be appointed to the bench.

19 And I will refer you to a case called
20 Caza, which is basically a case which has been provided
21 to you.

22 MS WARSAME: Excuse me, Madam Chair.
23 It was already provided to you.

24 THE CHAIRPERSON: Oh, here it is.
25 Thank you.

1 MR. VIGNA: The respondent has a
2 copy, I believe.

3 This case has the basic principles
4 that are summarised in the case law. And if you look,
5 for example, at page 11 -- Paragraph 11, sorry, we are
6 reciting the Federal Court of Appeal in Arthur. It
7 says:

8 "An allegation of bias,
9 especially actual and not simply
10 apprehended bias, against a
11 tribunal member is a serious
12 allegation. It must be
13 supported by material evidence
14 demonstrating conduct that
15 derogates from the standard. It
16 is often useful, and even
17 necessary, in doing so, to
18 restore to evidence extrinsic to
19 the case. That is why such
20 evidence is admissible in
21 derogation of the principle that
22 an application for judicial
23 review must bear on the matter
24 as it came before the court or
25 tribunal."

1 Further, Paragraph 13, I reference
2 the committee case before the Supreme Court for Justice
3 and Liberty versus National Energy Board. I intend to
4 consider these objections in light of the general rules
5 defined by the courts on the impartiality of
6 decision-makers.

7 First, the leading case, which is
8 still an authority, is that of Canadian Justice and
9 Liberty versus the National Energy Board in which the
10 Supreme Court of Canada clearly confirmed the
11 definition given by the Federal Court of Appeal of the
12 test applicable in a case of this kind.

13 "The proper test to be applied
14 in a matter of this type was
15 correctly expressed by the Court
16 of Appeal as early as already
17 seen by the quotation above the
18 apprehension of the bias must be
19 a reasonable one held by a
20 reasonable and right-minded
21 persons applying themselves to
22 the question and obtaining
23 thereon the required
24 information. In the words of
25 the Court of Appeal, that test

1 is, "What would an informed
2 person, viewing the matter
3 realistically and practically
4 and having thought the matter
5 through, conclude?"

6 Would he think that it is
7 more likely than not that
8 Mr. Crowe, whether consciously
9 or unconsciously, would not
10 decide fairly? I can see no
11 real difference between
12 expressions found in the sited
13 cases, be they reasonable
14 apprehension of bias, reasonable
15 suspicion of bias, or real
16 likelihood of bias. The grounds
17 for this apprehension must,
18 however, be substantial, and I
19 entirely agree with the Federal
20 Court of Appeal, which refused
21 to accept the suggestion that
22 the test be related to the very
23 sensitive or scrupulous
24 conscience.

25 This is the proper approach

1 which, of course, must be
2 adjusted to the facts of the
3 case. The question of bias in a
4 member of a court of justice
5 cannot be examined in the same
6 light as that in a member of an
7 administrative tribunal
8 entrusted by statute with an
9 administrative description
10 exercised in the light of its
11 experience and of that of its
12 technical advisors.

13 A basic principle is, of
14 course, the same; namely, that
15 natural justice be rendered.
16 But its application must take
17 into consideration the special
18 circumstances of the tribunal,
19 as stated by Reid,
20 Administrative Law and Practice.
21 "Tribunals" is a basket word
22 embracing many kinds and sorts.
23 It is quickly obvious that a
24 standard appropriate to one may
25 be inappropriate to another.

1 Hence, facts which may
2 constitute bias in one may not
3 amount to bias in another."

4 Later, Paragraph 14:

5 "The presumption of impartiality
6 carries considerable weight, as
7 Blackstone opined. The law will
8 not suppose a possibility of
9 bias or favour in a judge, who
10 is already sworn to administer
11 impartial justice and whose
12 authority greatly depends upon
13 that presumption and idea."

14 Paragraph 15, referring to the case
15 of Laroche:

16 "A mere suspicion of bias is not
17 sufficient. There must be a
18 real likelihood or a probability
19 of bias. In this regard, Cory
20 J. noted that the allegation of
21 bias must be thoroughly examined
22 as it calls in question an
23 aspect of judicial integrity.

24 Indeed, he noted an
25 allegation of reasonable

1 apprehension of bias calls into
2 question not simply the personal
3 integrity of the judge but the
4 integrity of the entire
5 administration of justice.
6 Where reasonable grounds to make
7 such an allegation arise, counsel
8 must be free to fearlessly raise
9 such allegations. Yet this is a
10 serious step that should not be
11 undertaken lightly."

12 Now, Madam Chair, I think that I will
13 be just submitting this case, and Mr. Warman will
14 submit a few other cases. But this case summarises
15 basically the basic principles that need to be applied
16 in terms of the issues of judicial impartiality.

17 I would like to submit that the
18 motion that has been presented here reminds me pretty
19 much of the case of Mugesera, which Mr. Warman will
20 speak about in the Supreme Court, which constitutes
21 almost an abuse of process in a qualified attack on the
22 integrity of the tribunal member.

23 It is totally baseless, it is based
24 on extracts, supposedly, of newspaper clippings. There
25 is no real factual evidence that would even give a

1 minutiae of evidence to support this motion.

2 The tribunal has absolutely no
3 jurisdiction to order costs, and I respectfully submit
4 that it is almost outrageous to ask for costs when this
5 type of motion is presented with total lack of factual
6 evidence or basis.

7 Also, this is a complaint based on
8 Section 13, which alleges hate, which deals with hate
9 messages based on religion, race, national ethnic
10 origin, and sexual orientation, which is not the
11 grounds of the bias.

12 So I expect that the motion should be
13 dismissed and that the tribunal member, based on the
14 very basic principle which we have to start from, that
15 there is a presumption of impartiality, which has not
16 been satisfied by the respondent.

17 And, also, as you will see in the
18 case of R versus RDS, I believe, that Mr. Warman will
19 mention, it is not a question of judicial neutrality,
20 it is a question of judicial impartiality. It is only
21 normally that a member, a judge, has a professional
22 background, a personal background, or a political
23 background, but that has nothing to do with the fact
24 that once a judge is sworn in to administer his duty in
25 a fair, objective manner and decide a case on the

1 evidence that is before it and on the law.

2 So, again, the motion is totally
3 baseless in fact and also in law. That is all I have
4 to say, Madam Chair.

5 MR. FROMM: Can I just ask,
6 Mr. Vigna, for the citations you mentioned, the case
7 before the Supreme Court? Is this Mr. Baton's --

8 MR. VIGNA: Correct. And --

9 MR. FROMM: I didn't catch the
10 citation.

11 MR. VIGNA: Mr. Warman will provide
12 the case. I just mentioned it in summation.

13 THE CHAIRPERSON: Mr. Warman, are
14 there some authorities you are going to be relying on?

15 MR. WARMAN: Yes. I am just in the
16 process of distributing them, if I could.

17 THE CHAIRPERSON: Pass them around.

18 Sergeant Camp, if you want to get up
19 and wander around, you can do that. You certainly
20 don't have to sit there.

21 MR. CAMP: I can do that. Very well.

22 MR. WARMAN: Madam Chair, I would
23 begin my response to this motion by noting that it is
24 part of the highest calling of the legal profession to
25 represent one's clients and to speak out in regard to

1 the cases that a lawyer may be working on where
2 requested to do so by their client. It is an integral
3 part of the role of a lawyer to advocate and educate
4 the public in the interests of their clients.

5 I would submit to you that the
6 question of how an individual is described to the media
7 is a matter of perception of the media in question. I
8 note that Mr. Fromm alleges no previous involvement in
9 any of the parties or in this case by yourself nor any
10 improper actions in your conduct in this case.

11 I would submit that the repeated use
12 of the term "homosexual agenda" in the motion brings us
13 very close indeed to the situation that was before the
14 Supreme Court in the Mugesera case.

15 This motion is without basis in fact
16 or law, is unprofessional and unacceptable, and
17 constitutes little but an abuse of process.

18 I would like to take you, if I may,
19 to the first case that I will be relying on, which is
20 Zündel v. Citron, (2000) SCJ Number 179. This was
21 heard before the Federal Court of Appeal, and judgment
22 for the three-justice panel was rendered by Justice
23 Sexton.

24 If I may take you to Paragraph 32,
25 page 9 of 18? In discussing the issue of a justice's

1 prior involvement in a group, Justice Sexton states
2 with regard to the Pinochet case in the British House
3 of Lord's case.

4 Justice Sexton said:

5 "When Lord Hoffman heard the
6 appeal at issue in Re Pinochet,
7 he had been a director and
8 chairperson of Amnesty
9 International Limited. That
10 corporation was charged with
11 undertaking charity work for
12 Amnesty International, the
13 entity that had intervened in ex
14 parte Pinochet. The type of
15 bias and issue at Pinochet was
16 characterised by Lord
17 Browne-Wilkinson as where the
18 judge is disqualified because he
19 is a judge in his own cause.
20 Lord Browne-Wilkinson then held
21 that, "If the absolute
22 impartiality of the judiciary is
23 to be maintained, there must be
24 a rule which automatically
25 disqualifies a judge who is

1 involved, whether personally or
2 as a director of the company, in
3 promoting the same causes in the
4 same organisation as is a party
5 to the suit."

6 Lord Browne-Wilkinson
7 highlighted that, "The facts of
8 this present case are
9 exceptional," holding that, "The
10 critical elements are, 1, that
11 Amnesty International was a
12 party to this appeal, 3, the
13 judge was a director --"

14 Excuse me. I note my colleague,
15 Mr. Vigna, and perhaps Mr. Fromm --

16 MR. FROMM: I am trying to find --
17 the Zündel versus Citron one I have doesn't have
18 Paragraph 32.

19 MR. WARMAN: Point 3:

20 "The judge was a director of a
21 charity closely allied to
22 Amnesty International and
23 sharing in this respect Amnesty
24 International's objects."

25 He concluded that:

1 "...only in cases where a judge
2 is taking an active role as
3 trustee or director of a charity
4 which is closely allied to and
5 acting with a party to the
6 litigation should a judge
7 normally be concerned either to
8 recuse himself or disclose the
9 position to the parties."

10 May I continue and take you to
11 Paragraph 36, which is at page 10 of 18? Justice
12 Sexton discusses the presumption of impartiality. He
13 states:

14 "In my view, the motions judge
15 erred by failing to take into
16 account the principle that a
17 member of a tribunal will act
18 unfairly and impartially in the
19 absence of evidence to the
20 contrary.

21 In R v. S(RD), Cory J. held that:

22 "The reasonable person must be
23 an informed person with
24 knowledge of all the relevant
25 circumstances, including the

1 traditions of integrity and
2 impartiality that form part of
3 the background and apprised also
4 of the fact that impartiality is
5 one of the duties the judges
6 swear to uphold."

7 He added that:

8 "The threshold for a finding of
9 real or perceived bias is high"
10 and that, "A real likelihood of
11 probability of bias must be
12 demonstrated and that a mere
13 suspicion is not enough."

14 Further, Cory J. held that:

15 "The onus of demonstrating bias
16 lies with the person who is
17 alleging its existence."

18 Justice Sexton continues at Paragraph

19 37:

20 "In *Beno v. Canada* (Commissioner
21 and Chairperson, Commissioner of
22 inquiry into the Deployment of
23 Canadian Forces to Somalia),
24 this Court held that there was a
25 presumption that a

1 decision-maker will act
2 impartially. Similarly, in E.A.
3 Manning Limited v. Ontario
4 Securities Commission, the
5 Ontario Court of Appeal held in
6 the context of a bias allegation
7 levelled against a securities
8 commission that, "It must be
9 presumed in the absence of any
10 evidence to the contrary that
11 the commissioners will act
12 fairly and impartially in
13 discharging their adjudicative
14 responsibilities and will
15 consider the particular facts
16 and circumstances of each case.

17 And in Finch v. the
18 Association of Professional
19 Engineers and Geoscientists of
20 British Columbia, the British
21 Columbia Court of Appeal held
22 that it must be assumed "unless
23 and until the contrary is shown
24 that every member of this
25 committee will carry out his or

1 her duties in an impartial
2 manner and consider only the
3 evidence in relation to the
4 charges before the panel."

5 If I may, I would like to take you to
6 the decision of the Supreme Court of Canada R v. RDS.
7 This was a decision. The citation is (1997) 3 SCR 484,
8 decision of the Supreme Court of Canada on appeal from
9 the Court of Appeal from Nova Scotia. I would ask you
10 to turn to Paragraph 27, which is at page 11 -- excuse
11 me, Paragraph 29, which is at page 11 of 36, please.

12 I would ask you, in rendering your
13 decision on this motion, to take into account the
14 reasons of Madam Justice L'Heureux-Dubé and Madam
15 Justice McLachlin, as she then was.

16 Paragraph 29 states:

17 "In our view, the test for
18 reasonable apprehension of bias
19 established in the jurisprudence
20 is reflective of the reality
21 that while judges can never be
22 neutral in the sense of purely
23 objective, they can and must
24 strive for impartiality. It
25 therefore recognises as

1 inevitable and appropriate that
2 the differing experiences of
3 judges assist them in their
4 decision-making process and will
5 be reflected in their judgments
6 so long as those experiences are
7 relevant to the cases, are not
8 based on inappropriate
9 stereotypes, and do not prevent
10 a fair and just determination of
11 the cases based on the facts in
12 evidence."

13 I would ask you to turn to the next
14 page, Paragraph 34. Here, Madam Justice L'Heureux-Dubé
15 and Madam Justice McLachlin say that in applying the
16 test for a reasonable apprehension of bias, quote:

17 "It is necessary to distinguish
18 between the impartiality, which
19 is required of all judges, and
20 the concept of judicial
21 neutrality. The distinction we
22 would draw is that reflected in
23 the insightful words of Benjamin
24 N. Cardozo in "The Nature of the
25 Judicial Process (1921)" where

1 he affirmed the importance of
2 impartiality, while at the same
3 time recognising the fallacy of
4 judicial neutrality.

5 "There is in each of us a
6 stream, a tendency, whether you
7 choose to call it philosophy or
8 not, which gives coherence and
9 direction to thought and action.

10 Judges cannot escape that
11 current any more than other
12 mortals. All their lives,
13 forces which they do not
14 recognise and cannot name, have
15 been tugging at them --
16 inherited instincts, traditional
17 beliefs, acquired convictions --
18 and the resultant is an outlook
19 on life, a conception of social
20 needs. In this mental
21 background, every problem finds
22 its setting. We may try to see
23 things as objectively as we
24 please. Nonetheless, we can
25 never see them with any eyes

1 except our own.

2 Deep below consciousness are
3 other forces -- the likes and
4 the dislikes, the predilections
5 and the prejudices, the complex
6 of instincts and emotions and
7 convictions -- which make the
8 person, whether he or she be
9 litigant or judge.

10 Cardozo recognised that
11 objectivity was an impossibility
12 because judges, like all other
13 humans, operate from their own
14 perspectives.

15 As the Canadian Judicial
16 Counsel noted in Commentaries on
17 Judicial Conduct (1991) at page
18 12, "There is no human being who
19 is not the product of every
20 social experience, every process
21 of education, and every human
22 contact. What is possible and
23 desirable, they note, is
24 impartiality.

25 "The wisdom required of a

1 judge is to recognise,
2 consciously allow for, and
3 perhaps to question all the
4 baggage of past attitudes and
5 sympathies that fellow citizens
6 are free to carry, untested, to
7 the grave. True impartiality
8 does not require that the judge
9 have no sympathies or opinions;
10 it requires that the judge
11 nevertheless be free to
12 entertain and act upon different
13 points of view with an open
14 mind."

15 I would ask to take you to Paragraph
16 40, if I may, page 14. In discussing the difference
17 between assessing credibility and assessing and
18 applying the law, Justices L'Heureux-Dubé and McLachlin
19 state:

20 "At the same time, where the
21 matter is one of identifying and
22 applying the law to the findings
23 of fact, it must be the law that
24 governs and not a judge's
25 individual beliefs that may

1 conflict with the law.

2 Further, notwithstanding
3 that their own insights into
4 human nature will properly play
5 a role in making findings of
6 credibility and factual
7 determinations, judges must make
8 those determinations only after
9 being equally open to
10 considering the views of all
11 parties before them. The
12 reasonable person, through whose
13 eyes the apprehension of bias is
14 assessed, expects judges to
15 undertake an open-minded,
16 carefully considered, and
17 dispassionately deliberate
18 investigation of the complicated
19 reality of each case before
20 them."

21 If I may take you to Paragraph 46,
22 please, which is at page 15? Justices L'Heureux-Dubé
23 and McLachlin discuss the nature of the community from
24 which a reasonable person comes. They state:

25 "The reasonable person

1 identified by de Grandpré in
2 Committee for Justice and
3 Liberty, supra, is an informed
4 and right-minded member of the
5 community, a community which, in
6 Canada, supports the fundamental
7 principles entrenched in the
8 Constitution by the Canadian
9 Charter of Rights and Freedoms.

10 Those fundamental principles
11 include the principles of
12 equality set out in Section 15
13 of the Charter and endorsed in
14 nationwide quasi-constitutional
15 provincial and federal human
16 rights legislation.

17 The reasonable person must
18 be taken to be aware of the
19 history of discrimination faced
20 by disadvantaged groups in
21 Canadian society protected by
22 the Charter's equality
23 provisions. These are matters
24 of which judicial notice may be
25 taken."

1 If I could take you below to
2 Paragraph 48? The Justices state:

3 "We conclude that the reasonable
4 person contemplated by de
5 Grandpré J. and endorsed by
6 Canadian courts is a person who
7 approaches the question of
8 whether there exists a
9 reasonable apprehension of bias
10 with a complex and
11 contextualised understanding of
12 the issues in the case.

13 The reasonable person
14 understands the impossibility of
15 judicial neutrality but demands
16 judicial impartiality. The
17 reasonable person is cognisant
18 of the racial --"

19 And in this case, I would submit
20 sexual orientation --

21 "-- dynamics in the local
22 community, and, as a member of
23 the Canadian community, is
24 supportive of the principles of
25 equality.

1 Before concluding that there
2 exists a reasonable apprehension
3 of bias in the conduct of the
4 judge, the reasonable person
5 would acquire some clear
6 evidence that the judge in
7 question had improperly used his
8 or her perspective in the
9 decision-making process.

10 This flows from the
11 presumption of impartiality of
12 the judiciary.

13 There must be some
14 indication that the judge was
15 not approaching the case with an
16 open mind fair to all parties.

17 Awareness of the context
18 within which a case occurred
19 would not constitute such
20 evidence. On the contrary, such
21 awareness is consistent with the
22 highest tradition of judicial
23 impartiality."

24 Thus I would submit to you that what
25 the Supreme Court and the other case law has

1 established is that there is a presumption of
2 impartiality in a decision-maker, that impartiality is
3 noted as being one of the duties that you have sworn to
4 uphold, that the threshold for a finding of real or
5 perceived bias is high, that "a real likelihood of
6 probability of bias must be demonstrated and that a
7 mere suspicion is not enough," and that the onus of
8 demonstrating bias lies with the person who is alleging
9 its existence.

10 I would respectfully submit that the
11 motion put forward by Mr. Fromm is leagues away from
12 meeting this test. I would respectfully submit that,
13 from my perspective, I have no qualms whatsoever that
14 you will undertake your duties in an open-minded,
15 carefully considered, and conducted dispassionately,
16 deliberate investigation of the complicated reality of
17 the case that is before you.

18 Barring any questions, those are my
19 submissions.

20 THE CHAIRPERSON: Thank you.

21 Mr. Fromm, do you have anything
22 arising?

23 MR. FROMM: I am still wondering on
24 Mugesera versus Canada, is Mr. Warman or Mr. Vigna
25 going to comment on that?

1 MR. WARMAN: In fact, it was
2 commented on.

3 THE CHAIRPERSON: Thank you.
4 Okay, I am going to take some time to
5 consider.

6 MR. FROMM: Oh, I want to -- I
7 thought you asked me if I had ...

8 THE CHAIRPERSON: Oh, I am sorry. I
9 thought that was it. Go ahead.

10 MR. FROMM: No.

11 I am curious, because we -- so in
12 Mr. Vigna's initial comments, he seemed a little bit
13 confused. I am not alleging actual bias in the case at
14 this point. I am alleging a reasonable apprehension of
15 bias.

16 I also take exception to the comment
17 that this is an abuse of process. And similar to
18 Mr. Barton's reasons to appeal in the Mugesera versus
19 the Supreme Court of Canada -- or, if I recall
20 correctly, on behalf of Mugesera, who is alleged to be
21 a Rwandan war criminal charged that the Supreme Court
22 was unduly influenced by the fact that three of its
23 members at that time were Jewish, and one was involved
24 in a committee which lobbied against their clients.

25 This has absolutely no connection

1 between that case and the one that I am arguing on
2 Mr. Bahr's behalf here.

3 If I can go through the documents,
4 the case law they cited? Just very briefly, the first
5 one cited by Mr. Vigna, Caza versus Télé-Métropole Inc.
6 at Paragraph 11.

7 "An allegation of bias,
8 especially actual and not simply
9 apprehended bias, against a
10 tribunal member is a serious
11 allegation."

12 That, I assume you would agree, is
13 fairly true. And in this case, it is an allegation of
14 reasonable apprehension of bias. It is not an
15 allegation of actual bias. This is a serious matter,
16 and it would not have been brought up by ourselves if
17 it had not been deemed to be extremely serious.

18 At Paragraph 13 of the same case, it
19 says:

20 "The proper test to be applied
21 in the matter of this type is
22 correctly expressed by the Court
23 of Appeals. As already seen by
24 the quotation above, the
25 apprehension of bias must be a

1 reasonable one held by
2 reasonable and right-minded
3 persons applying themselves to
4 the question and obtaining
5 thereon the required
6 information."

7 And the argument in this case is not
8 that the member has represented lesbians or the member
9 is a lesbian. The argument, the reason, the particular
10 point about the reasonable apprehension of bias are
11 particularly the comments of the Bill 208 case, where
12 the person who introduced the bill in the Alberta
13 legislature was attempting to protect the rights of
14 those whether of Christian background or secular
15 background who are uncomfortable with same-sex
16 marriages and do not wish to officiate at those.

17 That would be the application of
18 their rights. Now --

19 THE CHAIRPERSON: Have you got a copy
20 of that bill that you would like to tender?

21 MR. FROMM: I don't have it. From
22 the news stories.

23 THE CHAIRPERSON: Thank you.

24 MR. FROMM: I will check my notes. I
25 want to have the quotation right here. Yes.

1 According to the report from the SEE
2 Magazine, the member said in regards to that bill:

3 "It sends the message that
4 hatred and intolerance are
5 legitimate when they are
6 directed against this minority
7 group --"

8 Which would be homosexuals and
9 lesbians.

10 "People are allowed to have
11 their private opinions," the
12 member was quoted as saying,
13 "but they are not allowed to
14 discriminate against minorities
15 in the public sphere."

16 That is very much the issue at least
17 in terms of the sexual orientation allegations in this
18 case.

19 It is our position in our Statement
20 of Particulars that Mr. Bahr never wrote the passage
21 about calling for euthanasia, whatever, of homosexuals.
22 He will not get a chance to say that, because he has
23 instructions not to testify. But if the member
24 believes that he said that -- or, wrote that, rather,
25 that is a considerably more severe comment than the

1 right not to officiate same-sex marriages because your
2 beliefs go contrary to that practice.

3 The comment is already on public
4 record. Those who disagree with same-sex marriage have
5 a right to their opinion but basically not the right to
6 act on that opinion. They should be compelled to act
7 contrary to that. It is clear to support what gives me
8 considerable concern about an apprehension of bias that
9 would apply very particularly to this case, I think.

10 And I guess this is where the
11 judgment comes in that a reasonable person looking at
12 that comment and that situation and then looking at
13 Mr. Bahr's alleged comment and the judgment that has to
14 be made between his individual right, freedom of
15 belief -- I am not sure we are pursuing freedom of
16 religion but freedom of belief, right of freedom of
17 speech.

18 How does that balance against the
19 group rights to be free from whatever it is the
20 Canadian Human Rights Tribunal commission making it
21 free from? Negative criticism, I suppose.

22 MR. WARMAN: I object. I am sorry.
23 This seems to be straying rather far from reply and
24 getting into argument.

25 THE CHAIRPERSON: Yes.

1 I will give you a few more minutes.
2 Carry on, Mr. Fromm.

3 MR. FROMM: In the same case, Caza
4 versus Télé-Métropole Incorporated, your attention was
5 drawn to Paragraph 15:

6 "An allegation of reasonable
7 apprehension of bias calls into
8 question not simply the personal
9 integrity of the judge but the
10 integrity of the entire
11 administration of justice."

12 I am not sure we are calling into
13 question the integrity of the member, just the ability
14 in this very volatile issue where feelings are very
15 strong and expressed strongly to fairly do the job.
16 And, yes, if the public perceives that there is bias on
17 the part of people rendering decisions by members of
18 this case, it will bring the administration of justice
19 into disrepute.

20 In the case of Zündel versus Citron,
21 sited by Mr. Warman, I think -- yes, in Zündel versus
22 Citron, your attentions was drawn to Paragraph 36. The
23 Federal Court of Appeals in this case -- I think
24 perhaps the case is on point, even though in the end,
25 Mr. Zündel lost it. The situation was one where there

1 are three tribunal members, a Human Rights Tribunal,
2 and one of them had been a member some years previously
3 of the Ontario Human Rights Commission.

4 At that time in 1998, Mr. Zündel was
5 convicted, and later on, that was overturned. At that
6 time, the Ontario Human Rights Commission put out a
7 statement applauding this as a great victory and so on.
8 And though Ms Devins did not actually write that
9 statement, she was a member of the commission at the
10 time. She refused to recuse herself, but the Federal
11 Court of Canada ruled that there was a reasonable
12 apprehension of bias.

13 Now, notice in that case she had not
14 directly authored that statement, but I suppose it
15 could be seen as part of the collectivity or
16 corporation that had. And this was overturned in the
17 end; it is true. But in this case, it seems to me
18 there is an even closer connection with the issues at
19 hand.

20 It is not just that the member has
21 been a part of homosexual or lesbian advocacy or so on,
22 but the very issues of this case have been strongly
23 commented on and very, very recently. This is not
24 ancient history.

25 And final --

1 THE CHAIRPERSON: So what exactly is
2 the very issues in this case --

3 MR. FROMM: The very issue in this
4 case --

5 THE CHAIRPERSON: -- that there is a
6 comment related? I just want to be really, really
7 clear about what exactly your objection is.

8 MR. FROMM: Comments particularly on
9 Bill 208.

10 THE CHAIRPERSON: Okay. And that
11 comment was?

12 MR. FROMM: Those people -- okay.

13 THE CHAIRPERSON: And we don't have a
14 copy of the Bill.

15 MR. FROMM: I don't have a copy.

16 THE CHAIRPERSON: So you are going
17 from a report from what publication?

18 MR. FROMM: Several reports that were
19 all sited in our submissions to you.

20 The comments are:

21 "It sends the message that
22 hatred and intolerance are
23 legitimate when it is directed
24 against this minority group.
25 This is unconscionable."

1 This minority group of people,
2 homosexuals and lesbians.

3 Further to that comment:

4 "People are allowed to have
5 their private beliefs, but they
6 are not allowed to discriminate
7 against minorities in the public
8 sphere."

9 And that had to do with the intention
10 of the bill to allow marriage commissioners in the
11 province of Alberta to opt out of same-sex ceremonies
12 and teachers in the province of Alberta to opt out of
13 discussing same-sex marriages if that discussion
14 violated their religious or other beliefs.

15 In this case, we have alleged
16 comments by Mr. Bahr, alleged posting by Mr. Bahr, on
17 homosexuals. The posting is quite inflammatory, quite
18 negative, and the intention here is does he have the
19 right to express his sincerely or political or other
20 beliefs?

21 And a very reasonable apprehension of
22 bias arises from the comments made in what seems to be
23 a similar case pitting similar interests against each
24 other.

25 Those are my submissions.

1 THE CHAIRPERSON: Okay. Thanks.

2 Anything arising for anyone else?

3 MR. WARMAN: No.

4 MR. VIGNA: Just very briefly, Madam
5 Chair.

6 There is no link whatsoever to the
7 bill being referred to and the subject matter of this
8 case. It is not a case about involving legislation of
9 gay marriage. It is not a case of the comments that
10 were made supposedly by the member to the media. I
11 mean, basically there is no reason for minority groups
12 to be discriminated against, whether they are
13 heterosexuals or gays. So that is the law.

14 So I don't see what apprehension of
15 bias in the comments were made.

16 THE CHAIRPERSON: All right. I am
17 going to take some time to consider this. I will be
18 providing an oral decision when I return.

19 So it is quarter to 12. How about we
20 take our lunch break now? If we come back, say, at
21 1:30, I will have a decision then. Thanks very much.

22 --- Upon recessing at 11:43 a.m.

23 --- Upon resuming at 1:30 p.m.

24 THE CHAIRPERSON: Good morning,
25 everybody -- afternoon now.

1 THE REGISTRAR: Be seated.

2 THE CHAIRPERSON: I am going to
3 address the motion that was put before us this morning.
4 And I have got it written out, so I will just read it.

5 In the within complaint, the
6 complainant alleged that the respondents violated
7 Section 13.1 of the Canadian Human Rights Act on
8 numerous grounds: religion, race, national or ethnic
9 origin, sexual orientation.

10 The respondent's representative has
11 brought a motion this morning seeking an order that
12 this member recuse herself by reason of a reasonable
13 apprehension of bias.

14 First, I will note that there is no
15 evidence tendered in support of this motion. The
16 respondent's representative includes in his motion
17 numerous extracts of what purports to be media
18 clippings taken from the internet. The evidence was
19 not tendered or put forward in proper form.

20 The law is clear that the threshold
21 is high because there is a presumption of neutrality.
22 The onus of demonstrating bias lies with the person
23 alleging its existence, and an allegation must be
24 supported by material evidence.

25 Here, the respondent's representative

1 elected not to tender such evidence. The respondent's
2 application must fail for that reason, and I so find.

3 Further, however, and in the
4 alternative, even if the material included in the
5 respondent's statement of facts is taken at face value,
6 I find that an allegation of bias has not been made
7 out.

8 First, there is been no suggestion
9 made by the respondent's representative that this
10 member has demonstrated any bias in the present
11 hearing, two-and-a-half days of which have now
12 concluded.

13 Further, there is been no suggestion
14 of any direct interest or connection between this
15 member and this case or the parties before the
16 tribunal.

17 The respondent's representative
18 instead relies on the media articles, which would
19 suggest a number of things:

20 First, that this member has
21 represented clients who are members of minority groups
22 enumerated in the Canadian Human Rights Act, including
23 gay and lesbian clients; that this member has made
24 public comments in support of minority groups
25 enumerated in the Canadian Human Rights Act, including

1 the rights of gays and lesbians; third, that the member
2 herself may be a member of the minority group
3 enumerated in the Canadian Human Rights Act and in
4 particular, may be a lesbian; finally, that this member
5 made a comment in relation to a private member's Bill
6 considered by the Alberta Legislative Assembly.

7 The respondent's representative
8 identified that, in particular, the following comment
9 is particularly indicative of bias, and that is,
10 "People are allowed to have their private opinions, but
11 they are not allowed to discriminate in a public
12 sphere."

13 So first with respect to the law, and
14 we've canvassed that this morning. The law with
15 respect to an apprehension of bias addresses a concern
16 that is central. It is central to the administration
17 of justice that parties to an adjudication are entitled
18 to a hearing by an adjudicator who is fair and who is
19 impartial.

20 The tests for assessing allegations
21 of bias or apprehension thereof have been set out
22 clearly by the Courts.

23 But first, there is an important
24 distinction to be drawn, and that is drawn in the cases
25 between judicial neutrality and judicial impartiality.

1 The former, judicial neutrality, is simply not
2 possible. The later, judicial impartiality, is
3 critical to the fair administration of administrative
4 process.

5 Justices L'Heureux-Dubé and McLachlin
6 in the decision of R versus RDS, 1997, 3 SCR, 484,
7 discuss at length a very important, critical
8 distinction between these two concepts, and I am
9 turning to page 34 of that decision.

10 I am going to read some of it,
11 because it is particularly critical to this
12 determination.

13 Madam Justice L'Heureux-Dubé and
14 McLachlin identifies as follows: In order to apply the
15 test -- and this is the test for an apprehension of
16 bias -- it is necessary to distinguish between the
17 impartiality which is required of all judges and the
18 concept of judicial neutrality. The distinction which
19 would draw that is reflected in the insightful words of
20 Benjamin N. Cardozo in the nature of the judicial
21 process, at page 12 and 13 and 167, where he affirmed
22 the importance of impartiality while at the same time
23 recognizing the fallacy of judicial neutrality.

24 Mr. Cardozo is quoted as follows:

25 "There is in each of us the

1 stream of tendency, whether you
2 choose to call it philosophy or
3 not, which gives coherence and
4 direction to thought and action.

5 Judges cannot escape that
6 current any more than other
7 mortals. All their lives,
8 forces which do not recognise
9 and cannot name have been
10 tugging at them -- inherited
11 instincts, traditional beliefs,
12 acquired convictions -- and the
13 resultant is an outlook on life,
14 a conception of social needs.
15 In this mental background, every
16 problem finds its setting. We
17 may try to see things as
18 objectively as we please.
19 Nonetheless, we can never see
20 them with any eyes except our
21 own.

22 Deep below consciousness are
23 other forces, the likes and
24 dislikes, the predilections and
25 the prejudices, the complex of

1 instincts and emotions and
2 habits and convictions, which
3 make the person, whether he or
4 she be litigant or judge.

5 Cardozo recognised that
6 objectivity was an
7 impossibility, because judges,
8 like all other humans, operate
9 from their own perspectives. As
10 the Canadian Judicial Counsel
11 noted in commentaries on
12 judicial conduct, there is no
13 human being who is not the
14 product of every social
15 experience, every process of
16 education, and every human
17 contact. What is possible and
18 desirable is impartiality."

19 And it is impartiality that is a
20 requirement of this proceeding.

21 That this member has engaged in
22 advocacy for human rights may lead one to conclude that
23 she, like others, is not neutral. It does not,
24 however, lead to the conclusion that she is impartial.

25 And now we need to turn to the test,

1 and the test for an apprehension of bias and the manner
2 in which that is to be analysed, I am going to start,
3 again, with the decision of R versus RDS, and this is
4 at page 12.

5 And the test is that of an informed
6 reasonable person. So the test is:

7 "What would an informed person,
8 viewing the matter realistically
9 and practically and having
10 thought the matter through,
11 conclude? Would he or she think
12 that it is more likely than not
13 that the decision-maker,
14 consciously or unconsciously,
15 would not decide fairly?"

16 I am also instructed by the reasons
17 of the Federal Court of Appeal in Zündel at Paragraph
18 36 that:

19 "The reasonable person must be
20 an informed person with
21 knowledge of all relevant
22 circumstances, including the
23 traditions of integrity and
24 impartiality that form part of
25 the background and apprised also

1 of the fact that impartiality is
2 one of the duties the judges
3 swear to uphold. The threshold
4 is high."

5 The onus of establishing an
6 apprehension of bias is on the one alleging.

7 And further in the Zündel decision is
8 they have referenced to an Ontario Court of Appeal
9 decision in E.A. Manning Limited, and it is identified
10 there that it must be presumed in the absence of any
11 evidence to the contrary that the commissions will act
12 fairly and impartially in discharging their
13 adjudicative responsibilities and will consider
14 particular facts and circumstances of each case.

15 Before we turn to the facts, the
16 allegations in this particular application, we need to
17 ask ourselves, "Would these facts in each of them make
18 a reasonable person believe that this member will not
19 fairly and impartially consider all of the evidence and
20 will not fairly and impartially apply the relevant law
21 to the evidence as it is found?"

22 And we must consider the instructions
23 from the Supreme Court of Canada in R versus RDS about
24 the nature of that reasonable person. And at Paragraph
25 48, the reasonable person is a person who approaches

1 the question of whether there exists a reasonable
2 apprehension of bias with a complex and contextualised
3 understanding of the issues in the case.

4 The reasonable person is cognisant of
5 the social dynamics -- and I am paraphrasing with the
6 word "social" -- social dynamics in a local community
7 and is a member of the Canadian community and
8 supportive of the principles of equality.

9 That having been said, let us turn to
10 the facts alleged by the respondent's representative
11 and ask whether this reasonable person, the reasonable
12 person that Madam Justice L'Heureux-Dubé and McLachlin
13 identified for us.

14 Would this reasonable person think
15 that the member would not, for reason of bias, be able
16 to decide fairly and impartially the matter before the
17 tribunal?

18 First, there was a suggestion that
19 this member may be a member of one of the five grounds
20 upon which this complaint is brought. Is that a fact
21 that would lead a reasonable person, our reasonable
22 person, to decide that there be an apprehension of
23 bias?

24 In my view, this reasonable person
25 would not conclude that a person's identity compromises

1 their ability to consider this matter fairly and
2 impartially. And, frankly, to find otherwise would be
3 profoundly contrary to the principles of the quality
4 paramount under this act, the Canadian Human Rights Act
5 and, according to Madam Justices L'Heureux-Dubé and
6 McLachlin, the very fabric of Canadian society.

7 Second, that the member may have
8 represented clients who are members of minority groups
9 protected under the Canadian Human Rights Act including
10 gays and lesbians, would our reasonable person conclude
11 bias from that fact?

12 And it is hard -- I cannot see how
13 that could possibly give rise to an apprehension of
14 bias as adjudicators who either are or have been
15 lawyers represent clients. The identity of those
16 clients cannot reasonably be found to dictate,
17 compromise, or express an adjudicator's ability to be
18 impartial with respect to the facts in front of them.

19 And I was particularly struck by
20 Mr. Vigna's observation that criminal lawyers would
21 have a very difficult time becoming judges at all if
22 they were identified with their clients.

23 Thirdly, that the member made public
24 comment in support of human rights, support of the
25 rights of gays and lesbians in particular. And, again,

1 this may go to neutrality. Again, there is an
2 important distinction: This may go to neutrality, not
3 to impartiality.

4 And, further, the laws in this
5 country, including the Canadian Human Rights Act
6 itself, are expressly intended to foster the rights of
7 minority groups. Comments consonant with this
8 fundamental principle of Canadian society cannot, in my
9 view, amount to a reasonable apprehension of bias.

10 And, finally, with respect to the
11 particular comment, "People are allowed to have their
12 private opinions, but they are not allowed to
13 discriminate in a public sphere," that is a correct
14 articulation of the laws of Canada as articulated in
15 the Canadian Human Rights Act and in the Human Rights
16 Act of other provinces in this country. And so, again,
17 such a statement cannot give rise to an apprehension of
18 bias.

19 For those reasons, the motion is
20 denied.

21 Mr. Fromm, I will ask you to commence
22 your cross-examination.

23 I am going to adjourn for 15 minutes
24 so somebody can have an opportunity to get Sergeant
25 Camp back before us. So thank you very much.

1 MR. VIGNA: He is right here.

2 MR. FROMM: May I ask when we can
3 have a written copy of this?

4 THE CHAIRPERSON: I am not sure when
5 the transcripts will be ready.

6 THE REGISTRAR: As mentioned on
7 Tuesday, the transcripts will be ready in ten days. A
8 copy will be provided to you.

9 MR. FROMM: So there will be no
10 possibility of any action in another place until this
11 is all over; is that the agreement?

12 THE CHAIRPERSON: Mr. Fromm, you have
13 your recourse, and your recourse is to the Federal
14 Court.

15 MR. FROMM: Well, not without a
16 transcript.

17 THE CHAIRPERSON: Sir, as I say, you
18 have your recourse, and you will have to canvass those.

19 MR. FROMM: Okay. Well, I would just
20 like to announce that we are proceeding under protest.

21 THE CHAIRPERSON: Thank you.

22 Okay. We will see you in 15 minutes.

23 --- Upon recessing at 1:46 p.m.

24 --- Upon resuming at 2:07 p.m.

25 THE CHAIRPERSON: Good afternoon.

1 Mr. Fromm?

2 THE REGISTRAR: Be seated.

3 PREVIOUSLY SWORN: STEPHEN CAMP

4 EXAMINATION (cont'd) BY MR. FROMM:

5 MR. FROMM: Before I start, I was
6 wondering if the court reporter could read back the
7 last couple of sentences before we took the break?

8 THE COURT REPORTER: (By Reading)

9 "MR. FROMM: So there will
10 be no possibility of any action
11 in another place until this is
12 all over; is that the agreement?

13 THE CHAIRPERSON: Mr. Fromm,
14 you have your recourse, and your
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18 without a transcript.

19 THE CHAIRPERSON: Sir, as I
20 say, you have your recourse, and
21 you will have to canvass those.

22 MR. FROMM: Okay. Well, I
23 would just like to announce that
24 we are proceeding under protest.

25 THE CHAIRPERSON: Thank

1 MR. CAMP: No, sir. A
2 year-and-a-half, I spent at the Edmonton Young Offender
3 Centre. It is a maximum correctional facility for
4 youth and was a correctional service worker there.

5 MR. FROMM: Didn't think you were a
6 client.

7 What led you into policing after
8 that? What drew you to policing as a career?

9 MR. CAMP: Personally?

10 MR. FROMM: Yes.

11 MR. CAMP: Fascinated with the work.

12 MR. FROMM: Okay. Now, according to
13 your CV, you approached the Edmonton Police Service
14 with the idea of setting up a Hate Crimes unit; is that
15 correct?

16 MR. CAMP: That is correct.

17 MR. FROMM: What sort of police work
18 had you been doing prior to the time you made that
19 proposal?

20 MR. CAMP: I was in patrol.

21 MR. FROMM: What does that mean?

22 MR. CAMP: Do you want to know, like,
23 from 1991 to 2003 what I did for the Edmonton Police
24 Service?

25 MR. FROMM: In a general sense, yeah.

1 MR. CAMP: Yeah. Patrol, which was
2 basically responding to calls for service, anything
3 from domestic disputes, assaults, homicides, traffic
4 accidents, parking complaints, disturbances. I spent
5 four years as a beat constable or foot patrol officer
6 or neighbour foot patrol officer in Old Strathcona. I
7 spent half a year in a programme in Auto Theft called
8 Hot Wheels. For south division patrol, north division
9 patrol, and downtown core patrol and in the north end.

10 MR. FROMM: I am from out of town, as
11 you know. But the area that you mentioned, Old
12 Strathcona, is that a high crime area?

13 MR. CAMP: Are you talking
14 comparatively to the city? Like, out of other
15 divisions?

16 MR. FROMM: Yes.

17 MR. CAMP: I would -- I haven't
18 looked at, you know, statistically speaking, compared
19 to communities, because there are so many across the
20 city. But it is a very busy area as far as calls for
21 service and proactive intervention into the community.
22 Very busy. I can say that. Primarily in that area,
23 you are dealing with 30-plus licenced premises in a
24 small area. High density.

25 MR. FROMM: So a fair bit of drinking

1 type of crimes to attend?

2 MR. CAMP: A lot of drug-related
3 files, sale and distribution of cocaine,
4 methamphetamine, marijuana, a lot of calls to service
5 in regards to intoxicated persons, fights,
6 disturbances. That is correct.

7 MR. FROMM: Okay. So in about 2000,
8 you made a proposal to Edmonton Police Service about
9 the Hate Crimes unit.

10 MR. CAMP: 2001, there was a proposal
11 to the executive officers team to develop the Hate
12 Crimes unit.

13 MR. FROMM: What drew you from the
14 role as a beat cop, a place where you did patrol and
15 that type of thing? What drew you in the direction of
16 proposing, let's say, a Hate Crimes unit?

17 MR. CAMP: First of all, trying to
18 develop a Hate Crime unit didn't draw me away from
19 policing.

20 MR. FROMM: I didn't imply that, but
21 what drew your interest in that direction?

22 MR. CAMP: There is a few things.
23 For a major municipality with a diverse population, I
24 felt it was necessary for a law enforcement agency to
25 have a unit that understands issues such as hate crimes

1 and its affect on the community and that there has to
2 be a mechanism in place to be able to, I guess, capture
3 the statistics of hate crimes in the city, to deal with
4 the effects of hate crime, investigate hate crimes.

5 What we found was that there was no
6 knowledge base or a lack of expertise -- for lack of a
7 better term, knowledge -- in our agency with regards to
8 this type of crime. I felt it was a crime that
9 deserved special knowledge. I felt that the general
10 police population in the city of Edmonton didn't
11 understand what a hate crime was or the effects of
12 extremism or hate propaganda, and there needs to be a
13 central unit within the services to deal with these
14 issues and that there was no mechanism in place at that
15 time.

16 MR. FROMM: What sparked your
17 personal interest in that aspect of policing hate
18 crimes? You said many of your fellow officers weren't
19 very aware of it were and weren't keeping statistics.
20 What sparked your interest in it?

21 MR. CAMP: I don't know. I have a
22 general interest in it. I was actually astonished that
23 the Edmonton Police Service didn't have a Hate Crimes
24 unit, to be quite honest.

25 But I don't have anything personal in

1 my life that would draw me to have a specific interest
2 or a specific reason why I felt it was necessary for
3 this city to have this unit. I find it interesting. I
4 can't really explain why.

5 MR. FROMM: So you yourself have not
6 been a victim of a crime?

7 MR. CAMP: I don't think so.

8 MR. FROMM: Nobody close to you?

9 MR. CAMP: Like, in my personal life?

10 MR. FROMM: Well, close to you in
11 your personal life, I guess.

12 MR. VIGNA: Madam Chair, I object to
13 the relevancy of the question. I don't see how this
14 can be relevant. I am not making a strong objection,
15 but we are going a little bit out of line.

16 THE CHAIRPERSON: Okay.

17 Mr. Fromm, carry on.

18 MR. FROMM: I'll just repeat the
19 question. You said you yourself have not been a victim
20 of a bias crime or a hate crime, and I asked if anybody
21 close to you -- a relative or spouse, brother,
22 sister -- had.

23 MR. CAMP: No, sir.

24 MR. FROMM: Okay. So in 2001, you
25 made this proposal to the Edmonton Police Service to

1 set up a Hate Crimes unit.

2 MR. CAMP: Yeah, there was two of us,
3 actually, that proposed this to the service: myself
4 and Constable Dave Huggins.

5 MR. FROMM: What was the response of
6 the service?

7 MR. CAMP: Positive. One of the
8 issues or the obstacles in front of the service, as
9 usual, when you are trying to allocate resources to a
10 specific unit is money and personnel.

11 But the response from the executive
12 team was positive, and they gave at us the go-ahead to
13 continue to attempt to try to establish a unit.

14 MR. FROMM: Now, your proposal was in
15 2001. At what point was the unit formed?

16 MR. CAMP: 2003, January.

17 MR. FROMM: What sort of funding did
18 it have the first year?

19 MR. CAMP: We had two years of
20 funding. A formal proposal went into the Federal
21 Government Canadian Heritage to seek out funding to
22 initiate a unit. To make a long story short, the
23 Canada Heritage department agreed to fund the unit for
24 two years. They granted \$180,000 to the unit to begin
25 the start up and fund the cost for two years.

1 MR. FROMM: What would that cover,
2 \$180,000?

3 MR. CAMP: It was a joint venture.
4 The Edmonton Police Service would allocate -- I think
5 it was 20 to 30 percent of the costs, and the balance,
6 the Canada Heritage would put forward: infrastructure,
7 I guess, computers, desks, stationery, and the wages of
8 both officers -- or part of the wages. Two-thirds of
9 it.

10 MR. FROMM: So am I correct, then,
11 initially there were two officers in the Hate Crimes
12 unit?

13 MR. CAMP: That is correct.

14 MR. FROMM: What was the mandate from
15 the Edmonton Police Service to your unit, the Hate
16 Crimes unit? What were you supposed to do?

17 MR. CAMP: Well, we developed the
18 mandate.

19 MR. FROMM: What was the mandate that
20 you developed that the Edmonton Police Service bought
21 into?

22 MR. CAMP: Well, the mandate ...

23 MR. FROMM: What was it that you were
24 supposed to do as a Hate Crimes unit? I have a pretty
25 good idea what, say, the robbery unit would do.

1 MR. CAMP: Right. Right.

2 MR. FROMM: What would the Hate
3 Crimes unit do?

4 MR. CAMP: What were our functions?

5 MR. FROMM: Yes.

6 MR. CAMP: We performed a number of
7 functions. We developed a community partnership
8 system. And in layman's terms, I guess, a diverse unit
9 basically establishing contact with the Aboriginal and
10 minority communities.

11 We did that by setting up committees
12 in each community, and we also set up an umbrella
13 committee or umbrella diversity committee or an
14 umbrella partnership committee called Chiefs Advisory
15 Committee that involves the chief of police, the
16 executive, the officers in the Hate Crimes unit, and
17 their community committees.

18 We also had to develop the unit
19 itself, its infrastructure, everything from the
20 database we utilised, we had to change the
21 infrastructure of reporting formats within the service
22 to catch hate crimes which weren't being captured by
23 our service at all and also to set up mechanisms to
24 capture hate instances as well.

25 We researched and developed all of

1 our training with regards to hate crime investigations
2 and the effects of hate crimes on the Aboriginal and
3 minority communities.

4 We are involved in the training of
5 recruit classes. We are also involved in the research
6 and development of racial profiling policies for the
7 service and racial profiling training. The research
8 and training for both the hate crimes and racial
9 profilings included going outside our jurisdictions to
10 seek out the training for that.

11 We were operational as well, and we
12 investigated hate crimes. We also had a mechanism in
13 place to review files and confirm whether it was a hate
14 crime or a hate incident or not and develop policies on
15 hate crime and hate crime investigations.

16 We were, like I say, operational with
17 regards to investigations and gathering intelligence on
18 persons involved in extremists or hate establishing
19 networks within the national and international
20 community with regards to the law enforcement across
21 Canada. There were maybe a few other things I am
22 missing, but we were quite busy for two constables.

23 MR. FROMM: That is quite a mandate.

24 You mentioned that one of the things
25 you tried to do was to change the reporting of crimes

1 to identify what we consider a hate crime.

2 MR. CAMP: No, I didn't mention that.
3 I mentioned that there was no infrastructure or
4 reporting infrastructure within the Edmonton Police
5 Service that when a crime was committed and that crime
6 was committed because it was motivated by hate, bias,
7 or prejudice, there was no mechanism in place to report
8 it as a hate crime.

9 What would happen is that the crime
10 would be reported under the Criminal Code section,
11 whether it was mischief or assault, and there was no
12 mechanism in place to collect statistics on whether it
13 was a hate crime or not. So what we had to do was
14 change the reporting forms to capture that.

15 How it would work is that if the file
16 is investigated by one of our patrol officers on the
17 street as the first responder, if they felt that it may
18 or may not -- may be a hate crime or a hate incident --
19 that is, a crime or incident motivated by hate or bias
20 or prejudice -- they would forward it to our unit, and
21 we would review it to establish whether it was a hate
22 crime or hate incident or it wasn't.

23 MR. FROMM: So that would be a crime
24 or report of a crime that might have been motivated by
25 hate or bias on what grounds?

1 MR. CAMP: On what grounds?

2 MR. FROMM: Yes.

3 MR. CAMP: Are you asking me how we
4 verify that it was ...

5 MR. FROMM: No. You said a crime
6 that might have been motivated by hate or bias. Hate
7 or bias against who?

8 MR. CAMP: Oh. Any racial, religious
9 group, for example. Could be race, religion,
10 nationality, ethnicity, sexual orientation, disability,
11 colour. I have to actually look at our definition.
12 There are nine of them, actually. But race,
13 nationality, ethnicity, sexual orientation, colour,
14 physical disability, and any other similar factor. And
15 I know I am missing one.

16 MR. FROMM: Another one of the
17 activities you mentioned was that you developed -- I
18 believe you said you developed training for diversity.
19 Was that training for another policeman?

20 MR. CAMP: Well, primarily our
21 training for recruits, we were specific to what a hate
22 crime is: explain what a hate crime is, how to
23 investigate it, what to do with the file when they
24 investigate it. We did go into the effects on the
25 affected communities that the alleged crime of hate was

1 targets towards, so ...

2 MR. FROMM: How did you determine
3 what the affect was of a hate crime on a community?

4 MR. CAMP: There was a couple of
5 ways: through the research that we've established
6 since 1999, but also --

7 MR. FROMM: Who established it?

8 MR. CAMP: Sorry?

9 MR. FROMM: You said, "The research
10 we established." Who? Who is the "we"?

11 MR. CAMP: Oh. The research that I
12 conducted over the years, general literature, reading,
13 going to the training programme in the U.S., also the
14 hate crimes investigative course in B.C.

15 And what was most profound, though,
16 was the contact we had with the affected communities
17 through our committee work as well, where they would
18 explain to us the affects they felt of crimes motivated
19 by hate.

20 Some of the affects they would feel
21 are -- it is an interesting crime in that a crime
22 motivated by hate is not specific to the individual,
23 the victim. It does reverberate in kind of a ripple
24 effect into the entire community. What happens, this
25 is what -- and, again, through direct contact, it does

1 match our research as well is that what communities
2 find is that there is anxiety and fear and anger and
3 desire for retaliation.

4 For example, if a black man is beaten
5 because he is black, the entire community will feel the
6 effect of that beating, because it is directed toward
7 the person solely because he is black as compared to
8 there is a fight in a parking lot and they are fighting
9 over a parking stall.

10 The research was there for us to
11 review through general literature. But also what I
12 found most profound was the contact in the leadership
13 in the community and the forms of seminars we would
14 provide for them on hate crimes.

15 MR. FROMM: I may have misunderstood,
16 but I thought I heard you say you were also involved in
17 training of cadets in terms of diversity.

18 MR. CAMP: No. I mean, we weren't
19 training cadets.

20 MR. FROMM: How to report a hate
21 crime or detect one.

22 MR. CAMP: No. We don't train
23 cadets. We train our recruits, but part of the
24 training of our recruits, even though we received
25 Training the Trainers, a certificate to training on

1 diversity, our training was very specific to hate
2 crimes and the effects it has on the Aboriginal and
3 minority communities.

4 We did throw a diversity component
5 into the training; however, it was minimal. It kind of
6 was sprinkled throughout the affects of the
7 communities. So we want the recruits to be aware that
8 we have minority communities, racial communities,
9 religious communities, all sorts of different
10 communities in the city, and they should be aware of
11 them.

12 Sometimes these communities are
13 affected by hate crimes, discrimination, and hate
14 incidents. Our primary goal was to have the
15 understanding of our law enforcement that the social
16 contacts of the city was this: Be aware of it when you
17 are investigating crimes. If you feel that the crime
18 is hate motivated, send it to our unit.

19 MR. FROMM: In that training at one
20 point, did you have recruits that were male walk down
21 Jasper Avenue holding hands?

22 MR. CAMP: No. Whyte Avenue,
23 actually. What we did in our training was -- it was a
24 very interesting strategy we proposed to our executive.
25 I can sit there and lecture about the effects of being

1 a minority, for example, in Edmonton.

2 We wanted not just to intellectualise
3 that process, but we wanted our recruits to actually
4 feel, emotionalise the experience. So over the course
5 of, I think, a year-and-a-half, we did three scenarios
6 with our recruits.

7 One is where we dressed up a woman as
8 a Muslim, orthodox Muslim in a hijab, and we had her
9 walk down Whyte Avenue.

10 Another one, we had a male recruit
11 dress up in the traditional orthodox Sikh outfit and
12 walk through Edmonton Centre at lunchtime on a week day
13 at the lunch court and feel what that was like.

14 And the one that you are referring to
15 is, again, have two males walking hand in hand to
16 understand and feel what it was like to be gay as well.

17 All three were for our recruits to
18 understand the effects of being a minority in this city
19 and what that can feel like.

20 I must say the response to the
21 recruits were very interesting. They felt very
22 vulnerable. We would always -- we usually picked a
23 white person, because a lot of times in a country where
24 the majority is white, they don't seem to understand
25 what it is like to be discriminated against. So we

1 wanted them to feel that.

2 We felt that type of learning was
3 better than being lectured. I felt that the learning
4 process stayed with them longer than it would be
5 receiving a power point presentation where I can tell
6 them the effects of discrimination and this and that.

7 MR. FROMM: Were there any objections
8 from the recruits to particularise that business of
9 walking down Whyte Avenue and holding hands?

10 MR. CAMP: It was interesting. We
11 had a recruit class -- that particular one, we had a
12 recruit class, I think, of 50 officers, and we
13 explained in the morning -- we did our lecture on hate
14 crimes, and then as we got to the discussion of what we
15 were planning on doing, we went in thinking we might
16 get one or two volunteers. We made sure that they were
17 first of all able to say no to being a Sikh or Muslim
18 or gay person, all three.

19 They didn't have to do this. This
20 wasn't a requirement. And that was backed up by the
21 executive chain. They didn't want the recruits to feel
22 they had to do this because it looked good for them.
23 We made it very clear to them.

24 When it came to the point where we
25 asked for volunteers in the gay scenario, half the

1 class put their hands up to do it. So what we had to
2 do was throw all the names in the hat and pick two
3 persons to do that.

4 MR. FROMM: So your point was it was
5 not compulsory for recruits?

6 MR. CAMP: Absolutely not. In fact,
7 we were prepared that no one would put their hands up,
8 and we were going to move on with the lectures for that
9 day.

10 MR. FROMM: You also indicated that
11 one of the tasks of the Hate Crimes unit was gathering
12 intelligence on persons -- hard to read my writing --
13 involved in extremists, something or other. Could you
14 tell us about that?

15 MR. CAMP: When I use the word
16 "extremists", people think terrorism, that members of
17 Al-Qaeda are going to be blowing up the building. But
18 when I use it in that context, an extremist is, for
19 example, say there is a religious group in the city
20 here that is espousing, I guess, hate.

21 I will use the specific example.
22 There is a religious group called "X". Inside that
23 group is a small group espousing hatred towards "Y".
24 If they are espousing that type of rhetoric that "Y"
25 should be wiped out, are subhuman, this, that, and the

1 other thing, we become very interested in that subgroup
2 of "X", because we feel that that type of rhetoric can
3 move to violent actions towards "Y".

4 So, yeah, it doesn't matter to us
5 what type of extremist activity it is, if it is "X" and
6 "Y" or it is religious, whatever, the bottom line is it
7 is very generic for us. It has to be extremist
8 rhetoric or extremist activity to be focussed on.

9 MR. FROMM: You use the example of
10 religious group "X" espousing hatred against religious
11 group "Y". Would you also be investigating the
12 people's political views?

13 MR. CAMP: Yeah, the political views
14 is something we will never enter into, because if you
15 look under the hate propaganda section of the Criminal
16 Code, there used to be four. Now there is five. If
17 you are talking about hate propaganda, there is no
18 protection there for political rhetoric.

19 Also, under Section 718 of the
20 Criminal Code, the sentencing enhancement for hate
21 crimes, political views aren't included in there as
22 well, so it would be outside our mandate. In fact, it
23 kind of reeks of McCarthyism.

24 MR. FROMM: You said that you would
25 be gathering intelligence about extremists. What do

1 you mean by "gathering intelligence"? What does that
2 mean?

3 MR. CAMP: It would mean a number of
4 things.

5 MR. FROMM: I know it means a number
6 of things. I want to know what those things are.

7 MR. CAMP: Well, who those people
8 are, what they are espousing, what their plans are, if
9 there is going to be violent actions, if they are
10 planning on blowing up someone's house.

11 MR. FROMM: How would you learn those
12 things?

13 MR. VIGNA: Okay, Madam Chair, we are
14 going a little bit out of bounds, and I think that it
15 is a possibility that we don't get into the police
16 operation at this point. What we have to decide here
17 is the facts related to the complaint. I did object
18 earlier to certain questions which might seem a little
19 bit out of bounds, but I don't want to go too deep to
20 police operations and investigative techniques, because
21 it is not part of the allegation.

22 THE CHAIRPERSON: Mr. Fromm, I am a
23 little concerned with the relevance as well. Could you
24 let us know --

25 MR. FROMM: Well, we have heard

1 nearly two days' testimony from Sergeant Camp largely
2 about Mr. Bahr and the Western Canada For Us website.
3 And in order to test the credibility of that, I am
4 trying to find out what it is the Edmonton Police
5 Service Hate Crimes unit does, how it operates.

6 Many allegations were made and
7 conclusions presented about Mr. Bahr in the Western
8 Canada For Us website, and I am just trying to develop
9 a better understanding myself as to the methodology
10 they use. And I think we would want to get into more
11 aspects of some evidence we looked at in the last two
12 days.

13 THE CHAIRPERSON: Okay. I will let
14 this proceed a little bit further, but I do have a
15 concern about the relevance. Carry on.

16 MR. FROMM: So back to my question,
17 how would you develop this intelligence? You said you
18 would try to find out what these people were doing,
19 were thinking, or planning, and so on. How would you
20 go about that?

21 MR. CAMP: Like I say, I am not going
22 to discuss our police intelligence operations.

23 MR. FROMM: Does it --

24 MR. VIGNA: Madam Chair, I would like
25 to, again, return to my objection for the same reasons

1 I mentioned earlier. I understand there is a certain
2 way to do the cross-examination, but it goes way out of
3 line, and it can also compromise the investigation.

4 MR. FROMM: Come on. The
5 investigation's finished.

6 THE CHAIRPERSON: Mr. Warman?

7 MR. WARMAN: Madam Chair, this does
8 go directly to investigative techniques. I think we
9 object on that basis. I will during the break perhaps
10 bring back the exact section that deals with
11 investigative techniques being outside of bounds.

12 THE CHAIRPERSON: I will sustain the
13 objection to that particular question, Mr. Fromm.
14 Carry on.

15 MR. FROMM: Still on your curriculum
16 vitae under the Additional Accomplishments -- give me a
17 second here. It may be elsewhere. Yeah. Back to
18 Prepared and Presented Hate Crimes Lectures Training
19 near the end of that three-page section, three items
20 from the bottom, it says:

21 "2005, December 14th, hate and
22 bias crimes presentation, Canada
23 Revenue Agencies employment
24 equity training."

25 Would you have a -- was this the

1 written paper you gave?

2 MR. CAMP: No. It was just a verbal
3 presentation to -- I will go back a little bit.
4 Apparently Canada Revenue Agency, once a year, they
5 have Employment Education Day. And what they do is
6 they ask, like, Department of National Defence to come
7 in, law enforcement, other courses to come in and give
8 presentations on whatever they wish to put
9 presentations on.

10 They asked us to, for their day,
11 their Education Day, to come and give one to them. I
12 don't really know the motivation why they asked us,
13 but, you know, it is a community effort. And we went
14 and provided their staff -- and it was probably 75,
15 approximately, staff from the Revenue Agency there
16 listening to the training. Some of them were sleeping,
17 some of them were interested.

18 MR. FROMM: Okay. I will just go a
19 bit farther up that page:

20 "2005, September, presented as
21 an expert panelist at the fourth
22 annual international network
23 against cyber hate conference in
24 New York."

25 Did you present a paper at that

1 convention?

2 MR. CAMP: I am sorry, which day is
3 that?

4 MR. FROMM: That is three pages into
5 your section called Prepared and Presented Hate Crimes
6 Lecture Training, which is page 5 of the fax that I
7 have, if that helps.

8 MR. CAMP: Okay. You are saying:
9 "2005, September, presented as
10 an expert panelist at the fourth
11 international annual network."
12 That one there?

13 MR. FROMM: Yes.

14 MR. CAMP: Did I present a paper on
15 that one?

16 MR. FROMM: Says you were presented
17 as an expert panelist. What was your participation in
18 that?

19 MR. CAMP: There was a conference,
20 and I was a guest panelist at a forum in regards to
21 that subject matter.

22 MR. FROMM: You didn't present a
23 formal paper?

24 MR. CAMP: No. I presented a
25 presentation.

1 MR. FROMM: Okay.

2 MR. CAMP: I did a presentation.

3 MR. FROMM: What was the nature of
4 that conference?

5 MR. WARMAN: Madam Chair, what is the
6 relevance of this to the case?

7 THE CHAIRPERSON: Yes, Mr. Fromm,
8 could you help us with the relevance?

9 MR. FROMM: Well, this is, after all,
10 the sergeant's curriculum vitae. He presented it. I
11 am not presenting evidence of my own that I dug up, but
12 this is who he is and his experiences and his
13 involvements and achievements, particularly in the
14 areas that might interest this tribunal. And I am just
15 trying to explore what exactly he has been doing and
16 see if this can assist us in any way.

17 MR. WARMAN: Madam Chair, I will just
18 reiterate, Sergeant Camp is tendered as a witness of
19 fact and not an expert witness.

20 THE CHAIRPERSON: That point was made
21 yesterday afternoon, Mr. Fromm.

22 MR. FROMM: Yes, Madam.

23 THE CHAIRPERSON: I am going to give
24 you a little bit of room on this one, but please try
25 and remember that we are needing to stick with the

1 element of the complaint, the elements contained in the
2 complaint themselves. And it seems like we are getting
3 pretty far afield.

4 Although it is interesting to hear
5 what Sergeant Camp's been up to, I don't see how it is
6 relevant. And so I will give you a little bit more
7 here, but please keep that in mind.

8 MR. FROMM: Well, what was the nature
9 of that conference?

10 MR. CAMP: If I remember correctly,
11 it was about hate on the internet. But, again, I would
12 have to go back in my files and present, I guess, Madam
13 Chair, with the, I guess, information from the
14 conference, if you wish.

15 MR. FROMM: I am sorry?

16 MR. CAMP: Well, I don't have a copy
17 of the material from the conference here. I can't
18 remember exactly that the title of the conference was,
19 and it is not in front of me. This was a year ago.
20 But from memory, I think it was a conference on
21 fighting hate on the internet.

22 MR. FROMM: I suspect you will be
23 back tomorrow. Could you bring that back tomorrow
24 then?

25 MR. CAMP: Sure.

1 MR. VIGNA: Madam Chair, I don't know
2 if we need to have him bring documents that are not
3 related to the case.

4 THE CHAIRPERSON: Well, I let the
5 question in. The next question sort of flows naturally
6 from it. Mr. Fromm has my concerns with respect to
7 relevance, so if Sergeant Camp thinks that that record
8 is fairly easily accessible, I don't see any harm.

9 MR. CAMP: I will check and see if I
10 have it, but I am not -- if I have it, I will bring it
11 in.

12 THE CHAIRPERSON: Okay.

13 MR. FROMM: Thank you.

14 Finally on that page:

15 "2005, December 13, panelist
16 speaker at a conference in
17 Ottawa for the Association of
18 Canadian studies in Canadian
19 Human Rights commission."

20 Did you present a paper at this
21 conference?

22 MR. CAMP: No.

23 MR. FROMM: What was your
24 participation?

25 MR. CAMP: Again, it was a

1 presentation.

2 MR. FROMM: Just off the top of your
3 head, your comments?

4 MR. CAMP: Just hang on. I am just
5 trying to remember which. Again, it was along the same
6 lines, if I remember correctly, to the New York one.
7 It was in regards to combating hate on the internet.

8 MR. FROMM: But you have a copy of
9 your works?

10 MR. CAMP: Why would I have them
11 here?

12 MR. FROMM: Do you have a copy of
13 them?

14 MR. CAMP: I don't know, Madam Chair,
15 but I ...

16 THE CHAIRPERSON: A copy of which?

17 MR. CAMP: He wants a copy of -- what
18 do you want a copy of?

19 MR. FROMM: Well, you delivered a
20 speech there. You say you did.

21 MR. CAMP: I don't have a copy of the
22 speech, but I may have a copy of what the presentation
23 was about.

24 MR. FROMM: That will be helpful.

25 MR. CAMP: What the conference was

1 about, I should say.

2 THE CHAIRPERSON: Counsel?

3 MR. VIGNA: I want to be brief, but I
4 don't want this to be a fishing expedition.

5 THE CHAIRPERSON: Well, so far he has
6 been asked to produce what sounds like the brochures
7 that relate to the particular events that Sergeant Camp
8 participated in.

9 Mr. Fromm, to the extent that
10 Sergeant Camp can find those fairly easily, I will ask
11 him to take a look for them.

12 MR. FROMM: I think the relevance is
13 that this is a conference -- the last is a conference
14 that was held in Canada held partly under the auspices
15 of prosecuting -- well, their title indicts combating
16 hate on the internet.

17 THE CHAIRPERSON: But relevant to
18 what? Why is that relevant to this complaint? In what
19 respect? How would this evidence help? To what end --

20 MR. FROMM: Well, combating hate.

21 THE CHAIRPERSON: -- are you asking
22 for that evidence?

23 MR. FROMM: Well, I don't have the
24 evidence, so I don't know how it could help. But I
25 would like to understand the -- so far, the

1 Commission's only witness is Sergeant Camp. He has
2 testified for two days. He has presented a good deal
3 of evidence. In order to test that evidence, I am
4 trying to learn a little bit more about some of his
5 other activities.

6 MR. WARMAN: Madam Chair, just to
7 emphasize that the disclosure obligation applies to
8 parties if Mr. Camp had given -- I just think we are
9 going quite a ways astray.

10 THE CHAIRPERSON: Mr. Fromm, tell me
11 again what this is relevant to. I mean, you are
12 telling me that we have seen Mr. Sergeant Camp for a
13 couple of days now, but what is this line of
14 questioning relevant to? What issue that is before
15 this tribunal relates to the questions that you are
16 asking?

17 MR. FROMM: For the credibility of
18 the witness. And I am interested in other comments he
19 has made on the same sort of material that has been
20 before this tribunal: the Section 13.1 and so-called
21 hate on the internet. I am not asking for his views of
22 little league baseball or whether he coaches lacrosse.
23 That is of no relevance. I am asking for things that
24 are particularly germane to this hearing.

25 THE CHAIRPERSON: Counsel?

1 MR. VIGNA: Madam Chair, the
2 allegations that are being made about credibility have
3 no -- there is no piece of information on which the
4 respondent is relying on to make such a request.

5 The document being asked is speaking
6 notes from a conference. How can this possibly be
7 linked to the hearing? I mean, that means that
8 anything he might have said on the issue arising on
9 hate messages would be relevant. That is exactly what
10 I said earlier, a fishing expedition.

11 There would have to be at least some
12 indication that the respondent would have to indicate
13 that there might be some relevance. But it is a
14 general statement and words of the respondent himself.
15 Mr. Fromm, the respondent's representative, he said, "I
16 would have to see it to see if it is relevant." That
17 is exactly it, it is a fishing expedition.

18 MR. CAMP: Madam Chair, if it helps,
19 I don't have speaker notes from my speaking engagement.
20 All I can provide, if you wish, which you can probably
21 get on the internet, is what the conference is about,
22 which is probably still there.

23 I mean, I went down to speak. There
24 were no papers presented, and that is it. So I don't
25 have speaker notes to provide to you. I don't have --

1 and like I say, you can probably find it on the
2 internet. If you want to look it up, look up the date
3 and location and name of the conference, and you will
4 find it. If not, I will search my paperwork at the
5 office and see.

6 THE CHAIRPERSON: I don't see how
7 brochures of conferences are going to have any impact
8 at all on credibility.

9 Mr. Warman?

10 MR. WARMAN: In fact, Madam Chair, if
11 I may, on another case, another Section 13 case where
12 Section 13 has been challenged, Mr. Fromm has already
13 tendered a fair bit of information about that very
14 conference. So I would submit that Mr. Fromm is
15 already in possession of that information.

16 THE CHAIRPERSON: Okay. Carry on,
17 Mr. Fromm.

18 MR. FROMM: Mr. Warman has me
19 confused with one of the other parties.

20 But I am going to ask another
21 question about that conference. You say you don't have
22 your notes. Did you mention Glenn Bahr and Western
23 Canada For Us at that conference?

24 MR. CAMP: Did I mention Glenn Bahr?
25 I don't remember mentioning Glenn Bahr.

1 MR. FROMM: In your curriculum vitae,
2 you mentioned that you had taken a course in hate
3 crimes investigation in B.C.

4 MR. CAMP: That is correct.

5 MR. FROMM: Who gave that course?

6 MR. CAMP: It was put on by the RCMP.

7 MR. FROMM: So any particular unit of
8 the RCMP or just ...

9 MR. CAMP: I think it was the B.C.
10 Hate Crime team.

11 MR. FROMM: Did you bring back
12 materials from that conference?

13 THE CHAIRPERSON: I am not going to
14 allow Sergeant Camp to be required to retrieve those
15 materials. I don't see the relevance.

16 MR. FROMM: Was what you learned at
17 this conference influential in the way you proceeded to
18 investigate hate crimes in Edmonton?

19 MR. CAMP: It may have enhanced
20 things a bit. It is hard to say. I was doing a lot of
21 research on hate crimes over the years before that 2002
22 conference, so I didn't really glean a lot from that
23 conference, to be honest with you.

24 I mean, I think it was a three-day
25 conference. It was a course of three days that had

1 some interesting points, some interesting things that
2 were spoken about and lectured on, some of it relevant
3 to Canada, some it relevant to Alberta, but not as much
4 as I had hoped.

5 There were maybe a few items in
6 regards to specifics on what a hate crime is and things
7 to suggest in hate crime investigation and protocol,
8 definitions of hate crime, things like that. It was an
9 interesting conference, but I wouldn't say it was ...

10 MR. FROMM: Okay. I am going to
11 leave the curriculum vitae now.

12 And as Mr. Vigna proceeded in his
13 examination of you, he asked you a number of questions.
14 And I think early on, you indicated -- if my notes are
15 correct here -- that you would not have spent more than
16 about 5 percent of your time on monitoring the internet
17 along with all of your other duties. Are my notes
18 correct on that?

19 MR. CAMP: Yes. Monitoring the
20 internet on those almost three years didn't compose, I
21 would say, 5 percent of my time.

22 MR. FROMM: Okay. Coming now to your
23 interest in Glenn Bahr, I just want to confirm my notes
24 here. You say he first came to your attention late
25 2003?

1 MR. CAMP: Well, I remember it being
2 2003. I think I do remember in late 2002, beginning of
3 2003, beginning to observe posts on Stormfront from
4 SS-88. That is correct.

5 MR. FROMM: Well, why would this draw
6 your attention?

7 MR. CAMP: Well if you are -- in my
8 opinion, Stormfront is a site that espouses hate
9 ideologies. I see the moniker of SS-88 --

10 MR. FROMM: If I could just stop you
11 there for a moment, Sergeant. Go back to that comment.
12 You said in your view, Stormfront espouses hate
13 ideologies. What do you mean by that? What do you
14 mean by "hate"?

15 MR. CAMP: You want examples or me to
16 summarise?

17 MR. FROMM: Well, you have
18 indicated -- you have attached the term "hate" to it.
19 Let me put it this way: You have shown us on a number
20 of occasions the masked head or the home page of
21 Stormfront.

22 MR. CAMP: Of Stormfront?

23 MR. FROMM: Yes. In the material
24 that Mr. Vigna took you through, various postings, you
25 would see the masked head.

1 MR. CAMP: Actually, what I was
2 showing the tribunal with those downloads there are
3 postings by SS-88. They weren't presented to show
4 Stormfront, they were supposed to show postings of
5 SS-88 on Stormfront, a discussion forum.

6 MR. FROMM: But in the process of
7 that, in these copies, we saw -- maybe this is not the
8 right word for it, but the masked head. It says
9 "Stormfront" and "international" and various other
10 things. Does it say there "hate site"?

11 MR. CAMP: When you review the entire
12 site, I would consider in my opinion that is a hate
13 site not only from discussion forums that are evident
14 on that site, but there is also literature on that site
15 that you can link into as well.

16 MR. FROMM: So you will confirm,
17 then, that this is your opinion, it is a hate site? Is
18 that correct?

19 MR. CAMP: That is correct.

20 MR. FROMM: Would you be able to tell
21 us what you mean by a hate site? I mean, by "hate", I
22 am interested in what you mean by "hate".

23 MR. CAMP: I am going to refer to my
24 report.

25 MR. FROMM: Yes.

1 MR. CAMP: And it is basically a
2 decision by -- a Kegstra decision. My thing is when
3 you investigate hate propaganda, you have to remember
4 and be careful that the rhetoric that you are viewing,
5 it is not just casual in nature. It has to be of
6 intensity that goes beyond the norm.

7 What I do when I investigate hate
8 propaganda, when I view literature print or audio or
9 video or on electronics such as a website, what I use
10 is my references, my case law, on what hate is.

11 And in here, I have a small example.

12 THE CHAIRPERSON: Could you tell me
13 what page you are on?

14 MR. CAMP: I am sorry. Page 23, Tab
15 8, Paragraph 26.

16 In the decision, the justice said:

17 "Noting the purpose of Section
18 319, Subsection 2, in my
19 opinion, the term "hatred"
20 connotes emotion of an intense
21 and extreme nature that is
22 clearly associated with
23 vilification and detestation."

24 As Cory J.A. stated in R versus

25 Andrews:

1 "Hatred is not a word of casual
2 connotation. To promote hatred
3 is to instill detestation,
4 enmity, ill-will, and
5 malevolence in others. Clearly
6 an expression must go a long way
7 before it qualifies with the
8 definition in 319.

9 Hatred is predicated on
10 destruction, and hatred against
11 identifiable groups therefore
12 thrives on insensitivity,
13 bigotry, and destruction of both
14 the target group and of the
15 values of our society. Hatred
16 in this sense is a most extreme
17 emotion that belies reason; an
18 emotion that, if exercised
19 against members of an
20 identifiable group, implies that
21 those individuals are to be
22 despised, scorned, denied
23 respect, and made subject to
24 ill-treatment on the basis of
25 group affiliation."

1 That is one piece of case law that I
2 will refer to. There are others as well as in R v.
3 Andrews.

4 MR. FROMM: So you try to apply the
5 Supreme Court decision in Kegstra, the definition of
6 hate, to literature you see or websites?

7 MR. CAMP: No. I don't try to apply.
8 What I do is I view the literature, if you want to use
9 that as an example, and refer to these decisions to see
10 if it does breach 319.

11 MR. FROMM: Then you make the
12 judgment as to whether it is a hate site or hate piece
13 of literature?

14 MR. CAMP: As in any --

15 MR. VIGNA: Madam Chair, I just
16 wanted to say when you make your judgments, I mean,
17 ultimately, it is a court decision just like the words
18 "hate" are not. I don't think that Sergeant Camp can
19 make an ultimate decision whether it is hate. He can
20 at least make it for the purposes of pressing charges.
21 But the way the question is framed, I think it is
22 misleading.

23 THE CHAIRPERSON: Thank you. I think
24 Sergeant Camp understands his restrictions, really,
25 here. I think he is being quite helpful to the

1 proceedings.

2 So carry on, Mr. Fromm.

3 MR. FROMM: The label "hate", though,
4 is pretty judgmental, and I am just trying to find out
5 how Sergeant Camp applies it.

6 To your knowledge, has the website
7 called Stormfront ever been found guilty under the law
8 under Section 319?

9 MR. WARMAN: There is no evidence
10 that Stormfront is even a Canadian website. We have no
11 jurisdiction over Stormfront. It is an American
12 website.

13 THE CHAIRPERSON: That is my
14 understanding as well, Mr. Fromm.

15 Having said that, Sergeant Camp, are
16 you aware of any Canadian prosecutions against that
17 particular website?

18 MR. CAMP: No.

19 MR. FROMM: So the designation in
20 your report of Stormfront as a U.S.-based hate site,
21 that is your designation? That is your label, right?

22 MR. CAMP: No. I will give you an
23 analogy, if this helps.

24 MR. FROMM: I am just interested --

25 MR. CAMP: Like I say, I would like

1 to answer the question, if I could.

2 THE CHAIRPERSON: Please.

3 MR. CAMP: If the website is an
4 American-based website and it violates and breaches a
5 section of the Criminal Code in the U.S. -- let me put
6 it this way: If you look at Section 266 for assault,
7 there is no such section that covers it in one
8 jurisdiction. That jurisdiction to have that section
9 can make an opinion, as a law enforcement official,
10 whether, if it was in this jurisdiction, it would be a
11 breach.

12 So if Stormfront was a website in
13 Canada, I think there would be an investigation on that
14 website, because it is breaching a Criminal Code
15 section. Ultimately, it is up to law enforcement. We
16 have the discretion to make an opinion.

17 If I investigate an assault, I have
18 to make an opinion at some time whether I should lay a
19 charge or not.

20 That is how simple it is with the 319
21 charge. At one point, I have to make a decision
22 whether charges are to be laid. I don't mean to
23 marginalise it, but I am trying to simplify the matter
24 here. It is another Criminal Code section just like
25 any other investigation I have to do, whether it is an

1 impaired, a homicide, an assault.

2 At what point do I have evidence to
3 proceed? If it is there in front of me, which in my
4 opinion by far exceeds what we have seen on the website
5 here, I have to form the opinion to proceed or not.

6 MR. FROMM: Okay. Back to the time
7 Mr. Bahr came to your attention, and you said this was
8 sometime probably in the latter part of 2003, you had
9 seen some postings by him on Stormfront. Is that
10 correct?

11 MR. CAMP: I appreciate you making
12 the link of Mr. Bahr to SS-88, because I was reading
13 SS-88.

14 MR. FROMM: It was your testimony on
15 Bahr.

16 MR. CAMP: What is the question?

17 MR. FROMM: The question was you
18 identified Mr. Bahr -- or, SS-88 came to your attention
19 sometime in the latter part of 2003; is that correct?

20 MR. CAMP: That is correct.

21 MR. FROMM: Because of postings on
22 Stormfront?

23 MR. CAMP: SS-88 became a person of
24 interest, yes.

25 MR. FROMM: In layman's terms, what

1 does that mean?

2 MR. CAMP: SS-88 or --

3 MR. FROMM: No, "a person of
4 interest".

5 MR. CAMP: Well, I like to use
6 analogies. So if someone tells me as an officer that
7 Mr. "X" has committed a criminal offence, perhaps
8 distributing and selling cocaine, that becomes a
9 subject of interest to me, because we enforce the law.

10 So in this case, observing SS-88
11 posting that you are going to start an organisation
12 call Western Canada For Us on a website, at that point,
13 you become a subject of interest of mine. It is just
14 like any other criminal investigation.

15 MR. FROMM: You assured us earlier,
16 though, that the Hate Crimes unit does not concern
17 itself with politics.

18 MR. CAMP: That is right.

19 MR. FROMM: Now, the posting that
20 Mr. Bahr made or SS-88 made, as the case might be, that
21 he was going to start an organisation called Western
22 Canada For Us. How would that come under your purview
23 according what you said?

24 MR. CAMP: Right. Again, in the
25 postings on Stormfront, which in my opinion is a hate

1 site, and with the moniker of SS-88 and the Canadian
2 discussion on a number of other individuals like Der
3 Totenkopf, these are red flags for me that these people
4 are involved in neoNazi activity and neoNazism and
5 white supremacy.

6 What we do in hate crime, I feel that
7 that type of group may instill fear into other groups.
8 That type of group may involve themselves in criminal
9 activity against minorities, Aborigines. It would
10 basically be what I consider negligent of my duties as
11 a law enforcement official of hate crimes to ignore
12 what I see transforming here in Alberta.

13 There is always the -- I note this
14 too, that there is always the chance these people or
15 Glenn Bahr -- as we see as SS-88 -- on Stormfront may
16 not involve themselves in anything. But we have to at
17 least look at it and ensure that there is peace within
18 our community.

19 And, I guess, like I said, it would
20 be negligent of me as a law enforcement official to
21 ignore what we see here.

22 MR. FROMM: Did Mr. Bahr in his --
23 or, SS-88 in his postings there in the latter part of
24 2003 say, "I am a neoNazi. I am a neoNazi"?

25 MR. CAMP: No. But then again, when

1 I am investigating drug traffickers, they don't go up
2 to me saying, "I am dealing cocaine." We have to
3 develop -- or, we have to look at the circumstantial
4 evidence before us and make a determination.

5 In fact, for law enforcement, I don't
6 think I have heard any Hate Crimes unit investigator
7 saying that a neoNazi went up to him and said, "Hi. I
8 am a Nazi." I mean, I think that would be quite
9 unusual, to be honest with you.

10 MR. FROMM: So it is judgment? It is
11 your opinion that some people are Nazis and some people
12 are maybe not? When dealing with people, do you not
13 allow people to self-identify?

14 MR. CAMP: First of all, to answer
15 your first question, I think anybody can form an
16 opinion if someone is a neoNazi or not, and that is up
17 to them.

18 What is the second question?

19 MR. FROMM: Well, you are in a
20 position of power. I guess all of us can form an
21 opinion. But when you meet somebody, do you not allow
22 them to self-identify?

23 MR. CAMP: I don't understand. I
24 don't allow?

25 MR. FROMM: You meet somebody in the

1 community, and you ask them a question directly or
2 indirectly that invites them to say who they are, and
3 they say -- let us say I am an Armenian.

4 MR. CAMP: Right.

5 MR. FROMM: And you are prepared to
6 accept that, right?

7 MR. CAMP: Sure.

8 MR. FROMM: You don't say, "No, you
9 are a Greek. You are not Armenian, you are a Greek."

10 MR. CAMP: Okay.

11 MR. FROMM: So you are generally
12 allowing people to self-identify. Now, I am asking you
13 did Mr. Bahr or SS-88 in the fall of 2003 on Stormfront
14 say, "I am a neoNazi. That is who I am"?

15 MR. CAMP: No.

16 MR. FROMM: No, he didn't. Okay.
17 But you came to the conclusion he was.

18 MR. CAMP: In 2003?

19 MR. FROMM: Yes.

20 MR. CAMP: I was suspicious that he
21 was. I didn't come to the conclusion.

22 MR. FROMM: As between, let us say,
23 religion and politics, would neoNazism, if it exists,
24 be a religion or political movement?

25 MR. WARMAN: Objection, Madam Chair.

1 That is an expert witness question. Sergeant Camp is
2 witness of fact.

3 THE CHAIRPERSON: I agree.

4 MR. VIGNA: Same objection.

5 THE CHAIRPERSON: It is not a
6 question that Sergeant Camp is qualified to address.

7 MR. FROMM: Well, he did assure us
8 that his unit does not concern itself with politics. I
9 am asking him how he understands neoNazis. I mean, he
10 said he thought Mr. Bahr might be a neoNazi. I am
11 trying to find out how he categorizes neoNazis.

12 MR. WARMAN: Madam Chair, I think it
13 is clear that if a political group or a group itself
14 identifies with a political group that is engaged in
15 hate-based criminal activity, it is going to fall under
16 the purview of Sergeant Camp.

17 I think we are just bouncing around
18 the edges of something that doesn't really make a whole
19 lot of sense.

20 MR. BAHR: May I say something?

21 THE CHAIRPERSON: Yes.

22 MR. BAHR: Well, if Mr. Camp can tell
23 me I am a neoNazi, he must know what a neoNazi is,
24 correct? And if he is an expert on hate crimes and he
25 has brought forward all this evidence of swastikas, me

1 being a Nazi, I think he can make an opinion whether it
2 is political or not. I think that is totally -- it
3 should be allowed here.

4 THE CHAIRPERSON: All right. Again,
5 the issue of this whole road of self-identification, I
6 am having difficulty with the relevance of it.
7 Mr. Sergeant Camp's evidence was generating an opinion
8 and an appreciation for the law of the violation of a
9 particular section of the Criminal Code.

10 The characterisation of who the
11 suspects or the interested parties were doesn't seem to
12 be particularly relevant. Sergeant Camp is here to
13 speak to us about his work as a police officer
14 enforcing the Criminal Code.

15 MR. FROMM: That is exactly what I am
16 trying to get at.

17 You came to the conclusion that SS-88
18 or Glenn Bahr, as the case might be, might be a
19 neoNazi.

20 MR. CAMP: Again, I have to agree. I
21 mean, if a neoNazi wants to espouse certain things that
22 don't breach the Criminal Code, not much I can do. But
23 if he is espousing and it breaches the Criminal Code
24 such as Section 318 and develops a website that
25 breaches the Criminal Code, I am interested. If

1 someone wants to be a neoNazi and not break the law,
2 then they won't hear from me.

3 So whether he is a neoNazi or not,
4 whether it is political or racial or religious isn't
5 really an issue with me. He can be whatever he wants
6 to be. It is whether he breaches the Criminal Code.

7 MR. FROMM: In the posts that you had
8 seen in the fall of 2003, did you see anything there
9 that breached the Criminal Code?

10 MR. CAMP: Not at that point. Not on
11 Stormfront. But, again, you know, and I will highlight
12 this, I mean, my job as a law enforcement officer is to
13 prevent crime as well, right? So if I see someone that
14 I feel may warrant monitoring, I will monitor and
15 watch. Just like if I feel someone is going to deal
16 drugs, I will monitor and watch to make sure they are
17 not. It doesn't matter. I am looking at Criminal Code
18 breaches.

19 So we are not just a response
20 organisation that we wait for crime to happen. Our job
21 and our mandate as law enforcement officials is to
22 ensure that we prevent crime as well.

23 MR. FROMM: I must admit, this leaves
24 me a bit confused. So you would confirm, then?

25 MR. CAMP: Confirm what?

1 MR. FROMM: The police service spies
2 on political --

3 MR. WARMAN: Objection. Madam Chair,
4 the wording here is clearly abusive.

5 MR. VIGNA: Madam Chair, there was
6 been no such comment made.

7 THE CHAIRPERSON: I agree that there
8 hasn't been a foundation laid for that question,
9 Mr. Fromm.

10 MR. FROMM: All right.

11 MR. BAHR: Madam Chairperson, if I
12 may? I think Mr. Camp presented evidence that my
13 licence plate was being -- he had my licence plate,
14 which means he was following me; a police officer on
15 Whyte Avenue followed me; there is other evidence he
16 has presented that they were following me. So I think
17 Mr. Fromm's question is completely valid. If I was
18 being followed before I committed an offence, is that
19 not spying?

20 MR. WARMAN: Madam Chair, it is
21 pursuant to the lawful criminal investigation. If
22 Mr. Fromm has any knowledge of the law, he would know
23 that the Criminal Code was not the issue here.

24 THE CHAIRPERSON: That was in
25 relation to the execution of a search warrant. What

1 Mr. Fromm is dealing with is something quite different.

2 Mr. Fromm?

3 MR. FROMM: Am I correct that, I
4 guess, on Tuesday you testified that you became
5 concerned when you learned on Stormfront that SS-88 or
6 Glenn Bahr was planning to form a group called Western
7 Canada For Us?

8 MR. CAMP: That is correct.

9 MR. FROMM: So I ask you, how does
10 the formation of the political group concern the
11 police? They hadn't formed any --

12 THE CHAIRPERSON: It wasn't --

13 MR. FROMM: They hadn't done
14 anything.

15 MR. WARMAN: Madam Chair, that
16 question has been asked and answered repeatedly.

17 THE CHAIRPERSON: Mr. Fromm?

18 MR. FROMM: I am still waiting for an
19 answer.

20 MR. WARMAN: I am still objecting.
21 The question has been asked and answered.

22 THE CHAIRPERSON: Just ask the
23 question again, Mr. Fromm, please.

24 MR. FROMM: When you developed
25 information that SS-88 or Glenn Bahr was planning to

1 form a group called Western Canada For Us, you said
2 that triggered your interest to investigate. I am
3 asking why.

4 MR. CAMP: It wasn't so much that he
5 was planning on forming a group called Western Canada
6 For Us, it was in the context where it was being
7 developed and the discussion on Stormfront that was
8 concerning me.

9 First of all, it was on a hate site,
10 and, secondly, the people involved in the discussion
11 with the monikers let me to believe we may have what I
12 consider someone that has neoNazi ideologies.

13 MR. FROMM: And is that against
14 Criminal Code?

15 MR. CAMP: Of course not.

16 MR. FROMM: So it is perfectly legal
17 to say, "I follow Adolf Hitler. He is the greatest"?

18 MR. CAMP: Absolutely.

19 MR. FROMM: So it would be perfectly
20 legal to say, "I like Joe Stalin. He is a great leader
21 and a great guy"?

22 MR. CAMP: Exactly.

23 MR. FROMM: So what were you
24 investigating for if it wasn't illegal?

25 MR. CAMP: It is also the same way I

1 think I should be investigating a drug dealer. If
2 someone is suspicious, I am going to monitor them and
3 make sure they don't start distributing cocaine.

4 If they are on a website -- let us
5 say there is a website built for drug distributors, and
6 they like to talk on it. As a drug enforcement
7 officer, if they were stupid enough to do that, I would
8 be monitoring the website. If there is people on the
9 Canadian discussion on a narcotic website saying, "I am
10 going to start a link and start distribution, I am
11 going to start watching." Whether they do or not, no
12 Criminal Code has been breached yet. But I have an
13 obligation to monitor to see if there is one.

14 You know, to save me a lot of work,
15 it would be great if he didn't start espousing hate.
16 We wouldn't be here.

17 MR. FROMM: It is against the law, is
18 it not, to sell narcotics?

19 MR. CAMP: Yes. It is similar to
20 being against the law to propagate hate as well. It is
21 a Criminal Code section. I am a cop. I have to
22 investigate.

23 MR. FROMM: You will agree it is not
24 against the law to say, "I am a follower of Adolf
25 Hitler"?

1 MR. CAMP: No. Absolutely not.

2 MR. WARMAN: Madam Chair, this
3 question has been asked and answered.

4 MR. FROMM: The analogy was raised.
5 If there is a website and people are saying they were
6 going to peddle drugs, the Sergeant would be
7 interested.

8 MR. WARMAN: Madam Chair, it doesn't
9 mean you can repeat a question over again.

10 THE CHAIRPERSON: I think you have
11 canvassed this area fully, Mr. Fromm. You can move on,
12 please.

13 MR. FROMM: I would like to call your
14 attention to the exhibit titled HR-7.

15 THE CHAIRPERSON: Mr. Fromm, is that
16 in the binder, or is that loose? Do you remember?

17 THE REGISTRAR: It is loose.

18 THE CHAIRPERSON: Thank you.

19 MR. FROMM: I was wondering if you
20 could just refresh our memory what this exhibit was?

21 MR. CAMP: This is the RCMP
22 investigation?

23 MR. FROMM: Yes.

24 MR. CAMP: It was the RCMP
25 investigation or a faxed copy of.

1 MR. FROMM: So it was an RCMP
2 investigation faxed to your office?

3 MR. CAMP: That is correct.

4 MR. FROMM: And just to refresh our
5 memories, what prompted this RCMP investigation?

6 MR. CAMP: According to the report,
7 there was a report that looks to be from somebody,
8 doesn't really say who, about suspicious males handing
9 out fliers on white supremacy. All the neighbours are
10 getting upset.

11 MR. FROMM: Whose determination was
12 it that these fliers were white supremacy?

13 MR. WARMAN: Madam Chair, it is not
14 his records. How can he answer? It is asking for
15 speculation.

16 THE CHAIRPERSON: I think that is a
17 fair comment, Mr. Fromm. Sergeant Camp is not the
18 individual that drew any conclusions. It is generated
19 out of the Leduc, I think, RCMP, and so the conclusions
20 would be theirs.

21 MR. FROMM: So somebody at the --
22 would it be fair to say that somebody at the RCMP in
23 Leduc concluded that these were white supremacy --

24 MR. CAMP: No. Actually, no. As I
25 noted in the testimony, I think, on Tuesday, if you

1 look at this report here, it looks to be a computerised
2 printout.

3 MR. FROMM: Yes.

4 MR. CAMP: And there is a paragraph
5 there that starts, "Two suspicious males" in the top
6 portion here.

7 MR. FROMM: Yes.

8 MR. CAMP: That would be comments
9 that are entered in from a complainant phoning the
10 RCMP; for example, a community member, a citizen, a
11 neighbour phoning the RCMP and saying this to the RCMP.
12 We got suspicious males, it gives a description, and
13 they are distributing white supremacy pamphlets.

14 In fact, it is very similar to the
15 complaints that were in to the Old Strathcona station:
16 people handing out white supremacy and stuff.

17 So it wasn't the determination of the
18 RCMP that this was white supremacy, it was the
19 determination of the person phoning in to the police.

20 MR. FROMM: Thank you. I am sure
21 that is helpful. So somebody noticed some individuals
22 handling out some leaflets and phoned the RCMP?

23 MR. CAMP: Right.

24 MR. FROMM: In Leduc; that is
25 correct?

1 MR. CAMP: Yes. By reading this, I
2 would say -- even though I don't work for the RCMP, and
3 I don't understand the protocols of their
4 infrastructure, but this looks similar to what we would
5 have as well in our call dispatch.

6 So what I am seeing here, it looks
7 like somebody phoned in and gave information to the
8 RCMP, made a dispatch to the call. Subsequent to that,
9 there is handwritten notes here by the investigating
10 officers.

11 MR. FROMM: And this leaflet here,
12 something seems to be cut off, but it says "For Their
13 Sake" and two children holding hands. Was that the
14 leaflet that was forwarded to you?

15 MR. CAMP: That is correct.

16 MR. FROMM: And having read it over,
17 does this strike you as white supremacy?

18 MR. CAMP: Are you asking me -- just
19 to help you out here, are you asking me if this is hate
20 propaganda or white supremacy?

21 MR. FROMM: Well, first of all, is it
22 hate propaganda?

23 MR. CAMP: No. I wouldn't consider
24 this to be hate propaganda. This wouldn't breach
25 Section 319. And neither would the other pamphlets, to

1 answer your question there.

2 MR. FROMM: Whoever phoned in the
3 complaint -- I know you don't know who it is -- but
4 that person did use the term "white supremacy". Having
5 reviewed it yourself when it was forwarded to you,
6 would that be your judgement of it?

7 MR. CAMP: That it was white
8 supremacy?

9 MR. WARMAN: Madam Chair, again, this
10 is not factual question. This is a question that
11 Sergeant Camp is here to answer.

12 THE CHAIRPERSON: I agree, Mr. Fromm.

13 MR. FROMM: That term "white
14 supremacy" and "hate" goes through all of Sergeant
15 Camp's testimony. I agree he is not an expert, but I
16 am trying to determine what constitutes in his
17 judgment -- because he is the one who used the term.
18 He didn't say "controversial" or something like that.
19 He in other contexts labelled people and materials as
20 white supremacist or neoNazi or hate. I am trying to
21 find out where he finds that.

22 THE CHAIRPERSON: That is fair,
23 Mr. Fromm.

24 I think it is true, Sergeant Camp,
25 that you have used that vocabulary. So if you would

1 provide us with your definition of -- I think it was
2 "white supremacy" that Mr. Fromm wanted you to
3 describe? So what is your understanding of that?

4 MR. FROMM: All I am asking is this
5 leaflet, "For Their Sake", in your opinion, would you
6 label it white supremacist?

7 MR. CAMP: No. What I would say,
8 though, is that what I have seen over monitoring
9 numerous hate sites over the last seven or eight years
10 since 1998 is that a lot of white supremacists
11 sometimes use rhetoric similar to this as euphemisms.

12 There is nothing wrong with being
13 proud of your race, whether you are white or black. I
14 am not saying that. But what we do see is we do see
15 forums where there is really hatred and a lot of hate
16 rhetoric, extremes.

17 At the same time, they want to
18 deliver pamphlets out to their fellow members to
19 distribute throughout the neighbourhood. What they do
20 is tone down the rhetoric and reverse it into white
21 pride.

22 I am not saying that -- again, there
23 is nothing wrong with being proud of being white. It
24 is a great thing. But sometimes we see information
25 like this hand in hand with white supremacist to

1 further the cause of white supremacist.

2 Per se, though, standing on its own
3 without any context behind it, I wouldn't say this is
4 white supremacist. I would say sometimes this goes
5 hand in hand with white ideology.

6 MR. FROMM: Would you say that the
7 first activities of Western Canada For Us that come to
8 your attention is this pamphlet?

9 MR. CAMP: Well, this report was
10 written in April, and March 8th was the Free Ernst
11 Zündel protest. So it wasn't the first time. I guess
12 the Kneehill Community Hall was another activity as
13 well, and that was back in February.

14 MR. FROMM: Okay. I am not really
15 trying to determine what was first or second, but this
16 was an activity that had come to your attention --

17 MR. CAMP: That is right.

18 MR. FROMM: -- this pamphlet?

19 MR. CAMP: Yeah.

20 MR. FROMM: And having looked it
21 over, you have determined it is not hate propaganda, it
22 is not white supremacist. Looking at that, would you
23 not conclude that this group, this Western Canada For
24 Us, is behaving lawfully?

25 MR. CAMP: Well, in this particular

1 investigation here, these three individuals involved
2 haven't committed any criminal offense.

3 MR. FROMM: Okay. Does it disturb
4 you, having mentioned that there is a lot of drug
5 pushing and violence and things associated with that in
6 Edmonton, that your time is taken up by investigating
7 what three youth are doing handing out pamphlets?

8 MR. CAMP: This didn't take any time.
9 I didn't do anything here. I received a fax.

10 MR. FROMM: Would it disturb you
11 that, as a law enforcement officer and having an idea
12 what policing is like, that the Leduc police had to
13 investigate this?

14 MR. CAMP: No. Not all.

15 MR. WARMAN: I don't think it is
16 relevant.

17 THE CHAIRPERSON: He is on his way to
18 answering it. I am sure he could answer it more
19 quickly than us engaging a long discussion about it.

20 Carry on, Sergeant Camp.

21 MR. CAMP: No, it doesn't disturb me
22 at all.

23 MR. FROMM: Does it bother you that
24 people phoned in or complained about people from the
25 marijuana party were handing out --

1 THE CHAIRPERSON: Sorry. Mr. Fromm,
2 that is really not a relevant inquiry. Would you
3 please move on?

4 MR. FROMM: Well, Madam Chair, as
5 being frequently point out, I am not a trained lawyer.
6 These proceedings were supposed to be conducted
7 informally, and I don't have the benefit of taxpayer
8 funding as the two gentleman here in front of me have.
9 I am trying to do this the best way I can.

10 THE CHAIRPERSON: Mr. Fromm, I am
11 sure that you are, and it is not my intention to be
12 cantankerous. It is just that it is my job to make
13 sure that there are limits to the questions. And what
14 you were asking Sergeant Camp here in particular is
15 what his feelings were about people calling in and
16 making complaints that would cause him or some other
17 officer to have to do something.

18 When I observed to you that that is
19 not relevant, it is because it is not. Whatever his
20 feelings might be, if he has to get in his car and
21 drive across the city, are really not relevant to the
22 subject matter of this compliant.

23 So carry on, Mr. Fromm.

24 MR. FROMM: There was another
25 three-page exhibit, and I don't think I have it marked

1 down, but it involved, basically, the picture or the
2 poster of Glenn Bahr and a posting on Stormfront about
3 this poster. But this exhibit, I think it was ...

4 THE CHAIRPERSON: HR-4.

5 MR. FROMM: HR-4.

6 THE CHAIRPERSON: Third page of HR-4

7 MR. FROMM: Have this picture of

8 Glenn Bahr.

9 MR. CAMP: All right.

10 MR. FROMM: I am sure I have it in my
11 notes exactly, but, Sergeant Camp, you did identify
12 this? You had seen this poster?

13 MR. CAMP: That is correct.

14 MR. FROMM: And how did you obtain
15 this poster?

16 MR. CAMP: This poster was sent to me
17 by Reg Foreman.

18 MR. FROMM: Did you solicit the
19 poster from him?

20 MR. CAMP: I think I made a phone
21 call to see if he had actually seen the poster. There
22 was a posting, as mentioned in previous testimony, on
23 Stormfront that described the poster and the layout of
24 it and the content and the photograph.

25 But on that poster, you couldn't

1 actually see the picture and some of the details here,
2 so I had contacted Richard Warman, who was the
3 complainant in this case, to see if he had actually
4 seen the poster. He said that he had and sent it to
5 me.

6 MR. FROMM: Are you be able to say,
7 roughly, when you contacted him? I don't necessarily
8 mean the exact date, just a timeframe.

9 MR. CAMP: I might need a minute or
10 two to see if I have it.

11 MR. FROMM: Would it be possible to
12 have a short break?

13 THE CHAIRPERSON: Sure. We will take
14 15 minutes. Thank you.

15 --- Upon recessing at 3:34 p.m.

16 --- Upon resuming at 3:51 p.m.

17 THE CHAIRPERSON: Thank you. Be
18 seated.

19 Mr. Fromm?

20 MR. FROMM: Just before the break, we
21 were looking at HR-4. Do you have that out there?

22 MR. CAMP: Yes, I do.

23 MR. FROMM: And I would ask you about
24 the -- I think you had mentioned that you had seen this
25 posted on Stormfront.

1 MR. CAMP: I had seen a portion of it
2 posted. Actually, the picture of Glenn Bahr, you
3 couldn't see. And where it says Name, Address, Phone
4 and Date of Birth, the only thing that was available by
5 SS-88, there was the name Glenn. Everything else was
6 in asterisk. And below that on Stormfront was the
7 content -- below that paragraph.

8 MR. FROMM: Who would post that at
9 Stormfront?

10 MR. CAMP: It was SS-88. I will
11 double check my notes here. SS-88.

12 MR. FROMM: And the missing paragraph
13 and other information that was on the poster, the
14 address, phone, and date of birth, were you able to
15 determine why that would be missing from the Stormfront
16 post?

17 MR. CAMP: No.

18 MR. FROMM: So at that point, you
19 were curious, I think you said, to have a complete copy
20 of the poster, and you contacted Richard Warman?

21 MR. CAMP: That is right.

22 MR. FROMM: Where did he reside?

23 MR. WARMAN: Objection.

24 MR. VIGNA: Objection. Absolutely no
25 relevancy.

1 MR. FROMM: It is relevant. I am not
2 asking for the street address.

3 THE CHAIRPERSON: It is not a
4 relevant question, Mr. Fromm.

5 MR. FROMM: Where had this poster
6 originated?

7 MR. VIGNA: Madam Chair, I hope it is
8 not an indirect question to the first question.

9 THE CHAIRPERSON: I am sorry. The
10 question was where did the poster originate from?

11 MR. FROMM: Yes.

12 THE CHAIRPERSON: Do you know the
13 answer to that, Sergeant Camp?

14 MR. CAMP: Well, no, I don't. I
15 mean, it is mentioned here by SS-88, and I am referring
16 to page 16 on the bottom portion, "E".

17 The only thing I can say is that
18 SS-88 alleges that the ARA put this up, the Anti-Racist
19 Action. Where it originates from, I don't know.

20 MR. FROMM: Where had it been
21 distributed?

22 MR. CAMP: Well, according, again, to
23 SS-88, it looks like it was distributed in Red Deer.

24 MR. FROMM: And according to the
25 poster, who had put the poster up?

1 MR. CAMP: I don't know who, but I
2 can say that SS-88 says that the ARA did it.

3 MR. FROMM: What does the poster say
4 in terms of the authorship?

5 MR. CAMP: On the portion that says
6 "Public Service Announcement," from Calgary Anti-Racist
7 Action, ARA.

8 MR. FROMM: So it would be fair to
9 say it seems to be an Alberta poster, an Alberta
10 operation?

11 MR. CAMP: Yeah. I mean, it could
12 be.

13 MR. FROMM: Not California?

14 MR. CAMP: Well ...

15 MR. FROMM: Newfoundland?

16 MR. CAMP: Could be. With the
17 internet, it could come from anywhere. There are
18 anti-Aryan chapters all over Canada, and there was a
19 lot of interest across Canada about Western Canada For
20 Us, so ...

21 MR. FROMM: But your testimony --

22 MR. CAMP: I can't say where it came
23 from. Like, I can tell you what was on the poster,
24 what SS-88 says, but I don't know where it came from.

25 MR. FROMM: Sergeant Camp, it was

1 your testimony that what was on the poster is the
2 Calgary Anti-Racist Action group.

3 MR. CAMP: Yes.

4 MR. FROMM: So why would you contact
5 a man in Ottawa to find a copy of a Calgary poster?

6 MR. VIGNA: Madam Chair, I don't know
7 that there is any evidence about a man in Ottawa.

8 THE CHAIRPERSON: So would you
9 rephrase your question, Mr. Fromm?

10 MR. FROMM: Mr. Warman resides in
11 Ottawa. This poster, you said, seemed to come from the
12 Calgary Anti-Racist Action group operating in Alberta.
13 Why would you contact Mr. Warman in Ottawa for a copy
14 of that poster?

15 MR. CAMP: To see if he knew where it
16 came from, to see if he had a copy of it, or if he had
17 seen a copy of it anywhere.

18 MR. FROMM: Why do you think he would
19 know of or have a copy of it?

20 MR. CAMP: He was a complainant in
21 this file and was knowledgeable of the conception of
22 the WCFU.

23 MR. FROMM: Was he working with the
24 ARA?

25 MR. WARMAN: Objection. What is the

1 relevance of this question, please?

2 THE CHAIRPERSON: You have asked
3 Sergeant Camp a question, and you have received your
4 answer.

5 MR. FROMM: Why were you interested
6 in a full copy of the poster?

7 MR. CAMP: Well, as an investigator,
8 I am trying to determine as March went on and the WCFU
9 website went up -- I guess I am trying to link SS-88 to
10 the website. And so that would be my interest in
11 wanting to take a look at the poster.

12 MR. FROMM: Because it contained what
13 helpful information to your investigation?

14 MR. CAMP: Again, it would be a link
15 to SS-88, being Glenn Bahr.

16 MR. FROMM: So the poster we see here
17 with Glenn Bahr's picture and address, et cetera, was
18 eventually forwarded to you, was it?

19 MR. CAMP: That is correct.

20 MR. FROMM: How was it forwarded to
21 you?

22 MR. CAMP: Either via fax or mail,
23 but I am sure it was -- it is one of those two, fax or
24 mail. I don't know.

25 MR. FROMM: From Mr. Warman?

1 MR. CAMP: That is correct.

2 MR. FROMM: Did you inquire how he
3 obtained a copy?

4 MR. CAMP: No.

5 MR. FROMM: Could you read the body
6 of the poster below the date of birth, the main
7 substantial paragraph there?

8 MR. CAMP:

9 "The person shown above
10 represents a serious threat to
11 our community. For Sunday,
12 February 9th, he has organised a
13 neoNazi meeting in Red Deer,
14 which represents one of the
15 largest gatherings of white
16 supremacists from across Canada
17 since the earlier 1990s when the
18 Aryan Nations was in operation.

19 Bahr publicly professes his
20 admiration of Adolf Hitler and
21 is espousing sentiments of
22 fascination with the S.S. branch
23 of the Nazi government/military
24 that existed during World War
25 II, which oversaw the genocidal

1 massacre of millions.

2 The purpose of Bahr's
3 planned meeting is to organise
4 the acquisition of land in
5 Alberta to create a whites-only
6 homeland for Canadian neoNazis.

7 Calgary ARA stands firmly
8 opposed to Bahr's meeting. His
9 violent and racist rhetoric, his
10 fascist political plans, and his
11 hate mongering against
12 non-whites, immigrants,
13 homosexuals, the poor organised
14 labour unions, and women.
15 Calgary ARA stands in solidarity
16 with all communities and
17 embraces the cultural mosaic of
18 our communities.

19 We support progressive,
20 organised labour, gay/lesbian
21 rights, and the struggle against
22 poverty to work towards a new
23 society based on cooperation and
24 socio-economic justice and
25 equality."

StenoTran

1 MR. FROMM: Okay. From the knowledge
2 you had at the time, which is February, 2004 --

3 MR. CAMP: Yes.

4 MR. FROMM: -- did you have any
5 information that Mr. Bahr was hate mongering against
6 the poor?

7 MR. WARMAN: Objection, Madam Chair.
8 What is the relevance? He is asking for speculation on
9 the part of Sergeant Camp on the poster, and Sergeant
10 Camp neither created it or posted it.

11 THE CHAIRPERSON: I agree, Mr. Fromm.

12 MR. FROMM: I am asking about the
13 knowledge, if any, about the content of the poster.

14 THE CHAIRPERSON: So you are asking
15 whether or not Sergeant Camp was aware of any
16 specific --

17 MR. FROMM: Yes.

18 THE CHAIRPERSON: -- posts with
19 respect to poverty?

20 MR. FROMM: Yes.

21 THE CHAIRPERSON: Why?

22 MR. FROMM: Because there are
23 allegations contained within this post.

24 THE CHAIRPERSON: Well, these aren't
25 allegations made by Sergeant Camp.

1 MR. FROMM: I know they are not.

2 THE CHAIRPERSON: They are
3 allegations contained in a poster that was obtained in
4 the course of an investigation. I don't, again,
5 Mr. Fromm, see the relevance of your question.

6 MR. FROMM: There are a lot of
7 allegations contained in that long paragraph. Did you
8 have any reason to believe that they were all true?

9 MR. WARMAN: Objection. It is the
10 exact same thing being asked with different words.

11 THE CHAIRPERSON: I agree, Mr. Fromm.

12 MR. FROMM: I might point out that I
13 did not interrupt either Mr. Vigna or Mr. Warman in
14 their two days of examination except occasionally to
15 ask for clarifications for a date or something. This
16 is just legal harassment.

17 I am trying to conduct an amateur
18 cross-examination in a respectful way to try to obtain
19 some information. This is just typical bullying. And
20 I think, you know, as a lawyer yourself, Madam Chair,
21 you can recognise that and tell your colleagues to lay
22 off.

23 THE CHAIRPERSON: Mr. Fromm, we are
24 making these decisions as we go along. There is a
25 range, and I am giving you a lot of latitude in terms

1 of the appropriate questions to be asked. When I feel
2 that the questions are not adequately relevant to the
3 tribunal, I need to find out from you what the
4 relevance is.

5 What you are exploring with Sergeant
6 Camp is questions that relate to a document that he
7 didn't generate, with respect to a document that came
8 into his possession, and asking him in particular if he
9 did any further investigation on different grounds
10 based on this document that he didn't create. So I
11 just don't see any relevance to this complaint in that
12 line of questioning.

13 MR. FROMM: We did not introduce the
14 evidence, the Commission introduced it. They must have
15 felt that there was some relevance to it.

16 MR. VIGNA: Madam Chair, the
17 relevance was pretty simple. There was content on the
18 website, which matched the poster, and it was for the
19 purposes of identity that the evidence was introduced.
20 It wasn't for the contents in particular, what is said,
21 but the fact that it is represented in the website and
22 the person that is concerned about it and complained
23 about it and says going under SS-88.

24 It is basically the relevance to the
25 issue of identity, not to the nature of the actual

1 contents of it. But the fact that there are two
2 different documents, one off the website and one which
3 is a poster, which is exactly the same, and --

4 THE CHAIRPERSON: Yeah, I remember.
5 It was just yesterday. This document did go to
6 identity to connecting Mr. Bahr to that moniker of
7 SS-88, and we spent quite a bit of time exploring that
8 connection. So I remember why this document was
9 tendered, certainly.

10 And, again, I do have concerns with
11 the relevance to the line of questioning that you are
12 pursuing.

13 MR. FROMM: Earlier, Sergeant Camp,
14 you indicated that you were concerned about conflict
15 among communities.

16 MR. CAMP: Did I say "conflict among
17 communities"? Yeah, okay. Sure. I would say that.

18 MR. FROMM: And one of the proactive
19 things you had done with the hate squad was to set up
20 committees so that you could liaise between the police
21 and the various communities so information could flow
22 both ways.

23 MR. CAMP: That is correct.

24 MR. FROMM: When you received this
25 poster with this language that you see here and the

1 hints of some sort of conflict, did this concern you?

2 MR. WARMAN: Objection, Madam Chair.

3 THE CHAIRPERSON: Sergeant Camp, is
4 that a question that you know the answer to?

5 MR. CAMP: Again, the only relevance
6 to this that I looked at for this poster was in regards
7 to my investigation of hate propaganda on Glenn Bahr.
8 It was made specifically from one -- the acquisition of
9 this poster was made for one reason; it was made for
10 identity purposes only.

11 Like I explained to you on my
12 testimony, there was a number of pieces to the puzzle
13 that brings us to the conclusion that SS-88 was Glenn
14 Bahr, and it is the same person that runs the website
15 that was on Stormfront, et cetera. That is it.

16 So the acquisition of this poster
17 only was in regards to Glenn Bahr's picture on there
18 and that SS-88 or Glenn Bahr was saying that this is a
19 picture they put up of him in Red Deer.

20 MR. FROMM: But in terms of your
21 duties, you didn't see a potential conflict between
22 Calgary's Anti-Racist Action group and this Western
23 Canada For Us?

24 MR. CAMP: There was a number of
25 individuals and persons that were concerned about

1 Western Canada For Us, and ARA may be one of them, but
2 that is -- that is fine. Again, the content wasn't of
3 concern to me. The purpose of acquiring this document
4 was for identity only.

5 MR. FROMM: In previous testimony
6 about your looking at Stormfront, you seem to indicate
7 that you have become experienced at reading political
8 rhetoric. Did the rhetoric of this poster concern you?

9 MR. CAMP: Again, I didn't say I
10 became experienced with observing political rhetoric on
11 Stormfront.

12 MR. FROMM: Did the rhetoric in this
13 poster concern you in terms of a possible breach of
14 peace?

15 MR. CAMP: Again, I wasn't concerned
16 with the rhetoric. I don't think I paid much attention
17 to it. It was acquired for a specific reason, which
18 was for identity purposes only. But I might add if
19 Glenn Bahr had a concern about the rhetoric, the poster
20 was distributed in Red Deer, and he should go to the
21 Red Deer RCMP and file a civil litigation. He can get
22 a lawyer and pursue a civil litigation.

23 MR. BAHR: Actually, I did.

24 MR. FROMM: I will try to follow the
25 same pattern as Mr. Vigna in terms of the evidence. Of

1 course, I may jump around a little bit, but take a look
2 at HR-3. It is a series of postings that were
3 presented on Stormfront.

4 MR. CAMP: Okay.

5 MR. FROMM: On the second page in
6 that sequence, it is actually -- my copy says 4 of 5.
7 Somebody -- I think it is Jessy Destruction -- says:

8 "I plan on getting a swastika on
9 my tummy."

10 Do you see that?

11 MR. CAMP: We are on a different
12 page. I am sorry.

13 MR. FROMM: 4 of 5, second page of my
14 bundle here.

15 MR. CAMP: Second page of the bundle?
16 No, you have a different order here, I think.

17 MR. FROMM: The page says it is 4 of
18 5, but it is only the second page in the bundle of
19 documents. On the top of the page is very faint, very
20 dark copy, but it says "Location Maritimes" and a box.
21 It says:

22 "I plan on getting a swastika on
23 my tummy."

24 MR. CAMP: I don't know where you are
25 here. You might have to show me.

1 MR. FROMM: And I am -- the person on
2 the top of page 4 of 5 is saying:

3 "Why would you or anybody get a
4 swastika? Not that I have
5 anything against it."

6 And continuing in like vein. And
7 then SS-88 answers. Do you see that?

8 MR. CAMP: Yes, I do.

9 MR. FROMM: He says:

10 "I believe in the Nazi ideals.
11 To me, it is a symbol of my
12 beliefs and lets everybody know
13 what I stand for."

14 This was part of your evidence. As a
15 law enforcement officer, do you see any problem with
16 the man's political opinions as expressed in that
17 quotation?

18 MR. CAMP: I don't look at it as a --
19 in the Hate Crimes unit, like I said before, we don't
20 investigate political opinions. However, if you are
21 talking about racial supremacy, for example, or
22 neoNazism, as a hate crime investor, this would be of
23 interest to me, yes.

24 MR. FROMM: Is he speaking about
25 racial supremacy in that paragraph?

1 MR. CAMP: He may be. That is why I
2 would be interested.

3 MR. FROMM: He may be. Well, where?

4 MR. CAMP: Well, not only racial
5 supremacy but destruction of the Jewish community as
6 well, because the Nazi party, part of their platform
7 when they came to power in 1933 was the destruction of
8 the European Jewish community.

9 MR. FROMM: Are you testifying as to
10 that as a historian?

11 MR. WARMAN: Perhaps --

12 MR. VIGNA: I think he has general
13 knowledge like anybody else in society about the
14 history of that particular point. You don't have to be
15 a historian or expert.

16 THE CHAIRPERSON: You have asked your
17 question. It was answered.

18 MR. FROMM: Reports of UFOs are all
19 over the place, but I am not sure that is scientific.

20 MR. CAMP: Right.

21 MR. FROMM: In that post, would you
22 agree, is simply stating that he is a following of
23 Adolf Hitler?

24 MR. CAMP: No.

25 MR. FROMM: No?

1 MR. CAMP: I would say that the
2 paragraph speaks for itself.

3 MR. FROMM: That is a line, sir.
4 What does it say? Is he threatening violence against
5 any group or persons in that paragraph?

6 MR. CAMP: No. There is no charge
7 here of uttering threats in this post.

8 MR. FROMM: Okay. So whatever one
9 might think of these political views, he is simply
10 stating he is a follower of Adolf Hitler and likes the
11 swastika. Is that correct?

12 MR. CAMP: No.

13 MR. FROMM: No?

14 MR. CAMP: Again, the paragraph
15 speaks for itself.

16 MR. FROMM: What does that mean?
17 What do you mean, it speaks for itself? What does it
18 say?

19 MR. CAMP: That he is a believer in
20 Nazi ideals.

21 MR. FROMM: Yes.

22 MR. CAMP: I would assume from the
23 comments that he is proud of the S.S., which was the
24 European Nazi police force, which was involved in the
25 extermination of the Jewish community.

1 MR. FROMM: Are you testifying to
2 that as a historian?

3 MR. CAMP: It is general nature, sir.
4 I think it is as general as anybody else would know.

5 MR. BAHR: Actually --

6 THE CHAIRPERSON: Mr. Fromm, if I
7 might just a moment? Mr. Fromm, I think I understand
8 where you are going with these questions, and I am
9 content with the questions that you are asking provided
10 that you ask them about the WCFU site. These are
11 Stormfront sites, and the complaint is not that the
12 Stormfront site is contrary to Section 31.1. The
13 complaint is that the WCFU site contravenes the Act.

14 So I am completely expecting to be
15 taken rather meticulously through that site, but not
16 this site. This is not on the table.

17 Remember, again, that the evidence
18 yesterday was that this information served the purpose
19 of identity, linking them together. And so I would ask
20 that you confine exactly those questions to the website
21 that is the subject matter of the complaint before me.

22 MR. FROMM: Yes. I would be glad to
23 do that. I am glad you clarified this, because I have
24 been trying to get this information for several months.
25 What exactly is being impugned?

1 Now, I am pretty certain that in the
2 complaint, Mr. Warman's complaint, this is one of the
3 impugned passages from Stormfront that Mr. Bahr or
4 SS-88 purports not to be ashamed of the swastika and to
5 believe in Nazi ideals and to consider Adolf Hitler as
6 Fuhrer.

7 If this is not a problem, I would be
8 very happy to reassure this is not part of the
9 complaint. I would be very happy to move on.

10 THE CHAIRPERSON: Mr. Warman?

11 MR. WARMAN: Madam Chair, just to be
12 clear, the website Stormfront.org is included in the
13 Western Canada For Us site.

14 THE CHAIRPERSON: I apologise. Then,
15 yes, that question is appropriate. Go ahead.

16 And you can carry on, Sergeant Camp.

17 MR. FROMM: Would you agree that this
18 posting about Nazi ideals, the S.S., Adolf Hitler, is a
19 nonviolent expression of SS-88's political ideals?

20 MR. CAMP: As a hate crimes investor,
21 I am not concerned about political beliefs. It would
22 be a concern for me, because he may have beliefs in
23 extremist racial superiority, I guess, and neoNazism.

24 MR. FROMM: So you are concerned he
25 might have beliefs in neoNazism?

1 MR. CAMP: Yes. He states that he
2 believes in the Nazi ideals.

3 MR. FROMM: So what is a "neoNazi"?

4 MR. CAMP: A person that believes in
5 Nazi ideas.

6 MR. FROMM: What is an old Nazi?

7 MR. CAMP: A person that is a senior
8 that has Nazi ideas? What is the question supposed to
9 be?

10 MR. FROMM: I am trying to find out
11 what a neoNazi is. You said you have concerns he might
12 have neoNazi beliefs. Why should that be a problem?

13 MR. CAMP: Well, my knowledge base of
14 Nazism, part of their platform when they began to
15 expand in Europe was to eliminate the Jewish community,
16 homosexuals, gypsies, Romas, et cetera. They wanted an
17 Aryan pure nation. As a hate crime investigator, that
18 is important to me.

19 MR. FROMM: You are giving that
20 testimony as a historical expert that is what Nazism
21 is?

22 MR. CAMP: No.

23 MR. FROMM: So that is your belief,
24 that that is what Nazism stands for. How does this
25 affect, as a law enforcement officer -- even if he is a

1 Nazi, so what?

2 MR. CAMP: Well, a couple of reasons.
3 If a person is very -- two things. He may not be a
4 threat to our community; he may just believe in his
5 ideas, which is just fine. There are two things I have
6 to be concerned about is whether he is going to take
7 this ideology more with violent actions and hate
8 propaganda against Aboriginal or minority communities
9 or any kind of racial or religious community, sexual
10 orientation.

11 So, yes, like I explained it before,
12 it would be negligent as a hate crime investigator to
13 look away from this. It is blatantly -- it is obvious
14 that any hate crime investigator across North America
15 would be looking at this as a potential threat to the
16 community. It is, in layman's terms, a no-brainer.

17 MR. FROMM: You can't point, though,
18 to any threats he is making against any of these groups
19 that you are concerned about?

20 MR. CAMP: No. I did not see any --
21 like, as far as uttering threats under the Criminal
22 Code, no.

23 Again, just so you know, a part of
24 policing is to involve ourselves in prevention of
25 criminal activity. So, I guess, if you are espousing

1 an ideology, an ideology that may cause us concern, it
2 is definitely a flag for us.

3 MR. FROMM: Would you agree that we
4 would probably cut down on crime a great deal if we
5 locked up all suspicious looking characters?

6 THE CHAIRPERSON: Mr. Fromm, please,
7 carry on with relevant questions.

8 MR. FROMM: Moving ahead to the next
9 section within that bundle is page 205, and it is the
10 page that has on top of it handwriting, which I think
11 you said was yours:

12 "Identifies his past.

13 Identifies his beliefs."

14 Et cetera.

15 MR. CAMP: Oh, right. Okay.

16 MR. FROMM: SS-88 says:

17 "I don't have any pics on my
18 tattoos, but I have S.S. on my
19 right pec, blitzkrieg."

20 Et cetera.

21 Was this, his tattoo, whatever they
22 might with be -- was this a concern as a law
23 enforcement officer to you?

24 MR. CAMP: Yes.

25 MR. FROMM: Why?

1 MR. CAMP: Well, as a hate crimes
2 investor, like I just explained, if I see someone
3 wearing tattoos like that, I would be wondering if that
4 person is to be concerned with. If someone wants to
5 publicly state that he has these tattoos, because of
6 what I do in the Hate Crimes unit, that would be a
7 concern for me.

8 MR. FROMM: Much earlier in your
9 testimony, you talked about the dangers of racial
10 stereotyping. Doesn't this come awfully close to that
11 type of stereotyping? You are a member of a group and
12 warrant special --

13 MR. CAMP: No. What are you asking
14 me?

15 MR. FROMM: I am asking you, you say
16 you would be of concern because he has these tattoos
17 on.

18 MR. CAMP: Yes. Like, I will give
19 you an example. If I see a person on a Harley Davidson
20 with a Hells Angles rocker, that person is of concern
21 for me if I am in the bike unit.

22 I think you are confusing stereotype
23 with criminal profiling.

24 MR. FROMM: On the next page, page 7
25 of 7, there is some handwriting on the post. I can't

1 read it. And it is headlined Whiteville, Canada. Do
2 you have any idea whose concept this Whiteville,
3 Canada, was?

4 MR. CAMP: There was a lot of
5 discussion on Stormfront.org forum with regards to
6 Whiteville by a number of members. There was one
7 member in particular that talked about it profusely,
8 and that was proud18.

9 MR. FROMM: And that leads us to the
10 next page, at least in my bundle. It is page 1 of 5.
11 I don't know if the thread has a name or not. Oh, yes,
12 Super ID.

13 MR. CAMP: Right.

14 MR. FROMM: And this is posted by
15 proud18.

16 MR. CAMP: Right.

17 MR. FROMM: And it seems to be
18 talking about teaching white history in schools. Were
19 you able to identify who proud18 was?

20 MR. CAMP: Yes. Through our
21 investigations, we came to the conclusion that proud18
22 was Peter Kouba.

23 MR. FROMM: And as law enforcement
24 officers, did you see any problem with proud18's post
25 about emphasizing white history in schools?

1 MR. CAMP: Would I see a problem with
2 it? Is it a concern of mine?

3 MR. FROMM: Yes.

4 MR. CAMP: Yes, it certainly is.

5 MR. FROMM: Why would that be?

6 MR. CAMP: Proud18 may be -- I
7 highlight "may" be involved in not just trying to
8 market ideas of white racial pride or things of that
9 nature. But because of my experience, persons involved
10 in this type of rhetoric are also involved in white
11 supremacy or neoNazism.

12 At this point, we don't have answers
13 to it, but I am suspicious that he may be involved in
14 that type of ideology.

15 MR. FROMM: So are you saying that
16 many of these people posting on Stormfront are phoney?
17 They say one thing, but they really mean another? Is
18 that your testimony?

19 MR. VIGNA: Objection. There is no
20 such --

21 THE CHAIRPERSON: That wasn't his
22 evidence, Mr. Fromm.

23 MR. FROMM: Okay. Proud18 is here
24 talking about teaching more about white history in
25 schools.

1 "Reading an article today gave
2 me an idea to help our cause.
3 Our education system has turned
4 their backs on teaching white
5 history in schools. Those that
6 go to school can verify this.

7 A Uranian website is
8 launched. My idea is to build a
9 website for whites' history,
10 culture."

11 Et cetera.

12 Are you suggesting that this proudl8
13 person doesn't really mean this, he has something else
14 in mind?

15 MR. CAMP: No. I am saying that he
16 may believe this. He may believe this but is actually
17 maybe hiding his more extremist ideologies here. There
18 is always that potential.

19 MR. FROMM: Even if that were so, why
20 should this be a police concern?

21 MR. CAMP: Again, I work in a Hate
22 Crimes unit. I explained what our goals and mandate
23 was for hate crimes. And so, again, I mean, part of
24 our mandate is to prevent activities that would run
25 contrary to the mandate.

1 MR. FROMM: Have you ever in your
2 work monitored dating sites?

3 THE CHAIRPERSON: I don't see the
4 relevance of that, Mr. Fromm.

5 MR. FROMM: Well, would you agree
6 from even a general knowledge of dating sites that
7 people lie a lot?

8 MR. CAMP: I have no idea about
9 dating sites.

10 MR. FROMM: On the next page of the
11 Commission's evidence, page 2 of 5, there is a post by
12 SS-88, and I have got this written in by pen. I think
13 this was your testimony. We tried to identify it
14 today. This is 02/12/04, so that would be February
15 12th. Are we on the same page here?

16 MR. CAMP: That is right.

17 MR. FROMM: And SS-88 seems to be
18 saying that that idea of white history was a good idea
19 and why not have a part of the WCFU.com.

20 MR. CAMP: Right.

21 MR. FROMM: This is dated, I think we
22 said the other day, the 12th of February. Would that
23 suggest to you that WCFU.com was up at that point?

24 MR. CAMP: No. At this point in what
25 we are viewing on Stormfront, there was no indication

1 that WCFU website was up and running.

2 MR. FROMM: How do you interpret the
3 last sentence, though?

4 "It should be a different
5 section on WCFU.com."

6 Dated, as it is, the 12th of May -- I
7 mean 12th of February.

8 MR. CAMP: Right. I would interpret
9 that in the context of this investigation in that he
10 has come up with an idea for the website he is about to
11 put up.

12 MR. FROMM: Okay. Moving ahead in
13 the Commission's evidence on page 3 of 5, on the bottom
14 of this page is another posting by proud18.

15 MR. CAMP: Yes.

16 MR. FROMM: From that posting, what
17 would you conclude Mr. Kouba or proud18's role seemed
18 to be in this website group that is discussed?

19 MR. CAMP: I would say that he is
20 adding his ideas to the -- I guess he is adding some
21 ideas to the creation of what the WCFU website should
22 look like.

23 MR. FROMM: Okay. So he would seem
24 to have some participation. What do you make of the
25 final sentence, despite the bad spelling?

1 MR. CAMP: The one that says:

2 "Talk is cheap. It is time to
3 do"?

4 MR. FROMM: No. I mean before the
5 line WF ...

6 MR. CAMP: I guess he is asking White
7 Fusion:

8 "You coming to the meet Sunday?"

9 MR. FROMM: Would you draw any
10 conclusion about Mr. Kouba's role in, I guess, Western
11 Canada For Us from that?

12 MR. CAMP: Well, again, there is a
13 lot of discussion through Stormfront.org by numerous
14 persons in regards to the website. He said that he is
15 adding his two cents' worth to the idea of the website.

16 MR. FROMM: Okay. What appears to be
17 the next little grouping within the evidence, page 1 of
18 3, and the first entry on this page is from Der
19 Totenkopf. But the entry I would like to draw to your
20 attention is from SS-88. It is on the bottom of the
21 page.

22 This post is about possible meetings
23 in British Columbia and a meeting coming up in Red
24 Deer. What was your conclusion about the way that
25 SS-88 proposed to address at this meeting?

1 MR. CAMP: He says:

2 "I am a skin --"

3 And, I mean, to me, that would mean
4 he is a skinhead.

5 "-- and wear my boots --"

6 Meaning Doc Martin boots.

7 "-- braces and swastikas and
8 more."

9 So ...

10 MR. FROMM: But he says, yes, he
11 sometimes wears that. What does he propose to wear,
12 though, to this upcoming meeting?

13 MR. CAMP:

14 "I know I want to dress
15 professional as well."

16 So I don't know what he is going to
17 wear at the meeting, but he likes the swastikas, he is
18 a skin, he likes to wear the boots, and he knows when
19 to dress professionally.

20 MR. FROMM: The next grouping, page 1
21 of 6, the headline up in the thread and up on the top
22 left says, "Red Deer on Sunday."

23 MR. CAMP: Right.

24 MR. FROMM: SS-88 posts comments
25 about the upcoming meeting.

1 MR. CAMP: Right.

2 MR. FROMM: Do you draw any
3 conclusion from the last two sentences of his post
4 there?

5 MR. CAMP: Yes, I do.

6 MR. FROMM: What is that?

7 MR. CAMP: That he had contact with
8 the RCMP, and they will be there to keep the peace.

9 MR. FROMM: As a law enforcement
10 officer, how would you assess that behaviour?

11 MR. CAMP: Well, I will answer that
12 two ways. As a hate crime investigator, I think that
13 is unusual, but as a law enforcement officer, not a bad
14 idea.

15 MR. FROMM: So in other words, the
16 behaviour, would this be what you would expect of a
17 law-abiding, responsible citizen?

18 MR. CAMP: Yeah, I would think it was
19 a good idea. Yeah.

20 MR. FROMM: Going back to our poster,
21 there seems to be some sort of unhappiness at least
22 from some parts of the community about that, and
23 apparently SS-88 had gone to the police and wanted to
24 make sure everything was peaceful.

25 MR. CAMP: Yes, that is the

1 impression I got from speaking with the corporal in Red
2 Deer.

3 MR. FROMM: The second page in that
4 posting, also from proud18, could you read -- I guess
5 it is the final paragraph, "Will not be..."

6 MR. CAMP:
7 "We will not be intimidated. We
8 have to start using the law.
9 Hell, we are non-violent. We
10 will not sink to the pits the
11 ARA dinks do."

12 MR. FROMM: Despite the grammatical
13 problems there, as a law enforcement officer, do you
14 see any problems with proud18's attitude?

15 MR. CAMP: No. Not in that sense,
16 no.

17 MR. FROMM: So you agree he seems to
18 want to keep peace?

19 MR. CAMP: Yes.

20 MR. FROMM: Be non-violent?

21 MR. CAMP: Yes.

22 MR. FROMM: You indicated some time
23 ago that you started looking at SS-88 back in the
24 latter part of 2003, when he was posting on Stormfront
25 talking about forming this group Western Canada For Us.

1 Now it is somewhere well into February.

2 MR. CAMP: Right.

3 MR. FROMM: 2004.

4 MR. CAMP: Right.

5 MR. FROMM: Western Canada For Us
6 seems to be up and running in some fashion, and we have
7 these posts, both SS-88 and proud18, that they want to
8 obey the law, contacted the police. At this point, why
9 would you continue the investigation?

10 MR. CAMP: Actually, just to back up
11 a bit, you say that SS-88 and proud18 want to obey the
12 law and contacted the police. Proud18 didn't contact
13 the police.

14 MR. FROMM: I am sorry?

15 MR. CAMP: Proud18 didn't contact the
16 police. It was SS-88 that had a discussion with
17 Corporal Laracque in regards to WCFU and they were
18 planning the meeting in Red Deer.

19 In regards to your second question,
20 are you asking did I think it was a good thing that
21 they spoke to the police?

22 MR. FROMM: No. What I am asking you
23 is considering the behaviour so far, one contacted the
24 police and let them know that they were having a
25 meeting in Red Deer. The other one says, "We don't

1 want to be violent like those blankety-blanks. We
2 should get a lawyer." Why is it that you are still
3 concerned?

4 MR. CAMP: Right. For this specific
5 event, it is a good thing. But my mandate is much
6 broader than one event in February. And, again, to go
7 back to what I stated before, my mandate includes more
8 than just one day, a one-day protest where they want to
9 make sure they don't get beat up by the ARA.

10 So when I look at SS-88 and the
11 rhetoric on Stormfront and a lot of the discussions
12 these people were involved in, the Canadian discussion
13 group over the course of 2003, what I saw was a lot of
14 hateful rhetoric against Aboriginals and minorities.

15 So, again, just so you are clear,
16 that Kneehill Community Hall, it is a good idea to call
17 the police and try to keep the peace. But that is just
18 one day. My mandate goes way beyond one day and way
19 beyond one rally or protest or meeting.

20 MR. FROMM: But in January or
21 February and subsequently in March or April, did you
22 ever have any information that the grouping of people
23 that are around WCFU, Western Canada For Us, were
24 planning violence against anybody?

25 MR. CAMP: No, sir. However --

1 MR. FROMM: So it came down to their
2 political views?

3 MR. CAMP: No, sir. However, just to
4 let you know without getting into the details of some
5 of the criminal records of the people involved in this
6 groups, there was some pretty horrendous criminal
7 records.

8 So, again, as a law enforcement
9 official and a hate crime investigator dealing with
10 people like this on a hate site, you have to be
11 vigilant and ensure that after February, there is no
12 turning -- I guess there is no violent action or hate
13 propaganda that is being propagated or, I guess,
14 perpetrated on the community.

15 MR. FROMM: Well, it is a pretty
16 serious cloud hanging over the heads of those folks.
17 Could you tell us about some of these criminals
18 records?

19 MR. CAMP: No.

20 MR. VIGNA: Objection, Madam Chair.

21 MR. FROMM: The accusation was made
22 that people, some people, had criminal records in the
23 group. Well, I would like to know what.

24 MR. VIGNA: Madam Chair, I think,
25 once again, defence is concerned with the other

1 parties. The people that are concerned shouldn't be
2 mentioned here in terms of criminal records.

3 There is a question that was asked,
4 and the answer was given, but we are going way out of
5 line here. It is not an inquiry on the police of
6 Edmonton or their investigative techniques, et cetera.
7 I think we should stick to the relevant facts of the
8 case.

9 MR. FROMM: Well, the criminal record
10 is a public thing. If you are convicted of a crime,
11 that is public information.

12 THE CHAIRPERSON: I think we might
13 have hit our three limit. There you go.

14 MR. WARMAN: Madam Chair, I think
15 criminal records, the issue of pardons, the fact that
16 you get into substantive privacy concerns, it can be a
17 criminal offence to discuss records of somebody that
18 received a pardon.

19 THE CHAIRPERSON: I agree. I will
20 sustain that objection.

21 Just move on, Mr. Fromm, please.

22 MR. FROMM: May I ask that comment of
23 criminal records be stricken from the record? We can't
24 explore it. If it is all a matter of privacy, then
25 maybe it should never have been mentioned in the first

1 place.

2 THE CHAIRPERSON: You asked the
3 question, and the answer was given. I am not going to
4 allow --

5 MR. FROMM: I never asked, "Did
6 anybody have a criminal record?"

7 THE CHAIRPERSON: No, I will not make
8 that direction. Carry on.

9 MR. FROMM: Well, that is just a
10 smear.

11 On page 5, just keep on track there,
12 this is the thread about the rally in Red Deer, the
13 planned rally in Red Deer. On page 5, as part of the
14 ongoing discussion back and forth about it, somebody
15 named as Estate --

16 MR. CAMP: Right.

17 MR. FROMM: -- writes to somebody
18 else, MaryMac:

19 "Pretty tough from way out east
20 to come here and speak to us in
21 person."

22 From your investigation, were you
23 able to identify who Estate was?

24 MR. WARMAN: Madam Chair, I am
25 objecting on the ground that that goes to the issue of

1 the police investigative techniques.

2 MR. FROMM: Excuse me. How is
3 Mr. Warman privy to police investigation techniques?

4 THE CHAIRPERSON: We did canvas the
5 identity of proudl8, and so I am going to allow that
6 question.

7 Do you have an answer, Sergeant Camp?

8 MR. CAMP: I refuse to answer on that
9 ground that it is an ongoing investigation for officer
10 safety.

11 THE CHAIRPERSON: Thank you.

12 Carry on.

13 MR. CAMP: In fact, any post that is
14 brought up by Estate won't be answered.

15 THE CHAIRPERSON: Okay. That is your
16 answer, Mr. Fromm.

17 MR. FROMM: Would you maybe direct
18 the witness to answer the question?

19 THE CHAIRPERSON: The witness has
20 answered the question.

21 MR. FROMM: It is a total non-answer.

22 MR. VIGNA: Madam Chair, I object
23 also for the record. The question is totally
24 irrelevant, which could reveal investigative techniques
25 or security police officer moves.

1 MR. FROMM: Come on.

2 THE CHAIRPERSON: Thank you.

3 The objection is sustain, Mr. Fromm.

4 If you can carry on?

5 MR. FROMM: Are you, Sergeant Camp,
6 Estate?

7 MR. WARMAN: Madam Chair, the exact
8 same objection is taken.

9 THE CHAIRPERSON: And I will sustain
10 that objection as well.

11 MR. FROMM: Officer Camp, did you
12 post on Stormfront? You said you visited it. Have you
13 ever posted on it?

14 MR. VIGNA: Objection, Madam Chair.
15 I don't think it is relevant if it is an investigator
16 technique to post on the website. I don't see the
17 relevance to the case.

18 THE CHAIRPERSON: I am going to allow
19 that question.

20 Sergeant Camp?

21 MR. CAMP: I am not going to answer
22 that in regards to officer safety of ongoing criminal
23 investigations as far as any law enforcement official
24 of the Edmonton Police Service posting on any website.

25 THE CHAIRPERSON: And so that is the

1 subject of an ongoing investigation at this time?

2 MR. CAMP: Yes, Madam Chair.

3 THE CHAIRPERSON: Is that correct?

4 MR. CAMP: Yes, Madam Chair.

5 MR. BAHR: Madam, I would just like
6 to make something clear for the record, if I may?

7 THE CHAIRPERSON: Go ahead.

8 MR. BAHR: I think it totally has a
9 lot to do with this tribunal. I mean, if an officer is
10 posing as someone on the forum which I am supposedly
11 involved in and starting discussions, I think it is
12 totally relevant in this case, no matter what.

13 I mean, how can he just deny
14 answering questions just like this under the pretext
15 that it is an ongoing investigation? How are we
16 supposed to get to the truth if the officer can't even
17 answer the questions?

18 I mean, if he is posting hate or he
19 is posting on any of the forums posing as somebody
20 else, that totally is related to the case, no matter
21 what the Crown has to say about it.

22 THE CHAIRPERSON: Counsel?

23 MR. VIGNA: Madam Chair, I think the
24 only question that should be asked are ones that are
25 relevant. If there is a question that is in such a

1 large nature that they comprise investigative
2 techniques that have little or no relevance to the
3 direct determination that has to be made by the
4 tribunal, we cannot see any relevance to the question
5 being asked or the question asked of whether he posted
6 on the website. I don't see how that is relevant to
7 the present case.

8 If there are safety concerns that are
9 involved here for officers, I think it is important
10 that the tribunal consider the public interest and
11 cannot just allow questions at large that become sort
12 of the royal inquiry to police techniques. There has
13 to be relevance to the case in being able to defend to
14 the complaint. But it is not a royal commission or
15 inquiry to answer these types of questions.

16 MR. FROMM: The relevance is
17 potentially entrapment or incitement. Somebody gets on
18 a site and starts posting some far out stuff to see who
19 you roll -- you haul up the flag and see who salutes.

20 This could constitute entrapment.
21 This could constitute incitement. And the argument
22 about police safety is utterly a smoke screen. There
23 is no danger from these people scattered across North
24 America. There is no evidence before us or anywhere
25 else that any policeman has ever been harmed because of

1 potential exposure as having posted on any of these
2 sites.

3 I think it is very relevant to know
4 whether, in the course of Western Canada For Us and
5 here on Stormfront, if some of the people are -- if
6 some of the people posting are posting in such a way as
7 to try to lure people.

8 THE CHAIRPERSON: Okay. I think I
9 have your point.

10 Mr. Warman, do you have anything?

11 MR. WARMAN: Madam Chair, simply that
12 this appears to be a fishing expedition again. There
13 is no evidence that any of those things have occurred.
14 Mr. Fromm is simply trying to elicit evidence that
15 would substantiate that without having a basis for the
16 questions.

17 THE CHAIRPERSON: My concern is that
18 clearly one of the responses that the respondent made
19 in relation to this complaint, one of the two, is that
20 the website was hacked into and improper material was
21 placed on the website by some third party. So it seems
22 to me and my concern is that I am seeing some relevance
23 here.

24 The other concerns that have been
25 expressed is the integrity of an ongoing investigation,

1 which is serious.

2 So I don't know that I agree with
3 counsel on the relevance argument. But I can see some
4 other very legitimate reasons why I should be very
5 careful in a ruling about this evidence.

6 And, happily, it is 10 to 5, so I
7 have some time to consider this. So I will see you
8 tomorrow morning at 9:30. And at that time, we will
9 deal, Mr. Fromm, with this particular inquiry.

10 MR. FROMM: May I have 30 seconds of
11 your time?

12 THE CHAIRPERSON: Not if it is the
13 same question. I really do have your point, Mr. Fromm.

14 MR. FROMM: I did have an
15 understanding with Member Jensen that I would not be
16 available tomorrow afternoon, and I don't know if that
17 was passed on to you. She indicated to me that
18 something could be arranged. Now, I just leave that
19 with you at this time that I am not available tomorrow
20 afternoon.

21 THE CHAIRPERSON: Counsel, is this
22 something that ...

23 MR. WARMAN: Madam Chair, that is
24 certainly not my recollection of what was discussed.
25 The question was whether we could break earlier on

1 Friday afternoon. It was back and forth regarding the
2 efficiency in conducting the hearing as quickly as
3 possible. If it is a question of breaking early, that
4 is, certainly, something that I don't mind doing,
5 either myself -- well, I don't want to speak for the
6 Commission counsel. But taking the entire afternoon
7 off is a different story.

8 THE CHAIRPERSON: I am concerned
9 about having that matter go forward and conclude with
10 some manner of efficiency. And I am sensitive to the
11 fact that more than half of today was taken up with
12 your motion and that we had some fairly significant
13 delays on the first day, so we were able to sort of
14 sort out how long 15 minutes was. That was a concern
15 as well.

16 In terms of your cross-examination,
17 Mr. Fromm, how long do you anticipate this going on?

18 MR. FROMM: Well, if I wasn't
19 interrupted so often, I could probably conclude it
20 tomorrow. And as far as our evidence goes, we are
21 expecting -- we already have the Affidavit from the
22 constable, the RCMP Constable in Red Deer. If it is
23 agreeable to the Commission and Mr. Warman, it can
24 simply, basically, speak for itself.

25 Our only witness is Bernard Klatt, an

1 expert witness. I never understand these technical
2 people, but I would think as a layman we shouldn't be
3 much more than an hour with him plus whatever
4 cross-examination.

5 So from our point of view, we
6 probably need half a day, if that, at least for our
7 evidence.

8 THE CHAIRPERSON: What I am inclined
9 to suggest, then, is that should your -- and I am happy
10 to hear counsel on this. Should your cross-examination
11 of Mr. Camp conclude tomorrow and it is in the
12 afternoon, then I am content to adjourn the matter at
13 that time, if that examination is concluded.

14 If it isn't, then I have a greater
15 concern, because then we would seem to be going outside
16 of the timelines that you are suggesting to me. So
17 does that sound fair?

18 MR. FROMM: I think what I am saying
19 is I can conclude. I might need all of tomorrow,
20 perhaps not.

21 And Mr. Bahr has been -- if you
22 absolutely have to go tomorrow afternoon, there is one
23 area that he could ask questions about. I prefer he
24 not to. I prefer to do that.

25 THE CHAIRPERSON: All right. Well,

1 my inclination is to carry on through tomorrow
2 afternoon. I am happy to -- you know, I do want to
3 accommodate people, but when is it that you absolutely
4 have to -- what is the reason and when do you have to
5 be out?

6 MR. FROMM: I have to leave at noon
7 because of a commitment I made a long time ago.

8 THE CHAIRPERSON: All right, well, I
9 will consider that and have that decision for you
10 tomorrow as well. I will tell you, though, I am not
11 inclined to shut it down at noon tomorrow. And so if
12 it isn't noon, then is it sort of an all or none
13 proposition for you?

14 MR. FROMM: Are you saying if I
15 finish by noon, with Mr. Warman's testimony on Monday,
16 is that what you are saying?

17 THE CHAIRPERSON: I misunderstood. I
18 thought that you had said that you would be able to be
19 done tomorrow. But, clearly, I don't want to rush you
20 at all. So I misunderstood that.

21 Yes?

22 MR. VIGNA: Madam Chair, another
23 issue I would like to ask the permission of the
24 tribunal to just ask -- I understand Sergeant Camp is
25 in cross-examination, to inquire a bit more about the

1 security concerns in issue to the last questions that
2 were asked. We can have a better appreciation of the
3 revealing of the information, but strictly on that
4 issue.

5 THE CHAIRPERSON: Sure. Happy to
6 hear more. Would you like to --

7 MR. VIGNA: No. I would like to talk
8 to him after it is adjourned. But if you allow me
9 permission just to talk to him for this specific
10 purpose? Because he is under cross-examinations at
11 this moment.

12 THE CHAIRPERSON: For those very
13 limited purposes, yes, I will allow you to talk to him
14 on your undertaking that you will confine your
15 discussions to that and only that.

16 Okay. See you tomorrow at 9:30.

17 MR. BAHR: I just want to apologise
18 for my outburst there, but I get a little emotional
19 because of this.

20 THE CHAIRPERSON: That is fine.

21 --- Whereupon the hearing adjourned at 4:54 p.m.,
22 to resume Friday, May 26, 2006
23 at 9:30 p.m.

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I HEREBY CERTIFY THAT I HAVE, to
the best of my skill and
ability, accurately reported and
transcribed the foregoing.



Eveliène Symonds
C.S.R.(A), R.P.R.

StenoTran