

## Make freedom of expression a political issue

Unpublished, May 2008

Mark Mercer  
Department of Philosophy  
Saint Mary's University  
Halifax, NS B3H 3C3  
(902) 420-5825  
[mark.mercer@smu.ca](mailto:mark.mercer@smu.ca)

Keith Martin, the Member of Parliament for Esquimalt-Juan de Fuca, a riding on Vancouver Island, has announced that the next election will be his last. This is sad news, for Dr Martin (he's a physician) is one of those rare politicians one would be pleased to vote for whatever party one supports. Dr Martin is a man of principle whose commitments are first to honesty, transparency, and civil liberties.

Dr Martin says it has become too difficult for an individual MP to do good work. Parliament moves too slowly, even when the matter is neither difficult nor controversial. When he's through with politics, he will turn his attention to international development and conservation.

Dr Martin has first-hand knowledge how frustrating getting Parliament to move can be. In late January, Dr Martin introduced a private member's motion, M-446, to have section 13 (1) of the Canadian Human Rights Act deleted. This is the section that empowers the Canadian Human Rights Commission to suppress and punish expression it deems likely to expose a person or persons to hatred or contempt. Despite the clear worth of Dr Martin's motion, few MPs have publicly spoken in favour of it and, without the backing of a political party, most likely it will die.

That the Canadian Human Rights Act is seriously flawed and needs correction has been apparent at least since 1990, when section 13 (1) narrowly survived a challenge brought to the Supreme Court of Canada. In a four-to-three decision, the Court held that so long as the Commission understood both the purpose of the Act and that hatred and contempt are extreme feelings, Canadians had no need to worry that their freedom to express themselves was at risk. Since 1990, though, the climate for expression in Canada has chilled. Nowadays, offended people routinely threaten to go to a human rights commission, universities place feelings above the clash of ideas, and newspapers and news broadcasts are cautious even to the point of neglecting the news. As the recent decisions to investigate complaints against *Maclean's* magazine have brought home to many Canadians, human rights commissions have lost their way.

What will happen to M-446? It is possible it will make it to the House of Commons under Dr Martin's sponsorship. Dr Martin right now is active trying to form a committee to look into the Canadian Human Rights Commission and its attitudes toward expression. Nonetheless, no party has taken it up, so the outlook is bleak.

What needs to happen, of course, is for ordinary Canadians to stand up for freedom of expression. We need to make having the civil liberty to say what we want a political issue. Dr Martin tells us that Parliament does nothing except that the Prime

Minister of the day fears not doing it will hurt his party in the next election. Let us, then, make sure to tell the leaders of all the federal parties that it's against their interests to allow a government office to continue to suppress and punish expression.