

ONE MAN, Richard Warman (above), was the plaintiff on every single Section 13 case since 2002. He was also a former CHRC employee.

It took a while but Section 13 is dead

This month, with Judge Hadjis's Marc Lemire decision, the wheels fell off the CHRC racket



MARK STEYN

"Nice to see you all," said Athanasios Hadjis, the Canadian "Human Rights" Tribunal's vice-chair (i.e., judge), as he surveyed his courtroom in Ottawa last year. "More of an interest than there was before."

Indeed. The packed benches that greeted him were a rare sight at a CHRT trial, and especially at the Marc Lemire trial, where the prosecutors—the Canadian "Human Rights" Commission—had demanded that everyone other than them be banned from the courtroom, including the defendant, who would be graciously permitted to watch proceedings by video. That doesn't sound quite like the right to confront your accuser in open court. But hey, given all the other safeguards of Canada's judicial inheritance the Dominion's "human rights" regime trashes, what's one more faggot on the bonfire of liberties?

Judge Hadjis was, by that stage, in the fifth year of the Canadian state's investigation of Marc Lemire, webmaster of *freedomsite.org* and accused Section 13 hate-monger, and appeared from my seat in court anxious to throw the book at him. "We're done," he said at several points during the day, swatting aside some intervention or other. Jurisprudentially, Judge Hadjis was outta there and eager to add Mr. Lemire's scalp to the CHRT's trophy room. In that long ago spring of 2008, the rules were very simple: under the Canadian "Human Rights" Tribunal, to be accused of a Section 13 thought crime was to be convicted. In the entire history of Section 13, every defendant brought before the CHRT had been found guilty. It would be unfair to compare this to the justice systems of Sad-

dam Hussein or Pol Pot, since even those eminent jurists felt obliged to let someone off once in a while just for appearances' sake. Only in Canada was a 100 per cent conviction rate merely reassuring proof of the Dominion's humane progressive commitment to "human rights."

This month the wheels fell off the racket. On Sept. 2, Athanasios Hadjis in effect acquitted Marc Lemire of all charges but one. This unprecedented verdict is, as Joseph Brean reported in the *National Post*, "the first major failure of Section 13(i)" in its history. Was Mr. Lemire the beneficiary of a unique dispensation from the CHRT? No. Judge Hadjis pronounced the accused guilty of a Section 13 infringement on one narrow charge—an Internet post headlined "AIDS Secrets" that (in David Warren's words) "went on rather tentatively about blacks and homosexuals" and was written by someone other than Mr. Lemire. Nevertheless, the court declined to punish the defendant even for this infraction on the following grounds:

"I have also concluded that s. 13(1) in conjunction with ss. 54(1) and (1.1) are inconsistent with s. 2(b) of the Charter, which guarantees the freedom of thought, belief, opinion and expression. The restriction imposed by these provisions is not a reasonable limit within the meaning of s. 1 of the Charter."

When this magazine's difficulties with Section 13 began in late 2007, received opinion took refuge in the weasel formulation that "of course we all believe in freedom of speech but it's a question of striking a balance, drawing a line," and other claptrap intended to appeal to Canadians' sense of their own moderation.

What a difference two years makes. As the Lemire decision demonstrates, today Section 13 has no friends other than its small band of direct beneficiaries such as serial plaintiff (and former CHRC employee) Richard Warman, Canada's self-appointed Hatefinder-General. "Section 13 isn't salvageable," declared... well, go on, guess. Steyn? Ezra Levant? Some right-wing nut in the *National Post*? No, it was Canada's biggest-selling newspaper and house organ of every moth-eaten Trudeauian piety, the *Toronto Star*. This is a long campaign to restore ancient liberties that Canada gave up very carelessly. But, when statist social engineers have lost the *Toronto Star*, you know the wind's blowing your way.

What explains Judge Hadjis's belated conversion to the constitutional virtues of free speech? Less than two years ago, he thought

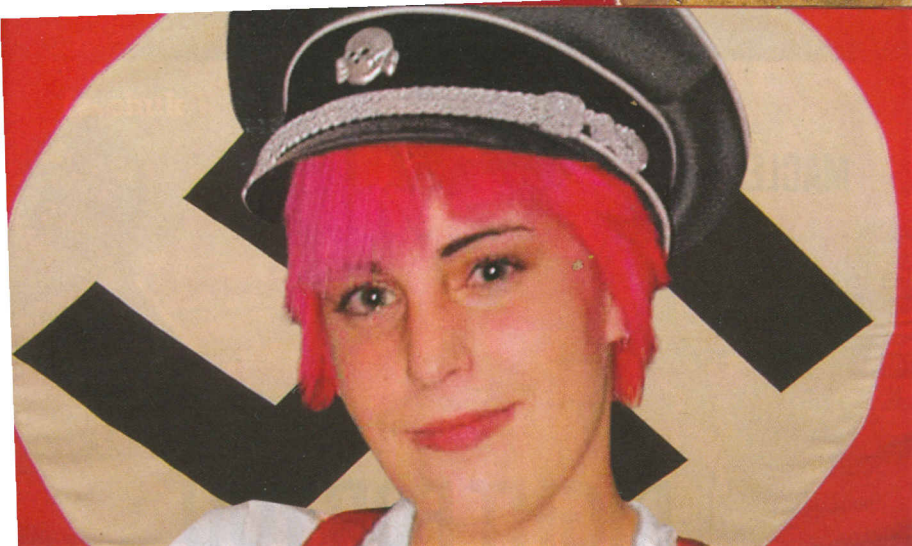
Why is Ms. Beaumont on a CHRT leash for life and Mr. Lemire free to hate again?

nothing of imposing a fine and a lifetime speech ban on Jessica Beaumont, plus a \$3,000 award to Richard Warman as his finder's fee, for "hate speech" in the same general territory as Mr. Lemire's was alleged to be. Why is Ms. Beaumont on a CHRT leash for life and Mr. Lemire free to hate again?

Er, well, um... As I often observed last year, under the poorly drafted and ideologically interpreted British Columbia "Human Rights" Code, *Maclean's* and I were undoubtedly guilty. In fact, after the verdict Kenneth Whyte, this magazine's head honcho, and I had a faintly surreal conversation discussing whether or not to appeal the acquittal: that's how nutty Canadian justice is in the 21st century.

Before I attracted the attention of the thought police, I wasn't entirely up to speed

PHOTOGRAPH BY TONY FOUHSE



JUDGE HADJIS imposed a fine and lifetime speech ban on Jessica Beaumont (above)

on state censorship in Canada, and I asked my friend Ezra Levant what he knew about this Section 13 business. He sent me a print-out with the history of every single case. Two things stood out: first, while the plaintiffs had the costs of the case paid for by the taxpayer, almost all of the defendants had been too poor to have legal representation. That's an inversion of basic justice. Second, one man had been the plaintiff on every single Section 13 case since 2002—Richard Warman. That didn't pass the smell test.

The list had been compiled by someone called Marc Lemire, a man who'd been caught in the "human rights" crosshairs for half a decade. You might not care for his opinions, but that, as they say, is a matter of opinion. That he has been traduced by the Canadian justice system is a matter of fact. But he's a dogged type, and he pushed back, and he got the goods on his abusers. He demonstrated that evidence exhibits were switched in mid-trial by the CHRC. He proved that Warman and CHRC investigator Dean Steacy were themselves members of and posters on white supremacist websites under various aliases. Indeed, in a remarkable conflict of interest, Warman, as the plaintiff, was permitted to stroll into the CHRC, the investigating body, and share passwords and Internet aliases with Steacy.

But Mr. Lemire was too obscure a figure to get any publicity for the CHRC's procedural abuses and kinky penchant for playing dress-up Nazis on the Internet at taxpayer expense all too long. One day, as I was rum-naging agog through what he'd uncovered, I came across a ruling by Judge Hadjis agreeing to the CHRC's motion to close Mr. Lemire's tearing to the public. I stopped, rubbed my eyes, and reread it slowly: secret trials? In Canada? Over some unread Internet posts? Apparently so. Minor servants of the Crown and dull desk-bound jobs had decided that they were really cyber-007s whose top secret work as vital to national security. I emailed Ken Whyte and said I'd been overcome by a sud-

den yen to attend Judge Hadjis's court. Our counsel, Julian Porter, Q.C., filed a motion to open up the secret trial. He did what lawyers are supposed to do—he cited precedent (*CBC vs. New Brunswick*, *Ambard vs. Attorney-General of Trinidad and Tobago*) and eminent jurists from Viscount Haldane to Chief Justice Dickson. In response, the CHRC offered feverish fantasies insisting that their work was too dangerous to be exposed to open court. Judge Hadjis caved, and rescinded his secret-trial order.

So now he's caved again, and the jurist who thought nothing of lifetime publication bans is a born-again champion of constitutional freedom. Whatever.

As for those who persist in seeing "hate" as a threat to the Queen's peace, at Jay Currie's website a commenter "pettifogger" pointed out that the sole post that Judge Hadjis deemed in breach of Section 13—"AIDS Secrets"—was read by a total of just eight people in Canada, or nought-point-eight of a Canadian per province. However, you've got to reckon that maybe two to three of those eight views were from Richard Warman salivating over another tax-free windfall if he sued for being "offended" by it; another two to three came from the CHRC bookmarking and downloading it to enter in evidence; and maybe the sole remaining view came from Mr. Lemire just after posting to check that it was formatted and displaying correctly.

In other words, no one in Canada saw this post. Yet Her Majesty's thought police took six years to bring this case to conclusion. And, whether or not it's offensive, there's nothing in there that should be illegal in a free society with robust traditions of vigorous public debate. That's the point: Marc Lemire is no threat to Canada. Whereas Jennifer Lynch, Chief Commissar of the CHRC, and her mob of statist hacks, social engineers and secret-agent fantasists are ultimately a very profound threat indeed. To survive as a free people, Canadians need the rough and tumble of honest

| MACLEAN'S BESTSELLERS | | |
|---|--|--------|
| COMPILED BY BRIAN BETHUNE | | |
| Fiction | | |
| 1 | TOO MUCH HAPPINESS by Alice Munro | 1 (2) |
| 2 | THE GIRL WHO PLAYED WITH FIRE by Stieg Larsson | 2 (7) |
| 3 | THE WHITE QUEEN by Philippa Gregory | 6 (3) |
| 4 | GENERATION A by Douglas Coupland | (1) |
| 5 | GALORE by Michael Crummey | 4 (2) |
| 6 | THE BISHOP'S MAN by Linden MacIntyre | 7 (3) |
| 7 | HOMER & LANGLEY by E.L. Doctorow | (1) |
| 8 | LOVE AND SUMMER by William Trevor | (1) |
| 9 | THE CHILDREN'S BOOK by A.S. Byatt | 3 (21) |
| 10 | SOUTH OF BROAD by Pat Conroy | 5 (4) |
| Non-fiction | | |
| 1 | EMPIRE OF ILLUSION by Chris Hedges | 1 (7) |
| 2 | OUTLIERS by Malcolm Gladwell | 2 (41) |
| 3 | WHY YOUR WORLD IS ABOUT TO GET A WHOLE LOT SMALLER by Jeff Rubin | 4 (16) |
| 4 | THE CELLO SUITES by Eric Soblin | 3 (25) |
| 5 | THE EVOLUTION OF GOD by Robert Wright | 7 (8) |
| 6 | BORN ROUND by Frank Bruni | (1) |
| 7 | THE BOLTER by Frances Osborne | 8 (10) |
| 8 | SLOW DEATH BY RUBBER DUCK by Rick Smith and Bruce Lourie | 5 (16) |
| 9 | GOD IS by David Adams Richards | 6 (3) |
| 10 | ETERNAL LIFE by John Spong | (1) |
| LAST WEEK (WEEKS ON LIST) | | |
| ON THE WEB: For book reviews, feature articles, interviews and recommended reading by celebrities, check out our new "Books Page" at macleans.ca/books | | |

public discourse. Instead, its "human rights" regime has, quite consciously, attempted to upgrade unfashionable opinions into illegal ones. When government bureaucrats forget they are not our rulers but our servants, that's always a bigger problem than whatever "crisis" they purport to be addressing.

For the moment, whatever Parliament or the Supreme Court does, Section 13 is dead. The camel's nose of liberty is under the CHRC tent. Now let's give 'em the hump.M