

**IN THE MATTER OF THE HUMAN RIGHTS CODE
R.S.B.C. 1996, C. 210 (as amended)**

**AND IN THE MATTER of complaints before the
British Columbia Human Rights Tribunal**

Between: **Mohamed Elmasry on behalf of the Muslim
residents
of the province of British Columbia** **File: #4885**
Complainant

And: **Roger's Publishing Ltd. and Ken MacQueen**
Respondents

Between: **Naiyer Habib** **File: #4887**
Complainant

And: **Roger's Publishing Ltd. and Ken MacQueen**
Respondents

**RESPONSE OF MACLEAN'S TO THE WRITTEN SUBMISSIONS OF
THE CANADIAN ARAB FEDERATION ("CAF")**

MAY IT PLEASE THE TRIBUNAL:

Maclean's Response to CAF "Overview"

1. The opening paragraph of the "*Written Submissions of the Interested Party: the Canadian Arab Federation*" endorses certain views expressed by the American Journalist I.F. Stone but fails to provide essential context. Mr. Stone was a renowned proponent of freedom of

expression who throughout his life opposed all forms of government and institutional control of the news media.

2. One can be absolutely certain that if I.F. Stone were alive today, he would be utterly opposed to the restrictions on freedom of the press embodied in s. 7(1)(b) of the *B.C. Human Rights Code*. He would be horrified to know that Maclean's was the target of complaints which generated a five-day hearing before this administrative Tribunal in connection with the "*New World Order*" article by Mark Steyn in its October 23, 2006 edition.
3. Mr. Stone would also certainly oppose the notion that a court or tribunal should have the jurisdiction to compel a newspaper or magazine to publish the views of the Canadian Islamic Congress or the Ontario articulated students in response to the Mark Steyn article.
4. Further, the CAF submission also failed to remind this Tribunal that I.F. Stone, who started his own newspaper (the "*Weekly*") in 1953 proved that one can make his or her own views known even without access to mainstream newspapers or magazines. Mr. Stone proved the contrary – that with sufficient energy and drive, a non-mainstream journalist can survive and thrive in a western democracy.
5. The quotation from Mr. Stone set forth in paragraph 1 of the CAF cannot be construed as an implied endorsement of "hate speech" laws administered by "human rights" tribunals. Consider the following statements by Mr. Stone:

"For me, being a newspaperman has always seemed a cross between Galahad and William Randolph Hearst, a perpetual crusade. When the workers of Csespel and the 1956 Hungarian Revolution put a free press among their demands, I was thrilled. What Jefferson symbolized for me was being rediscovered in a socialist society as a necessity for good government."

"...[E]very journalist, and every journalistic publication, wants and needs a maximum of independence, within its constraints, to do its job. This means insulating journalists from inappropriate personal, sectarian and other pressures. And it means insulating editors, publishers and owners from these kinds of pressures"

as well. Journalism itself plays a constitutional role in this country that deserves constant vigilance and cries out for independence.”

“I hate the morass into which one wanders when one begins to withhold the truth because the consequences might be bad – this is, indeed, the morass on which the Russian Communist state is built. ... I have to say what I really feel after seeing the Soviet Union. ... No society is good in which men fear to think – much less speak – freely.”

Maclean’s General Response to CAF Submission

6. Further, in answer to the whole of the CAF submission, Maclean’s respectfully submits that this Tribunal should reject each and every argument put forward by the Canadian Arab Federation which contradicts, or is inconsistent with, the submissions made by Maclean’s in its closing argument before this Tribunal on June 6, 2008.

CAF Submission Exceeds Scope of Intervention

7. Maclean’s takes the position that the terms of the intervention by the Canadian Arab Federation do not permit it to introduce new evidence.
8. Maclean’s therefore respectfully submits that the Tribunal should not give any consideration to the following documents which are contained within the “*Book of Authorities*” of the CAF: (i) “*Hate Crime Victims Provincial Support Network (HCVPSN) Survey*”; (ii) “*Who’s Telling The News?*” by John Miller; and (iii) “*Hansard, Tuesday, June 22, 1993.*”
9. Accordingly, Maclean’s respectfully submits that this Tribunal should give no consideration to those portions of the CAF submissions which reference the new evidence to which Maclean’s takes objection. Paragraphs 12, 13, 22, and 29 of the CAF submission rely in whole or in part and 29 of the CAF submission rely on the inadmissible documents.
10. Further, Maclean’s also respectfully submits that the Tribunal should ignore those portions of the CAF submission which refer to other documents which are not in evidence. Paragraph 24 of the CAF submission refers to an article in the *Toronto Sun* newspaper which is not in

evidence. Paragraphs 23 and 28 refer to an “OHRC Statement” which was not filed in evidence.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

Vancouver, June 20, 2008

Julian Porter, Q.C.

Roger D. McConchie

R. Alan McConchie