

Connie Fournier's Acceptance Speech

2015 OCLA Civil Liberties Award

November 13, 2015

Kingston, Ontario

Thank you very much to the OCLA for this award. I am truly honoured to be recognized for doing what I love to do. Thank you also to everyone for coming here and spending your Friday night thinking about weighty political issues when you could be doing many other things with your time! I do appreciate your support so much!

Lawyers and politicians. That's been the story of our lives for the past few years. It reminds me of a story I heard.

God decided to take the devil to court and settle their differences once and for all. When Satan heard this, he laughed and said, "And where do you think you're going to find a lawyer?"

I never can resist a good lawyer joke. Our own lawyer is a saint of a woman, but we have had our share of lawyers and politicians in the past few years, and most of the time it has not been a pleasant experience.

The problem is that when we started Free Dominion almost 15 years ago, we provided a place where ordinary Canadians could express their political opinions in a very public way. This is a problem for politicians because they are all about controlling the message. When thousands of citizens can simply go online and write what they are thinking, it undermines the party operatives who want to be able to TELL Canadians what we think.

Although Free Dominion started as a place for conservatives to meet and talk and organize, we found that our mission evolved over the years as we realized that we had to stand up to threats to our freedom of speech. You see, it doesn't matter what the issues are that are important to you, if you are not allowed to debate your ideas, you will never be successful in affecting the political change you seek.

That is why, after we became aware of Section 13 of the Canadian Human Rights Act, we knew that it was an issue we had to fight. Section 13 was a vaguely-worded clause that was meant to deal with hate propaganda on the internet. At first it was used to shut down the internet postings of people who were posting racist materials online that did not cross the line into advocating violence...that is what the criminal code hate laws are for. Many of the accused in these cases were young and/or troubled individuals who had no money for lawyers, so they went to tribunal hearings and were handed fines and vague "cease and desist" orders that could (and did) land them in prison if they wrote anything again that crossed the line.

The fact that the line was being moved constantly proved to be a problem not only for those who were found guilty under Section 13, but also for many other people who posted online. Well-known columnist Mark Steyn was targeted over a book he wrote about immigration, as was Christian Heritage Party leader Ron Gray and Catholic Insight Magazine for comments regarding same-sex marriage. A complaint was filed against media personality Ezra Levant under the provincial version of Section 13, and they came after us, too. A complaint was filed against us over a link that a Christian posted on our site to a pamphlet he made contrasting Christianity and Islam.

We fought back because the law was ambiguous in its definition of "hate propaganda"; it lacked due process in that it didn't go before a real court that would

have provided some protection of the rights of the accused; and it was being used to target people who were not posting hate propaganda, but rather engaging in honest debate about the important political and social issues of the day.

Much of the battle was about raising awareness of the issue and turning up the pressure on our elected officials to get them to repeal it. Most of the bloggers and writers who engaged in the battle on our side wound up being sued for defamation or copyright in the civil court system. We were sued for both, for a total of five lawsuits.

The end result was that Section 13 was repealed by Parliament. It was a victory for those of us who wanted to protect our freedom of expression, but the victory came at great personal cost for those who engaged in it. Although we have finished two of the lawsuits that were filed against us...and won them both...we still have three that are ongoing, and this has been going on for 8 years.

Given what we went through in the Section 13 battle, we became very vigilant about legislation that was to be introduced that would affect the internet. When the government started introducing legislation that would allow them to access private information on Canadian citizens without a warrant, alarm bells started to go off. Even though the legislation was first introduced as a proposed solution to combat child pornography, our experience told us that there was a grave danger that the privacy rights of innocent Canadians would be in danger if we lost the safeguard of a judicial warrant.

We fought that legislation in the same manner we fought Section 13...by raising public awareness. We were happy to see that the bill was withdrawn from Parliament after a major public outcry.

Unfortunately, many of the aspects of that bill were reintroduced in another bill that was supposed to combat cyber-bullying. Although we again protested it, it was passed and became law.

By far, the biggest legislative threat to our freedom and privacy has come from the Anti-terrorism Act of 2015...Bill C-51.

The bill introduced many new powers to the government without adding safeguards to protect innocent Canadians.

Like Section 13, the wording was vague. The definition of "terrorist" was too broad and the prospect of it being expanded to catch up people who were simply protesting, or expressing an opposing view to the government was too likely for many privacy experts.

Law professors lamented that judges would be put in a position, under this law, of having to decide in a secret trial whether to give permission to organizations like CSIS to violate the Charter Rights of Canadian citizens. Judges could order that you hack in to your neighbour's website and take it down, or that CSIS could start a cyber-campaign to destroy your reputation. The latitude given by the law for those rights violations is so wide that they felt it necessary to specify that they were not allowed to rape us or kill us. As you can imagine, that leaves a frightening amount of nefarious things on the table!

In addition, the law allows for massive, unlimited and unsupervised information sharing between government departments with the creation of databases of information on you and me, even if we have never had so much as a speeding ticket.

I'm sure I sounded like a broken record over the past few months as I fought so hard to oppose Bill C-51. I had the opportunity to be part of a Protect our Privacy Coalition that spoke to the Justice Committee on Parliament Hill and urged them to amend the bill to protect innocent citizens.

Unfortunately, the bill was passed virtually unchanged, and it is now the law of the land.

On the bright side, that battle is not over. The new government has promised to re-open the debate on Bill C-51 and to consult with legal and privacy experts on how to improve it. We are asking for it to be repealed, but changes that would offer protection to citizens would be welcome, and a step in the right direction.

So, where do we go from here? How do we, as Canadian citizens, protect our civil liberties?

I think the most important thing we can do is to watch our government. It seems obvious, but I think that when "our team" is elected, sometimes it is easy to go on about our lives and just trust them to do the right thing.

We have to realize that in this country, especially if there is a majority government, there is very little accountability for the Prime Minister. Now that the Liberals are in power, the Liberal base needs to be outspoken about what they want from their government. Politicians tend to listen to the people who can vote them in or out of power! And, conservatives need to engage in a respectful way from the Opposition side. It doesn't help if we play a game of gotcha politics, seizing on every opportunity to try to embarrass the Prime Minister. All it does is hurt our own ability to influence the public when there are issues we need to address together.

There are still people on the left who are opposed to Bill C51. Now is the time for us to connect with those people and support them and add our voices to theirs. It's okay if we don't agree with each on every issue when we are fighting to keep the right to have the debate.

In many ways the artificial divide of left and right is a detriment to our freedom. There should have been a conservative outcry about Bill C51 on the same scale as there was about Section 13, but there wasn't. I believe that is because conservatives chose to trust the government and stick with the team they knew rather than read the document objectively and take a stand against the policy of their own guys. If the grassroots had engaged over this issue, we might be in a completely different place today than we are now.

The internet used to be a place where all voices could be heard. A few years ago there were all kinds of blogs and forums, run by private individuals who freely provided comment sections for their fellow citizens. Because there were so many places to go, just about anyone could find a place where they would fit in and a webmaster that would allow them to express their opinions. Even newspapers felt the need to get in on the action by providing a spot for comments under their news articles.

Unfortunately, this is changing. Courts are finding that site owners are fully responsible for the comments of their users, and most people are just not willing to risk their entire financial well-being so that their neighbour can rant about the Prime Minister!

In one of our cases, we were sued for defamation over one comment that was made by a poster on our site. We had nothing to do with the post, and the plaintiff knew who wrote it...he sued him, too...but we got caught in the cross-fire.

The case was without merit. It was thrown out of court almost immediately on a motion for summary judgment. But, that wasn't enough for the plaintiff. He appealed and asked for a full trial. He got it. This case went through the courts for several years. We had to go through weeks of trial days, living in Ottawa during that time. We also had to hire an expert witness that the court appointed. When it was all over, we won for the second time and the court chose to give us absolutely nothing for our costs.

In another case that we are appealing, the judge filed an injunction against us that forbids us from saying virtually anything about the plaintiff or about the case. But, it also makes us responsible for any such comments that are "published" on our site. In the current situation, an anonymous person could post a comment about that case on our site and if it was up there long enough for someone to take a screenshot or print it out, we could actually go to prison for contempt of court.

It is cases like these that make people shut down their comment sections out of fear. The only ones with the resources to protect themselves from legal situations like this are the big corporations...not little website operators like me and Mark and all of the bloggers who have now closed their comments.

Recently, Matt Drudge of the famous website "The Drudge Report", spoke about how internet users are being forced into "ghettos" run by large corporations.

What he meant by that is that all of the little websites that used to form the blogosphere are closing down so people who want to talk about politics are forced to do so on Twitter or Facebook or Google. Large, corporate-owned entities. Even newspapers are now shutting down their comment sections.

What is happening is that we are losing all of the freedom we gained when we learned to use the internet as a place for political expression. Now, instead of writing hardcopy letters to a newspaper and hoping that an editor will print it for us like we did in the pre-internet days, we are writing comments on facebook or twitter and hoping that they won't take them down.

It used to be that if you were banned at a website, your freedom of speech was not affected because you could just go post somewhere else. Now, the power of our freedom of speech is being concentrated in a handful of sites, and they have no problem deleting comments that they don't like.

Will it get to the point where governments start exerting pressure on these big corporations to keep control of the public dialogue? I don't think that is out of the question. The only way to make sure that our online speech is free is to make sure that we have as many places to speak as possible.

So, in conclusion, we really do have a need for organizations like the Ontario Civil Liberties Association. Our civil liberties are at risk, and we need the ability to work together to protect them. Umbrella organizations that enable the left and right to work together for liberty are absolutely what we need at this moment.

Our freedom of speech, our privacy, and our freedom of association are incredibly valuable. We just acknowledged Remembrance Day where we honoured the people who gave everything to protect those rights. Now is the time for us to take up the torch and make sure that we keep them.

Thankfully, we are not required to stand up to enemy gunfire like our fathers and grandfathers were, all we have to do is stand. Pay attention. And, stand.

It's the least we can do for the sake of our nation.