

BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

Annual Report 2001

ANNUAL GENERAL MEETING

The Annual General Meeting of the British Columbia Civil Liberties Association



Date: Thursday March 21, 2002

Time: 7:00 p.m. (doors open)

Location: Fairmont Hotel Vancouver, 900 West Georgia Street, Vancouver, BC

Pre-registration required: e-mail agm@bccla.org or telephone 604.687.2919

The BCCLA is proud to present our very special guest speaker,
His Excellency John Ralston Saul.

THE DEMOCRATIC COMMITMENT

CONTINUOUSLY PUBLISHED SINCE 1962

HONOURARY DIRECTORS

David Barrett	David Flaherty	Art Lee
Ron Basford, Q.C.	John Fraser, P.C., Q.C.	Alex MacDonald, Q.C.
Thomas Berger, Q.C., O.C.	Gordon Gibson	Rafe Mair
Robin Blaser	Patricia O. Hall	Darlene Marzari
The Right Honourable Kim Campbell, P.C., Q.C.	Don Hamilton	Harry Rankin, Q.C.
Andrew Coyne	Mike Harcourt	Father James Roberts
Hugh Curtis	Walter Hardwick	Svend Robinson, M.P.
Bill Deverell	Rev. Phillip Hewett	Homer Stevens
F.E. Devito	Michael Ignatieff	David Suzuki

BOARD OF DIRECTORS

John Dixon, President	Alayne Fleishman	Dino Rossi
John Russell, Vice President	Lynda Fletcher-Gordon	Maxine Ruvinsky
Alan Rowan, Treasurer	Hamar Foster	Martin T. Schecter
Jason Gratl, Secretary	Jack Giles, Q.C.	David Sutherland
	Tom Gore	Micheal Vonn
Dale Beyerstein	Conrad Hadland	Tanya West
Sam Black	Gordon Ingalls	James W. Williams
Walter Block	Andrew Irvine	
Warren Bourgeois	Craig Jones	
Alister Browne	Stephen Katz	
Phil Bryden	Ross Lambertson	
Jamie Cameron	Mary McDonald	
Larry Cohen	John J. McIntyre	
Stephen Davis	Shona Moore, Q.C.	
Greg DelBigio	Stan Persky	
Avigail Eisenberg	Ann Pollak	

STAFF

Murray Mollard, Executive Director
Lindsay Lyster, Policy Director
Lil Woywitka, Membership Secretary
Ingrid Witvoet, Office Manager

British Columbia Civil Liberties Association

425 – 815 West Hastings Street
Vancouver, British Columbia
Canada V6C 1B4
Phone: 604.687.2919
E-mail: info@bccla.org
Web: www.bccla.org



The Democratic Commitment is a publication of the British Columbia Civil Liberties Association. The Association was established in 1962, and is the oldest continuously active civil liberties association in Canada. Its mandate is to preserve, defend, maintain, and extend civil liberties and human rights in British Columbia and across Canada.

Contents

PRESIDENT'S REPORT / JOHN DIXON / 4

ABOUT US / 40 YEARS AND GROWING / 5

BRICKBATS & BOUQUETS / 6

NEW POSITIONS / TAKING A STAND

Drug Courts / 7

Polygamy / 7

HIGHLIGHTS / THE YEAR IN REVIEW

September 11 and Anti-terrorism Legislation / 8

Supreme Court of Canada Victories in Trinity Western University and O.N.E. / 8

APEC Inquiry Report / 9

New Public Education Resources for Students and Teachers / 9

CASEWORK / ANOTHER BUSY YEAR

Due Process / 11

Prisoners' Rights / 12

Access to Information / 12

Privacy / 12

Students' Rights / 13

Freedom of Expression/Association / 13

Mental Health Review Panels / 14

Police Complaints / 14

Native Rights / 15

Discrimination / 15

Private Offences / 15

THE LEGAL COMMUNITY / OUR THANKS / 17

MEMBERSHIP REPORT / SUPPORTERS / 18

TREASURER'S REPORT / ALAN ROWAN / 19

AUDITOR'S REPORT / 20

FINANCIAL STATEMENTS / 21

STAFF & VOLUNTEERS / 26

PRESIDENT'S REPORT / JOHN DIXON

IT MAY BE SIMPLY A FUNCTION OF ADVANCING AGE – part of the general diminution and blurring of self – but I find I'm losing interest in some distinctions that used to be very important to me.

For instance: I can remember being very excited when I first understood that the pantheon of Greek Gods that I read about in the *Classic Illustrated Comics* versions of *The Iliad* and *The Odyssey* “stood for” different human faculties such as reason, passion, courage, etc. So if a character was into drinking or duelling, Homer could arrange for them to have an illuminating encounter with, say, Dionysus or Mars.

A fascinating but primitive psychology, I thought, and went on to fall in love with those modern masters of faculty-talk distinctions, David Hume and Sigmund Freud. After all, I knew there

were no gods actually living on Mount Olympus; there were just the stories. However, there *really were* important faculty distinctions in persons, as between, say, reason, passion, memory, instinct,

and conscience. And these distinctions were, I believed, vital tools in the quest for human understanding.

I still think that faculty-talk is an important aid to understanding ourselves and others, but I'm also becoming aware of the possibility that the rigid distinctions embedded in that talk may be illusory and confusing. Because, finally, the various faculties are words in sentences: like the gods on Olympus, they are figments of our cultural imagination. Useful representations of our shared reality, up to a point; and trusty stalking horses in the quest for understanding, up to a point; but once reified and carelessly thought to be reality-in-themselves, an invitation to a form of secular superstition.

This is one of the (several hundred) points made by Ralston Saul in his new, difficult, and fascinating philosophical essay *Equilibrium*. And Saul's book made a connection for me in my re-consideration

of the distinctively Canadian separation between civil and human rights.

What that distinction means, very crudely, is that if you've been mistreated by government, your *civil* rights have been infringed; whereas if you've been discriminated against by your landlord or boss, your *human* rights have been infringed. Although, at its inception, the BCCLA constitution committed us to the protection of both flavours of rights, we have -- particularly since the enactment of the *Charter* in 1982 -- effectively vacated the human rights field in favour of concentrating on the delicious niceties of constitutional law.

That concentration of effort has given us a glorious ride, and the BCCLA has been instrumental in laying down some of the most important and progressive precedents in Canada's rights laws. But now I'm wondering if the hardening Canadian distinction between civil and human rights is such a good idea – if such an absent-minded drift can be connected to an idea – and how useful it will continue to be as all the post-modern forces, such as globalization, work their special wonders and horrors. That is, I'm wondering, as we take stock in our fortieth year, if it isn't time to return to our roots, and explore greater involvement in human rights work.

This would, for the reasons I've offered, hardly be a revolution; but it would certainly involve a small, self-conscious change in direction and focus. The Board is indulging me in thinking about this, and we'll have some sort of answer before Summer. Stay tuned.



BCCLA President John Dixon

ABOUT US / 40 YEARS AND GROWING

IN 2002-2003, THE BCCLA CELEBRATES ITS 40TH ANNIVERSARY. In those 40 years, we have grown in size and stature from our modest beginnings in 1962 as a small volunteer organization that met in members' homes, to an organization widely respected among the public, government, media and the private sector.

Despite this growth in stature, we remain reliant on the volunteer efforts of our Board of Directors and others, and the financial support of members, donors and major funders such as the Law Foundation of B.C. We are proud of the fact that we are able to achieve so much on such a modest budget. The values we fight for – freedom and democracy – haven't changed in 40 years, and it's still as important to have a watchdog protecting our civil liberties as it was when we were founded. The BCCLA achieves its mandate – to defend and promote civil liberties in B.C. – through the following programs

Casework

The Association provides assistance to hundreds of complainants a year. Though we do not provide legal advice, we try to assist complainants by attacking decisions and policies that negatively affect not only the complainant, but all citizens' freedoms. For example, we have:

- Assisted individuals and organizations in resisting police efforts to bill for the costs of policing demonstrations
- Defended individuals who were charged for destroying their ballots as an act of protest
- Assisted many individuals with complaints against the police for alleged misconduct.

Public education

Since our humble beginnings, we have devoted considerable resources to producing publications and education resources, speaking at public meetings and providing comment to the media on topical issues of the day. Our public education efforts have included:

- Producing and distributing our newsletter, *The Democratic Commitment*
- Publishing and distributing widely-read books, including: *Youth and the Law*; *Discrimination*;

Arrest: Civil Rights and Police Powers; Liberties; The Privacy Handbook; The Citizenship Handbook; and Rights Talk: Students and Civil Liberties at School

- Publishing the brochures “Drug Testing in the Workplace” and “Making a Complaint Against the Police”
- Creating a web site to communicate BCCLA positions, resources and activities to the public.

Research

In 40 years, the Association's Board of Directors has written over 200 policy briefs, which serve as the cornerstones for our work. Some examples include:

- For the Department of Justice, undertaking a major study of options for regulating assisted suicide
- Analyzing the democratic rights of non-aboriginals to participate in decision-making within aboriginal jurisdiction
- Developing a set of principles to guide sexual harassment codes at post-secondary educational institutions
- Examining arguments and principles that justify the state's intervention, from a civil liberties perspective, into the lives of at-risk youth.

Law Reform

The Association regularly meets with elected representatives and public policy makers to argue for laws and policies that best respect civil liberties. For example, we have met with:

- The Federal Justice Committee reviewing proposed anti-terrorism legislation (see Highlights)
- The Federal Health Committee reviewing reproductive technology legislation (see Casework)

continued on next page

continued from previous page

- The Provincial Special Committee reviewing the police complaints process in B.C. (see Casework).

Litigation

When our moral suasion efforts are unsuccessful, we sometimes take issues to court, arrange for *pro bono* counsel for complainants, and intervene in legal cases, or litigate the issue ourselves. Some recent examples of this work include:

- With the Little Sisters Bookstore, challenging Canada Customs censorial powers

- Intervening in *Trinity Western University v. College of Teachers*, a challenge to deny certification to TWU's teaching program (see Highlights)
- Intervening in a challenge to the hate speech restrictions in the *Human Rights Code* in the Doug Collins case
- Intervening in *R. v. Cuerrier* at the B.C. Court of Appeal and then Supreme Court of Canada on consent to sexual relations when one partner is HIV-positive.



A Brief History of the BCCLA can be viewed at www.bccla.org/briefhistory.html

THE BEST DEFENDERS AND WORST OFFENDERS OF CIVIL LIBERTIES IN 2001

BRICKBATS & BOUQUETS

Bouquets

- A single red rose to Andrew Telegdi, the lone Liberal MP to vote against Bill C-36, the federal anti-terrorism law.
- A bouquet to Inspector Kash Heed of the Vancouver Police Department for his testimony before Parliamentary Committees that the VPD has initiated a policy of not charging persons for the possession of drugs and for calling upon legislators to consider decriminalizing marijuana.
- A bouquet to the provincial Liberal government for its decision to repeal the NDP's Secure Care Act. The BCCLA had opposed the NDP legislation on the basis that the power provided in the Act to detain youth for up to 90 days could result in preventative detention and forced long term treatment.
- Recognition to Federal Privacy Commissioner George Radwanski, for his continuing efforts to draw public attention to the invasion of privacy created by the Kelowna RCMP's ongoing use of video surveillance in Kelowna's downtown core.
- A final flower for Mayor Philip Owen for his efforts to treat drug addiction as a health issue rather than a criminal justice issue. The mayor has come a long way from his days when his major position on the drug issue was to criticize the courts for sentences handed out to drug offenders.

Brickbats

- Shame on Prime Minister Jean Chrétien for the contempt he showed to the decision of the Hughes APEC Inquiry and his continuing refusal to apologize for his office's responsibility for the improper treatment of student protestors at UBC.
- Double shame on Jean Chrétien and the federal Liberal government for forcing through Bill C-36, refusing to make the amendments to that legislation which we and others called for, and invoking closure on debate on the Bill in both the House and the Senate.
- A brickbat to the provincial Liberal government for their continued insistence on holding a \$9 million provincial referendum on treaty negotiations.
- A lump of coal in their stocking to the Kelowna RCMP for choosing to ignore the grave privacy concerns raised by the Privacy Commissioner over their use of video surveillance.
- A brickbat to the RCMP for failing to apologize to Sunera Thobani and all Canadians for the remarks by an RCMP officer who suggested that Ms Thobani's controversial comments regarding American foreign policy might be hate propaganda.
- A final brickbat to the Special House Committee on Assisted Reproduction for recommending the criminalization of a wide variety of assisted reproductive practices and outlawing all payments, even for medical, legal and other expenses, for surrogate mothers.

NEW POSITIONS / TAKING A STAND

Drug Courts

B.C.'s new "drug court" program designates a provincial court judge to monitor offenders guilty of drug related offences and who qualify for a specialized treatment program. In exchange for a guilty plea, and a promise to complete the drug treatment program, the offender receives access to special drug treatment.

In 2001, the BCCLA Board debated this new program and decided to oppose it for two reasons. First, the Association has long been opposed to the criminalization of drug use, which is the premise for a drug court. Unlike true diversion programs, which the BCCLA does support, access to the drug court program requires a guilty plea. In our view, it is wrong in principle to criminalize addiction. Instead,

wrong in principle, but also an inappropriate use of scarce court resources to police offenders in the program. We will continue to press our case to both federal and provincial Attorneys General.

Polygamy

Section 293 of the Criminal Code makes it an indictable offence to enter into any form of polygamy or any kind of conjugal union with more than one person at the same time, or to assist in creating a polygamous relation. In 2001, some groups, fearing a rise of polygamy in B.C., called for enforcement of section 293 on the basis that these relationships are rife with abuse.

After considering these arguments, the BCCLA Board decided to oppose section 293 on the basis

that it is a matter of personal autonomy for individuals to choose their preferred type of conjugal relationship. A polygamous relationship on its own can not be equated with abuse, and other laws exist to specifically prohibit spousal and child abuse. Any concern regarding the capacity of female youth to consent to marrying into polygamous relations is a distinct issue that can be addressed by the laws regarding the age of consent in marriages generally. The Board passed the following resolution:

"The BCCLA opposes the prohibition on polygamy on the grounds that all of the other alleged abusive and exploitive acts (child and spousal abuse) are clearly prohibited by existing, ordinary criminal provisions – provisions which the BCCLA believes should be vigorously applied, whether the relevant relationships are monogamous, bigamous, or polygamous. Mounting a fresh and additional attack on polygamous relationships per se adds nothing to this equation beyond creating additional impediments to important human freedoms of association, conscience, expression, and religion."



DELIBERATING OUR POSITION The BCCLA board of directors debates issues of civil liberties to help form the Association's formal positions.

it should be treated as a health issue, not a criminal justice matter. Second, we are concerned that those who qualify for the drug court receive priority access to drug treatment programs that are not readily available voluntarily to addicts due to lack of adequate funding. As a matter of good health policy, governments should provide timely access to voluntary treatment. However, if sufficient resources for treatment are not available, the answer is not to allow selective access to treatment through the criminal justice process. This solution is not only

HIGHLIGHTS / THE YEAR IN REVIEW


BY ANY ACCOUNT, 2001 WAS A CHALLENGING yet successful year for the B.C. Civil Liberties Association. Highlights include important legal victories in the Trinity Western University and O.N.E. cases, the long awaited release of the APEC Inquiry report, and the impact of anti-terrorism legislation. On the education front, the Association developed new public education resources for high school students and a citizenship/civil liberties teaching curriculum. In May, we hosted Michael Ignatieff, who addressed a sold-out crowd at UBC on the rights revolution. A brief synopsis of these and other highlights follows.

September 11 and Anti-terrorism Legislation

In response to the events of September 11 and the fear of terrorist strikes in Canada, the federal government introduced far-reaching anti-terrorism legislation in October. Bill C-36 fuels the fears of many Canadians who believe that the greatest threat posed by September 11 is not terrorism, but an erosion of civil rights and democracy caused by the government's reaction to the terrorist bombings. The legislation is breathtaking in its departure from accepted norms of rights and

Bill C-36 fuels the fears of many Canadians who believe the greatest threat posed by September 11 is not terrorism, but an erosion of civil rights and democracy.

procedures designed to safeguard civil liberties. The BCCLA's Vice President John Russell and then Policy Director Garth Barriere traveled to Ottawa in October to make a submission to the House of Commons Standing Committee on Justice and Human Rights. Though some amendments were made after the Committee hearings, the legislation remains deeply flawed. The state's use of new powers regarding identification of terrorist organizations and secret evidence procedures, preventive arrest, investigative hearings, compounded by inadequate judicial oversight and, perhaps most importantly, an overly broad definition of "terrorist activity", will require our careful scrutiny in the future. In early 2002, new debate begins regarding the *Public Safety Act* which will add further state power to deal with perceived terrorist threats. We expect to see even more anti-terrorism legislation beyond these two laws.

 BCCLA's submission on Bill C-36, and other related information can be viewed at www.bccla.org under 'Reaction to anti-terrorism proposals'.

Supreme Court of Canada Victories in Trinity Western University and O.N.E.

In 2001, the BCCLA enjoyed two precedent-setting legal victories in Canada's highest court. *Trinity Western University v. British Columbia College of Teachers* is remarkable for the Supreme Court of Canada's resolution of the conflict between two sets of competing *Charter* values – freedom of religion/association (of the faculty and students at TWU) on the one hand, and equality (the right of gays and lesbians to pursue an education without discrimination) on the other. In deciding that TWU's Code of Conduct, which prohibited students and faculty from engaging in "homosexual behaviour", was an inadequate basis alone on which to deny certification to TWU's teaching program, the court recognized two important distinctions. First, the court distinguished between belief and conduct, noting that the College does not, and should not, screen out teachers who may hold sexist, racist or homophobic beliefs. But when teachers act upon such beliefs or publicly express them such that they would interfere with the school environment, then sanctions are appropriate. The second crucial distinction for the court was that TWU is a private rather than public institution. Under human rights legislation, in order to respect important democratic values of freedom of religion and association, educational and other not-for-profit groups may select members using criteria that would otherwise be discriminatory. Tim Delaney of Lindsay Kenney acted for the Association.

O.N.E. was a challenge to a judicial publication ban on evidence of a young offender charged with murder. The ban had been granted on the basis that the disclosure of specific scenarios used by police in their undercover operations to gather evidence against the accused would be revealed and thus jeopardize police techniques, operatives' identities, and other ongoing investigations. The BCCLA intervened at the Supreme Court of Canada to argue that, while a ban on some evidence such as undercover police identities may be justified, a wholesale ban on all evidence, including undercover police techniques, is not consistent with central democratic principles. At the core of our submissions was the principle that in a democracy, the citizenry must have access to information to ensure accountability of the police, Crown Counsel and the judiciary. A blanket ban on undercover operations defeats this principle. The Supreme Court of Canada agreed with our arguments and struck down the ban. Paul McMurray and BCCLA Board member Jason Gratl represented the Association.

i These and other Supreme Court of Canada rulings can be viewed at www.lexum.umontreal.ca/csc-scc/

APEC Inquiry Report

Almost four years after the RCMP emptied numerous canisters of pepper spray on demonstrators at the APEC Conference in Vancouver, Ted Hughes's report into RCMP misconduct was finally released. Mr. Hughes found that abysmal planning caused significant problems and that demonstrators' constitutional rights were violated by the police's use of pepper spray, removal of demonstrators' expressive materials, and strip searches. Perhaps his most important finding, however, was that officials in the Prime Minister's Office had improperly interfered with the operations of the RCMP for political rather than security reasons. As a result, the Association called on the Prime Minister to apologize to protestors and Canadians, provide fair compensation, and create procedures to prevent a recurrence of this interference. Characteristically, Mr. Chrétien has ducked responsibility.

i The APEC Inquiry report will be available at www.cpc-cpp.gc.ca

New Public Education Resources for Students and Teachers

Over the last decade, the BCCLA has become increasingly concerned about the lack of teaching about civil liberties and civics in public schools. In our view, a thriving democracy is only possible if we are successful in fostering in our youth a commitment to their civic duties and a keen understanding of their freedoms.

To assist in remedying this problem, the BCCLA produced two new resources for students and teachers regarding civil liberties and citizenship. *Rights Talk: Students and Civil Liberties at School* is a guide for high school students about their rights and duties in the school context. Topics covered include dress codes, searches of students, discipline, and student records as a way to introduce civil liberties values like free speech, fairness and privacy.

The *Citizenship Teaching Module* is a web-based curriculum for high school teachers that introduces concepts of citizenship and civil liberties. It includes a full range of teaching materials including case studies, research projects, role plays, assessment aids and more.

The BCCLA is currently exploring the possibility of having the module approved by the Ministry of Education as an approved learning resource for classroom use.

Kudos go to Laura Huey, who researched and drafted the resources and Pam Murray, who desktopped and prepared them for uploading to our website.

i An online version of *Rights Talk* can be viewed at www.bccla.org/rightstalk

Free copies of the *Rights Talk* booklet are available through the BCCLA office.

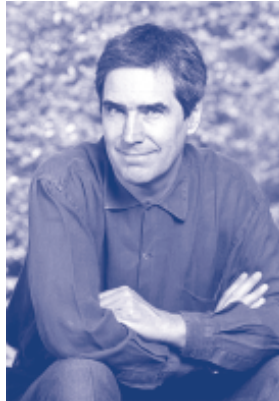
The *Citizenship Teaching Module* can be accessed online at www.bccla.org/citizenship



Michael Ignatieff: The Rights Revolution

In May, the Association hosted noted historian and political commentator Michael Ignatieff at UBC's Chan Centre. Over 300 people attended to hear Mr. Ignatieff discuss his views on our political culture's increasing attachment to rights. Aside from thought-provoking ideas, the silent auction held in conjunction with Mr. Ignatieff's talk provided over \$6,000 for the Association's coffers. Special thanks to Mr. Ignatieff who donated his time and energies, and to BCCLA Board member David Sutherland and Treasurer Alan Rowan, as well as to all those who donated prizes, for making this a most enjoyable event.

Over 300 people came out to hear noted historian and political commentator Michael Ignatieff discuss his views on our political culture's increasing attachment to rights. The event raised \$6,000 for the Association.



Office Update

A small but effective staff serve the Board to achieve the Association's mandate. The office underwent significant changes in 2001: John Westwood, BCCLA Executive Director for the last twelve years, decided not to return to the Association after a short leave of absence. He is missed (see Tribute at page 26). Murray Mollard, Policy Director for the last seven years was appointed Executive Director. In Murray's place, the Association is very pleased to welcome Lindsay Lyster, a lawyer with ten years' litigation experience in employment and human rights law, after having clerked with Chief Justice Beverly MacLachlin at the Supreme Court of Canada.

Lindsay replaced Garth Barriere and Kate Jensen who worked on contract to fill the Policy Director position during 2001. In addition, Ingrid Witvoet joined the staff as the new Office Manager, replacing Pam Murray, who we hear is exceeding in her studies in the Faculty of Law at UBC. The staff was further augmented by SFU Criminology student Kurt Sharpe.

2001 REG ROBSON AWARD / RON CHURCHILL

Vancouver accountant took on TransLink for the right to distribute campaign literature



EACH YEAR, THE BCCLA HONOURS a person or group who made a substantial contribution to the cause of civil liberties in British Columbia. The award is named for Reg Robson, a founding member and driving force behind the Association in its first twenty five years.

The Reg Robson award for 2001 goes to Ron Churchill. Mr. Churchill's victory against TransLink has that David-slays-Goliath quality. In the fall of 2000, Mr. Churchill, an accountant, was a campaign manager for an Alliance Party candidate. Distributing campaign literature at a local SkyTrain station, Mr. Churchill and others were ordered to leave the SkyTrain property by SkyTrain security, who cited TransLink's safety rule that prohibited anyone from distributing pamphlets or leaflets on their property. Mr. Churchill sought the assistance of the B.C. Civil Liberties Association and together we pressured TransLink to change this rule.

In the meantime, Mr. Churchill went to court to argue that the safety rule violated Canadians' right to freedom of expression. To its credit, or perhaps fearing a loss in the impending lawsuit, TransLink changed its policy to permit not only election campaigning, but also all other forms of non-commercial expression on their property, as long as it does not occur in fare-paid zones or interfere with the use of the system.

Remarkably, Mr. Churchill represented himself in court and won a significant *Charter* victory. For his determination and willingness to stand up for his and all British Columbians' freedom, Mr. Churchill is a deserving winner of this year's Reg Robson award and an inspiration for us all.

CASEWORK / ANOTHER BUSY YEAR

	2001	2000	1999
Administrative decision-making	2	10	5
Children's rights	3	5	6
Discrimination	7	3	4
Due process	19	17	19
Freedom of speech and association	25	28	34
Native Rights	1	-	-
Patients' rights	1	1	1
Review panels	60	44	30
Police complaints	24	27	42
Political rights	6	7	8
Prisoners' rights	3	6	6
Privacy and access to information	22	29	34
Private offences	10	7	4
Total cases	183	184	193

DUE PROCESS

Fetal Alcohol Syndrome and the criminal justice system

In February of 2001 the provincial Children's Commissioner released a report entitled "Fetal Alcohol Syndrome: A Call for Action in B.C.". Despite the concerns expressed in that Report and elsewhere, there is no funding available in B.C. for assessments of youths accused of a crime who are suspected of having FAS, even when an assessment is recommended by a judge in the sentencing process. The BCCLA was approached by a lawyer whose client, a youth charged with aggravated assault, is suspected of having FAS, and has been recommended for assessment. However, assessment was not possible, due to the lack of provincial funding. The BCCLA took up this issue, raising it with both the former NDP government and the current Liberal regime. Despite our calls for adequate funding, neither government has been willing to do what is necessary to ensure that youth in trouble with the law can get the testing, treatment and assistance they need to deal with the effects of this devastating syndrome.

Judicial Review of Cabinet Confidences

This year, the BCCLA sought and received leave to intervene at the Supreme Court of Canada in *Attorney General of Canada v. Babcock*. Babcock is one of a group of lawyers employed by the federal Department of Justice in Vancouver who are suing the government for damages resulting from being paid less than their colleagues employed in Toronto. In the course of the litigation, the government, in its role as defendant, has refused to produce documents relevant to the claim on the basis that they contain Cabinet confidences, and thus are shielded from production under s. 39 of the *Canada Evidence Act*. In our factum, the BCCLA argues that s. 39 is unconstitutional because it usurps the traditional checks and balances on the Executive branch by the judiciary, by preventing the courts from making their own determination as to whether a communication should remain confidential or whether the exclusion of evidence on that basis would be unjust in the context of a given case. Joe Arvay and Chris Jones of Arvay Finlay are representing the Association before the Supreme Court of Canada.


 Our factum can be viewed at www.bccla.org

PRISONERS' RIGHTS

Prisoners' right to vote

In December 2001, BCCLA counsel John Conroy argued before the Supreme Court of Canada in favour of the constitutional recognition of the right of prisoners to vote in federal elections. He argued that the provision in the *Canada Elections Act* which prohibits prisoners serving a sentence of two years or more from voting in federal elections violates their right to vote under s. 3 of the *Charter*.

Eliminating prisoners' right to vote, regardless of the length of their sentence, essentially strips them of their status as citizens, and cannot be justified in a free and democratic society predicated on the right of all citizens to participate in the electoral process. We look forward to the Supreme Court's decision on this important issue in 2002.

 Our factum can be viewed at www.bccla.org/othercontent/O1sauvefactum.html


ACCESS TO INFORMATION

Government creates statutory exemption from the *Freedom of Information and Protection of Privacy Act*

In the dying days of the New Democrat government, the *Abortion Services Statutes Amendment Act* was passed, amending B.C.'s *Freedom of Information and Protection of Privacy Act* to exempt information related to abortion services from disclosure. David Loukidelis, B.C.'s Information and Privacy Commissioner, sharply criticized this change, arguing it is unnecessary given other safeguards in the *Act* to protect the recipients and providers of abortion services and that subject-based mandatory exemptions undermine the purpose of access to information laws. The BCCLA joined forces with the B.C. Freedom of Information and Privacy Association to oppose this creeping, and unprincipled, repeal of *FOIPPA*. In response to the concerns raised by the BCCLA, Sandy Santori, Minister of Management Services, has assured us that the new Liberal government's legislative review of *FOIPPA* will include a reconsideration of this exemption. We are engaged in ongoing consultation with the government with respect to this and other issues raised in that legislative review.

Cameras in the Courtroom

In April 2000, the B.C. Supreme Court issued a policy on televising court proceedings. Applying that policy, the B.C. Supreme Court in the Pilarinos and Clark trial dismissed an application to televise the hearing. In the meantime, in response to an invitation by the Chief Justice, the Association submitted a brief in which we urged a liberal and expansive approach to the issue, one which accorded greater weight to the value of the public's right to effective and meaningful access to court proceedings. To date, we have not been happy with the amendments made to the policy, amendments which have the effect of making it even more difficult to gain permission to televise proceedings. In 2002, the Supreme Court of Canada will be hearing an appeal of the decision excluding cameras from the Pilarinos and Clark trial. The BCCLA hopes to use that as an opportunity to continue to urge more openness and accessibility of court proceedings.

 The BCCLA submission to the Chief Justice on this issue can be found at www.bccla.org

PRIVACY

Vancouver Police Department DISC ("Deter, Identify Sex-trade Consumers") program

Back in 1999, the BCCLA filed a complaint with the Information and Privacy Commissioner with respect to the VPD's DISC program. Under this program, the VPD stops the cars of potential sex trade consumers, enters personal information about them in a police database and sends a "Dear John" letter to their home address. In August 2001, we finally received a response to our complaint. The Commissioner strongly recommended to the VPD that it clearly publish its DISC policies and communicate them to its officers, and that it document security measures being used to guard against unauthorized disclosure of the DISC database. Most importantly, the Commissioner recognized that the practice of sending "Dear John" letters was an overly intrusive practice, and while

technically not prohibited under *FOIPPA*, he strongly recommended to the VPD that it review this practice with a view to stopping it. The VPD has decided not to implement this recommendation. We will continue to press the VPD to cease this highly invasive and unnecessary practice.

i The BCCLA's comments on this program can be viewed at www.bccla.org/positions/privacy/99disc.html

STUDENTS' RIGHTS

Surveillance cameras in public schools

The BCCLA was invited by the Chilliwack Board of School Trustees to review their draft policy on the use of video surveillance in the School District. We were pleased to accept this invitation and informed the school board of our concerns regarding the adverse privacy effects of their plans to install video cameras in a number of locations, including on board school buses. The British Columbia School Trustees Association has written a policy paper on the issue of video surveillance which we will be commenting upon in 2002.

FREEDOM OF EXPRESSION/ASSOCIATION

High school gay/straight alliance clubs

In response to calls by the B.C. Teachers Federation to create gay/straight alliance clubs in public high schools, the Surrey School Board adopted a policy under which parents can veto the ability of students to attend these or any other approved extracurricular activities. Under the policy, parents are mailed a list of student groups and can inform the school if they wish their children to be excluded from any group. Staff supervisors are required to ensure that parental decisions in this regard are implemented.

The BCCLA Board adopted a resolution in which it recognized that gay, lesbian, bisexual and transgendered ("GLBT") students often face discrimination at home, school, in public and elsewhere, and that gay/straight alliance clubs are a recognized and effective way to foster an atmosphere of tolerance and respect. The Board decried the

adverse effect which the Surrey policy and regulation would likely have upon GLBT students. Representatives of the BCCLA met with the Surrey School Board and BCCLA Board President Dixon wrote a letter in which he asked the school board to reconsider this policy. Despite all our efforts, the school board has chosen to retain the policy.

The Thobani affair

In the aftermath of September 11, Professor Sunera Thobani gave a speech in which she described American foreign policy as being "soaked in blood". A vigorous debate ensued with respect to whether Thobani's criticisms and analyses were justified. So far, so good. Then, injected into that debate like a stream of ice water, came news from the RCMP that someone had filed a complaint with the B.C. Hate Crimes Unit, alleging that Thobani's remarks constituted hate speech under the *Criminal Code*.

Further, the RCMP officer who revealed the existence of the complaint did so in order to illustrate the point, in his words, that hate is "...wrong, all around" regardless of the fact that the complaint in this case was against a member of a visible minority. The BCCLA quickly took action, holding a press conference to defend Thobani's right to express her opinions, and to decry the RCMP's actions in publicizing what was

clearly a groundless accusation, and suggesting that Thobani's remarks were criminal. Regrettably, our calls on the Commissioner of the RCMP and Bev Busson, Deputy Commissioner in charge of the Pacific and Yukon Division, to clear the air by stating that Thobani's comments were nowhere near criminal, went unheeded. Nonetheless, we will remain vigilant in ensuring that the *Criminal Code's* hate crime provisions are not used to put a chill on the free expression of ideas and opinions on controversial subjects.



BCCLA defended UBC professor Sunera Thobani's right to criticize American foreign policy.

CASEWORK

MENTAL HEALTH REVIEW PANELS

Under the *Mental Health Act* persons who have been committed to a psychiatric facility have the right to have their detention reviewed periodically by a Review Panel. Review Panels are made up of three persons, with the patient having the right to designate one member as a Patient Appointee. The BCCLA provides a list of persons prepared to sit as Patient Appointees on Review Panels. In 2001, BCCLA representatives sat on 60 Review Panels. Our thanks go out to Marie Ingram, Rennie Miller, Laura Spitz and Garth Barriere for performing this important work in 2001.



BCCLA filed a complaint on behalf of a lone counter-protestor to protect the rights of all British Columbians engaged in public protest.

POLICE COMPLAINTS


Arrest of peaceful protestor for breach of the peace

In 1999, an individual was arrested by members of the VPD for an alleged breach of the peace. This individual was attempting to engage in a peaceful counter-protest to a Serbian demonstration against NATO bombing of Serbia. Apparently motivated by concern that the much larger Serbian demonstration would turn upon the lone counter-protestor, and that violence would ensue, the police arrested the man, who had committed no criminal offence. Troubled by the police's reliance on the expedience of arresting the lone demonstrator rather than providing him with protection, the BCCLA filed a policy complaint. Regrettably, the Vancouver Police Board's Service and Policy Complaint Review Panel upheld the police action, and the Police Complaint

Commissioner not only declined to make any recommendations on his review of the matter, but refused to give any reasons for his decision. When we discussed the matter with the Commissioner, he agreed that in future he will provide complainants with the reasons for his decisions.

Submission to the Special Committee to Review the Police Complaint Process

BCCLA Executive Director Murray Mollard appeared in December 2001 before the special legislative committee charged with the task of reviewing the police complaint process under the provincial *Police Act*. Murray made a number of recommendations for improvements to the process, based on the BCCLA's extensive experience in assisting persons making complaints about the police. In his submissions, Murray stressed the importance of the Office of the Police Complaints Commissioner's being both accessible and accountable to the public it serves. To this end, he recommended that the Commissioner's mandate be amended to include a specific public education component and that the Commissioner be statutorily obligated to provide written reasons when he refuses to grant a public hearing or refuses to make recommendations to a police board as a result of a policy complaint. The Committee report should be tabled in the spring of 2002 and will be available on the B.C. government website at that time.

 The BCCLA's submission to the Committee can be viewed at www.bccla.org/othercontent/01policecomplaintreview.html

BCCLA assists family in obtaining apology from Vancouver Police

The Association was approached by a family whose home had been broken into by members of the VPD under the authority of a search warrant to look for an alleged marijuana grow operation. There was no grow operation. The family was very unhappy about the damage to their home, and the fact that the police broke in when the family was not engaged in any criminal activity whatsoever. With our assistance, the family was able to obtain a full apology from the VPD, including clear recognition that the family was not growing marijuana and that the entry into their home was a mistake.

NATIVE RIGHTS

BCCLA opposes provincial referendum on treaty negotiations

The new provincial Liberal government, to fulfill a campaign promise, announced its plans to hold a province-wide referendum on treaty negotiations. A Special Legislative Committee held hearings to decide what questions ought to be asked in the referendum. Despite the BCCLA's general opposition to the use of referenda to address issues of this nature, we decided in good faith to make a submission suggesting possible questions. We ended up where we began: the issues raised by treaty negotiations are far too complex and multi-faceted to be dealt with appropriately through a referendum process. Our ultimate submission, written and presented by Board member Avigail Eisenberg to the Committee, reflects that position. Despite the concerns raised by the BCCLA and others, the Committee came forward with a list of questions to be posed in the referendum to be held sometime later this year. The BCCLA will continue to oppose this attack on minority rights.

DISCRIMINATION

BCCLA intervenes in *Dutton v. B.C. Human Rights Tribunal*

The BCCLA intervened in B.C. Supreme Court in the case of *Dutton v. B.C. Human Rights Tribunal*, which was a judicial review of the highly controversial decision in which the Tribunal had found Dutton, a professor at UBC, guilty of sexual harassment of a student. Our intervention in the case was limited to arguing that the Tribunal had erred in finding that Dutton's creation of a "sexualized environment" was sufficient to meet the legal test for discrimination under the *Human Rights Code*. We argued that the Tribunal's decision could have the effect of imposing an unnecessary and unwarranted chill on professor-student interactions and on the free expression and interchange of ideas on university campuses. Despite the able arguments of our counsel, Tony Saunders and Lesley Ruzicka (formerly) of Guild Yule, the Court found that the creation of a "sexualized environment", through the use of candles, fire, music and wine, did constitute

sexual harassment within the meaning of the *Code*. We are currently considering seeking intervenor status before the Court of Appeal on the appeal of this decision.

 The Court's decision in *Dutton v. B.C. Human Rights Tribunal* can be viewed at www.courts.gov.bc.ca

The BCCLA's factum on this case can be viewed at www.bccla.org/factums

City of Richmond heeds BCCLA advice

The City of Richmond contacted the BCCLA seeking our views on a proposed opinion survey of Richmond residents regarding group homes in their community. As a matter of principle, we believe that society has a responsibility to address the needs of persons who live in group homes, including persons with mental and physical disabilities, those in recovery from addiction to drugs and alcohol, and former inmates making the transition back into the community. The proposed survey asked a number of questions which, in our view, could be seen as degrading and offensive to the personal dignity of persons living in group homes. Richmond decided not to proceed with the survey, based in part on the BCCLA's response.

PRIVATE OFFENCES

Reproductive Technologies

In 2001 the federal Ministry of Health produced draft legislation on assisted human reproduction. The House of Commons Standing Committee on Health held hearings on the draft bill in November 2001, at which BCCLA board member Micheal Vonn presented our brief. Micheal told the Committee that the draft legislation's reliance on criminal law as a means of regulating reproductive technologies was wrong as a matter of principle. She focused on the draft bill's criminalization of all forms of compensation for surrogate pregnancy services, arguing that the imposition of such measures was inconsistent with respect for women and their individual autonomy. Regrettably, the report of the Standing Committee recommends even harsher and more restrictive measures than were proposed in the draft bill. We shall be watching closely and renewing our efforts in this area should legislation

CASEWORK

be introduced into the House reflecting the paternalistic recommendations of the Committee.

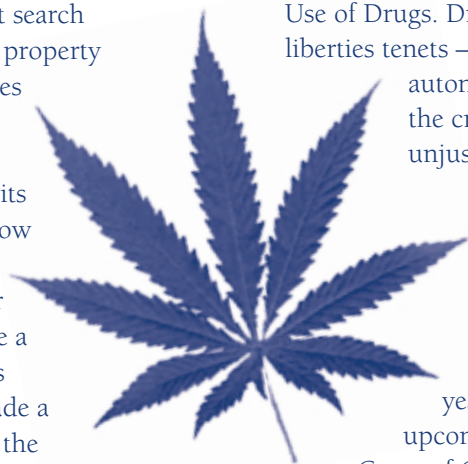
i The BCCLA submission on reproductive technologies can be viewed at www.bccla.org/othercontent/01reprolegsub.html

Municipal initiatives to target “grow-ops”

This year saw a number of innovative and highly questionable initiatives to target marijuana grow-ops. *The Vancouver Sun* revealed in December 2000 that the Vancouver Police Department had created the “Growbusters” squad, designed to seek out and render inoperable marijuana grow-ops in the city. The BCCLA voiced the concerns shared by many that the police were carrying out search warrants and destroying private property with no intention of filing charges against anyone involved in the operations.

In response, the VPD altered its policies, such that charges are now being laid in 18% of cases. The Police Complaint Commissioner engaged Larry Campbell to write a report, which detailed the VPD’s changes to the program, and made a number of recommendations to the Chief Constable for further improvements.

Meanwhile, a number of Lower Mainland municipalities enacted anti-grow-op bylaws. While each bylaw is unique, they share a number of features which have caused the BCCLA to oppose their introduction. These include authorizing police officers to act as inspectors, thereby permitting them to enter private residences without a warrant, the imposition of strict liability on landlords whereby they can be held responsible for the actions of their tenants regardless of their knowledge of those actions, and an unconstitutional attempt on the part of the municipalities to encroach upon the criminal law, an area of exclusive federal jurisdiction.



In our view, all of these troubling local initiatives are the consequence of the fundamental wrongheadedness of the continuing criminalization of the manufacture, trade and possession of drugs. We will be continuing our fight against these bylaws and policies, while at the same time working to end the criminalization of drugs.

House of Commons Special Committee on the Non-medical Use of Drugs

In December 2001, BCCLA Policy Director Lindsay Lyster presented our longstanding position against the criminalization of drugs to the House of Commons Special Committee on the Non-medical Use of Drugs. Drawing on two important civil liberties tenets – the harm principle and respect for autonomy – we told the Committee that the criminalization of drugs was unjustifiable. More than that, we

emphasized that the criminalization of drugs does far more social harm than good.

Our appearance before the House Committee was just one aspect of our work in this area over the past year. Other initiatives include our upcoming intervention in the Supreme

Court of Canada in *R. v. Malmo-Levine*, in which we will be arguing that the prohibition of the simple possession of marijuana is unconstitutional. We shall do so on the basis both that the criminalization of possession is *ultra vires* Parliament as not being within federal jurisdiction, and that the potential of imprisonment for possession is a breach of the right to liberty and security of the person guaranteed by s. 7 of the *Charter*.

i The BCCLA’s submission to the Committee can be viewed at www.bccla.org/othercontent/01drugcommitsub.html

The BCCLA’s positions on the non-medical use of drugs and the decriminalization of marijuana can be viewed at www.bccla.org/positions/html#offenses



The B.C. Civil Liberties Association accepts complaints about civil liberties violations if the issue is likely to impact a large number of individuals and we have the resources to provide assistance. Our case acceptance policy is on our web site: www.bccla.org/acceptance.html

THE LEGAL COMMUNITY / OUR THANKS

OCCASIONALLY, WE NEED TO GO TO COURT to enforce our civil rights and liberties. We would like to thank the **Vancouver Bar Association** for financial support. As well, the following lawyers and law students provided countless hours, pro bono, to protect our freedoms. To them, we offer our heartfelt thanks.

John Conroy of Conroy & Company, for representing us in our intervention before the Supreme Court of Canada in *Sauve v. Chief Electoral Officer*, the prisoners' right to vote case.



John Conroy

Joe Arvay, Chris Jones and student **Dominique Nouvet** of Arvay Finlay, for their work in *R. v. Babcock*, a Supreme Court of Canada case to be heard in 2002 which will challenge government absolute privilege over Cabinet confidences.

Joe Arvay and student **Ben Berger**, once again of Arvay Finlay, for representing us as an intervenor in the upcoming case of *R. v. Malmo-Levine*, in which we will be taking on the constitutionality of the criminal prohibition of the simple possession of marijuana.

Garth Barriere, our former Policy Director and now sole practitioner, in *R. v. Sharpe*, in which he applied for leave to intervene at trial in B.C. Supreme Court to provide submissions on the artistic merit defense to charges of possession of pornography.

Michael Doherty of the B.C. Public Interest Advocacy Centre, for his continuing efforts on our behalf in respect of the RCMP Public Complaint Commission of Inquiry into RCMP conduct at APEC.

Chris Sanderson and **Keith Bergner**, both of Lawson Lundell Lawson & McIntosh, and **Chris Gora** of Farris Vaughn, for their assistance in our upcoming intervention before the Supreme Court of Canada in *Chamberlain v. The Board of Trustees of School District #36 (Surrey)*, the same-sex parents book banning case.

Tim Delaney of Lindsay Kenney, for representing us in the Supreme Court of Canada decision in *Trinity Western University v. B.C. College of Teachers*.

Howard Ehrlich of Bull Housser Tupper, for ongoing advice with respect to organizational issues.

BCCLA Board member **David Sutherland** of Sutherland & Associates, for his representation of the Association in our intervention application in *Clark v. Ward*, a defamation case.

Art Grant of Grant Kovacs Norell, for his ongoing advice regarding advertising spending restrictions contained in the *Canada Elections Act*.

Tony Saunders and **Lesley Ruzicka** (formerly) of Guild, Yule and Company, in our intervention in B.C. Supreme Court in *Dutton v. B.C. Human Rights Tribunal* in support of a reasonable and workable test for sexual harassment.



Tony Saunders

Michael O'Keefe, Q.C. of Thorsteinssons, for his assistance with respect to taxation and other financial issues for the Association.

Paul McMurray, sole practitioner, and BCCLA Board member **Jason Gratl** of Stikeman Elliott, for their representation of the Association before the Supreme Court of Canada in *R. v. O.N.E.*, a challenge to publication ban on undercover evidence.

Steven Kelliher of Kelliher & Turner, for his advice to us on the Bouchard harassment matter at the University of Victoria.

The BCCLA also wishes to thank the following law students:

Jennifer Millbank	Rod Nagel	Joel Whysall
Angela Holland	Brian Parker	Geeta Gill
Lili Bantourakis		

MEMBERSHIP REPORT / SUPPORTERS

	2001	2000	1999
Special	223	213	197
Individual	330	311	284
Family (two people)	180	146	140
Organization	7	6	6
Total memberships	740	676	627
Donors only	223	334	451
Total supporters	963	1,010	1,078

A Word About BCCLA Supporters

Our members and supporters are the backbone of the BCCLA, as a source of the financial wherewithal to do our job, but also for the credibility they give the Association in approaching funding agencies and dealing with civil liberties violators.

Although it is difficult for us to attract large numbers of supporters because we tackle controversial issues, those who do support us tend to stay on board for the long term, and increase their support as time goes on. Nevertheless, the Association will have to work hard in the future to reverse the current downward trend in total supporters.

Memorials and Bequests to the BCCLA Endowment Fund

The BCCLA Endowment Fund provides long term financial stability for the Association and allows us to take on special projects that we could not otherwise afford. The BCCLA undertook a review of the management of its Endowment Fund in 2001. As a result, the BCCLA Board of Directors decided to transfer all original and future gifts and bequests in this fund to the Vancouver Foundation, who will invest and manage the BCCLA Endowment Fund. This process should be complete in 2002. Look for more details regarding the Endowment Fund in a future newsletter.

We acknowledge with gratitude the following:

Bequests

Bequest: Francis Earl Bertram
 Bequest: Roderick Lionel
 Bequest: Winona Grace MacInnis
 Bequest: David Bruce Morgan
 Bequest: Dr. Cecil K. Stedman
 Accelerated Bequest: Dr. Cecil K. Stedman

In Memoriam

In memory of John B. (Jack) Bryan
 In memory of Robert E. Jefferson
 In memory of Merril Lathan
 In memory of Chrysta McCarron
 In memory of David Bruce Morgan
 In memory of R.E. Morgan
 (Founding Member)
 In memory of Roger Robson
 In memory of R.A.H. (Reg) Robson
 (Founding Member)
 In memory of Karl Siegfried
 In memory of Kay Aronstam Stockholder

TREASURER'S REPORT / ALAN ROWAN

THE BEST IS YET TO COME.

With apologies, but to quote one of Bryan Adams' best-known songs is, I believe, apropos.

We have been through a very interesting year, and we have come through in good shape, both organizationally and financially. There were four personnel changes in the office, we mounted a very successful silent auction coupled with a dynamic talk by Michael Ignatieff, and rose to meet the challenges posed by new legislation prompted by the terrorist attacks last fall. All this required extra effort of both our staff and your Board. I take this time to salute them and to thank them for their very tangible contribution to our general health and well-being.

Our future hinges very directly on our past, and the bottom line is that we did well last year, and this bodes well indeed for what is to come. Our donors, in spite of the poor economic climate in Canada, and perhaps



Treasurer Alan Rowan
PHOTO: ALISTAIR EAGLE

because of the events of September 11th and the reaction that ensued, outdid themselves, giving a total of nearly \$94,000. This was almost \$16,000 over budget, more than 20% better than expected. I praise their generosity. We will build on this success, and I can think of few better ways to enter our fortieth anniversary year than

with a healthy bank account, and a climate of renewed interest in civil liberties issues.

As always, we must acknowledge those who comprise our main funding base. Once again, the Law Foundation of B.C. supported us well, and shall continue to so do in 2002. Thanks again to Karima Budhwani and Pat Pitsula in the office, and to the LFBC board in general, and our Liaison Governor, Jeff Scouten, in particular. The Gaming Commission of B.C. generously made an increased grant toward our education- and community-directed work last year. A hearty thank you to the Commission and staff for continuing to support us in our efforts on behalf of all British Columbians.

Once again we got good advice, and excellent work from our accounting firm Dragomir Breckner, specifically Katherine Ruffen, who masterfully keeps our books and ensures we function officially as we should.

This brings me to the time when I wish to note the work that is done for and on behalf of the Association for which we don't pay. Lawyers refer to this work as pro bono, which sounds sexy, but means the same as free, except it's in a foreign language. Suffice it to say, we benefit from a lot of this pro bono work performed by lawyers on our behalf, and we are very grateful for this donation, and the import of their efforts in pursuing our goals before the courts. I also want to note the continuing work of John S. Wilson, who once again has performed the audit for the Association. This is another of those pro bono deals, and represents a huge donation in kind to us. Thank you, John.

This past year also saw the formation of the Endowment Fund Advisory Committee. We have been looking at ways to both improve our investment income from the Fund, but also to better protect the original bequests to the Fund. Many thanks to BCCLA Board members Stephen Katz, Larry Cohen, and to John S. Wilson for their assistance on this project. I anticipate that we shall complete the first phase of this work by March of this year and look forward to making a complete summary in next year's Annual Report.

In closing, we're looking to 2002-2003 with anticipation. John Ralston Saul will be guest speaker at our AGM, and we are using this event as the kick-off to our fortieth anniversary celebration. Come out and support the Association. Let's show that indeed, the best is yet to come.

A handwritten signature in black ink, appearing to read 'Alan Rowan', written in a cursive style.

AUDITOR'S REPORT

I have audited the statement of financial position of the British Columbia Civil Liberties Association as at December 31, 2001, the statement of operations and changes in fund balances and the statement of cash flows for the year then ended. These financial statements are the responsibility of the organization's management. My responsibility is to express an opinion on these statements based on my audit.

Except as explained in the following paragraph, I conducted my audit in accordance with generally accepted auditing standards. These standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures on the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In common with many not-for-profit charitable organizations, the British Columbia Civil Liberties Association derives revenue from memberships, donations and grants, the completeness of which is not susceptible of satisfactory audit verification. Accordingly, my verification of those revenues was limited to the amounts recorded in the records of the organization and I was not able to determine whether any adjustments might be necessary to memberships, donations, grants, excess of revenue over expenses, assets and net assets.

In my opinion, except for the effect of adjustments, if any, which I might have determined to be necessary had I been able to satisfy myself concerning the completeness of the memberships, donations and grants referred to in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the organization as at December 31, 2001, and the results of its operations, the changes in its fund balances and its cash flows for the year ended in accordance with generally accepted accounting principles applicable to not-for-profit organizations.



JOHN S. WILSON / PUBLIC ACCOUNTANT

FEBRUARY 8, 2002

FINANCIAL STATEMENTS

British Columbia Civil Liberties Association statement of operations and changes in fund balances for the year ended December 31, 2001

	General Fund	Special Projects and Stabilization Fund	Little Sister's Fund	Endowment Fund	Total 2001	Total 2000
Revenues						
Membership and donations	93,971			–	93,971	82,568
Law Foundation – operating grant	131,241				131,241	122,088
Legal Defense donations earned		–	–		–	100
Specified grants and donations earned	37,095		–		37,095	31,231
Capital grants earned	5,037				5,037	4,010
Casino revenue earned	46,420				46,420	46,736
Interest	652		–	14,371	15,023	16,786
Miscellaneous (note 6)	9,671		70,058		79,729	622
	324,087	–	70,058	14,371	408,516	304,141
Expenses						
Salaries and benefits	177,390				177,390	189,229
Rent and utilities	27,291				27,291	25,765
Office operating	20,341				20,341	25,891
Contract services	27,901				27,901	11,777
Insurance, interest and bank charges	2,864		–	–	2,864	4,184
Fund raising	7,710				7,710	5,768
Publications and printing	9,751				9,751	7,055
Legal defense	9,943	–	43,274		53,217	18,527
Miscellaneous	7,184		–	–	7,184	8,215
Amortization	5,166				5,166	4,139
	295,541	–	43,274	–	338,815	300,550
Excess (deficiency) revenue over expenses	28,546	–	26,784	14,371	69,701	3,591
Fund balance, January 1	5,770	–	3,933	283,012	292,715	289,089
Endowment contributions				350	350	35
Interfund transfers	(28,545)	232,901	–	(204,356)	–	–
Fund balance, December 31	5,771	232,901	30,717	93,377	362,766	292,715

(See notes to the financial statements)

British Columbia Civil Liberties Association statement of financial position as at December 31, 2001

	General Fund	Special Projects and Stabilization Fund	Little Sister's Fund	Endowment Fund	Total 2001	Total 2000
Current Assets						
Cash and short-term deposits	69,571	–	30,016	–	99,587	40,196
GST, interest and other receivables	5,290		701	1,082	7,073	6,199
Due from other funds		232,901	–	14,954		
Prepaid expenses and supplies	9,470				9,470	7,061
	84,331	232,901	30,717	16,036	116,130	53,456
Non-Current Assets						
Investments (market value \$288,980; \$268,884 in 2000)				281,697	281,697	266,240
Capital assets (note 3)	12,124				12,124	15,001
	12,124	–	–	281,697	293,821	281,241
	96,455	232,901	30,717	297,733	409,951	334,697
Liabilities						
Accounts payable and accrued liabilities	13,291		–		13,291	13,033
Due to other funds	43,499			204,356		
Deferred contributions (note 4)	22,798	–			22,798	15,106
Deferred contributions related to capital (note 5)	11,096				11,096	13,843
	90,684	–	–	204,356	47,185	41,982
Net Assets						
Invested in capital assets	1,029				1,029	1,157
Externally restricted		–		93,377	93,377	96,960
Internally restricted		232,901	30,717		235,073	189,985
Unrestricted	4,742				33,287	4,613
	5,771	232,901	30,717	93,377	362,766	292,715
	96,455	232,901	30,717	297,733	409,951	334,697

(See notes to the financial statements.)

British Columbia Civil Liberties Association statement of cash flows for the year ended December 31, 2001

	2001	2000
Cash flows from operating activities*		
Cash received from general contributions	93,971	82,567
Cash received from specified donations	–	7,710
Cash received from Law Foundation – operating	131,241	122,088
Cash received from Casinos	52,030	42,279
Cash received from Law Foundation – other	41,257	20,619
Cash received from Simons Foundation		1,000
Cash received from Multiculturalism B.C.		3,525
Cash received from Court Award	70,058	
Cash received from publications and miscellaneous	9,671	622
Investment income received	569	1,324
Cash paid for salaries and benefits	(177,390)	(189,228)
Cash paid for materials and services	(115,337)	(102,420)
Net cash generated through (used for) operating activities	106,070	(9,914)
Cash flow from financing and investing activities		
Cash contributions for Endowment Fund	350	35
Income received on Endowment Fund investments	10,119	9,390
Purchased investments	(182,119)	(24,362)
Proceeds on sale of investments	168,245	30,266
Donations for halted project returned		(52)
Cash paid for services from lawyer's trust	(43,274)	(12,111)
Cash received for capital acquisition	2,290	5,021
Cash paid for capital acquisition	(2,290)	(7,661)
Net cash provided by (used for) financing and investing activities	(46,679)	526
Net increase (decrease) in cash and short-term deposits	59,391	(9,388)
Cash and short-term deposits, January 1	40,196	49,584
Cash and short-term deposits, December 31	99,587	40,196

Notes to financial statements for the year ended December 31, 2001

1. Purpose of Organization

The British Columbia Civil Liberties Association (BCCLA) is a provincial organization operating programs and providing services to promote, defend, sustain and extend civil liberties and human rights. The BCCLA is incorporated under the *Society Act* of British Columbia as a not-for-profit organization and is a registered charity under the *Income Tax Act*.

2. Significant Accounting Policies

The BCCLA follows the deferral method of accounting for contributions.

Fund Accounting

Revenues and expenses related to program and service delivery, administrative activities, special projects, legal services and capital assets are reported in the General Fund.

Revenues and expenses related to the *Little Sister's Book & Art Emporium et al. v. Minister of Finance et al.* lawsuit are reported in the Little Sister's Fund.

The Endowment Fund is the original capital of all endowment gifts received from donors. Endowment contributions are reported in the Endowment Fund. Investment income earned by the Endowment Fund is reported in the Endowment Fund and then transferred to the Special Project and Stabilization Fund.

Effective December 31, 2001 the Board of Directors created a new fund to be called the Special Project and Stabilization Fund. The Special Project and Stabilization Fund may be used in any manner decided by the Board of Directors to assist the BCCLA in accomplishing its purpose. The fund may be used for important special projects that the BCCLA would not otherwise be able to undertake, or to cover an operating deficit in a fiscal year. The Special Project and Stabilization Fund will receive the income earned by the Endowment Fund and will receive the surplus of the general fund in any fiscal year. The Special Project and Stabilization Fund received the accumulated income of and discretionary transfers that remained in the Endowment Fund as of December 31, 2001. This transfer left the Endowment Fund with all of the original endowment gifts received from donors to December 31, 2001.

Revenue Recognition

Restricted contributions are recognized as revenue of the appropriate fund in the year in which related expenses are incurred. Unrestricted contributions are recognized as revenue of the appropriate fund when received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Endowment contributions are recognized as direct increases in the Endowment Fund balance.

Restricted investment income is recognized as revenue of the appropriate fund in the year in which the related expenses are incurred. Unrestricted investment income is recognized as revenue when earned.

Publication revenue is recognized when a sale has occurred and there is a reasonable expectation of collection.

Capital Assets

Purchased capital assets are recorded in the General Fund at cost. Contributed capital assets would be recorded in the General Fund at fair value at the date of contribution. Amortization is provided on a straight-line basis over an asset's estimated useful life, which is six years for furniture and equipment, and three years for computers. Amortization expense is reported in the General Fund.

Investments

Investments are recorded at cost. The cost of non-interest bearing coupons is increased by the annual amortization of discounts.

Contributed Services

Volunteers contribute about 600 hours per year to assist the BCCLA carry out its program and service delivery and administrative activities. Because of the difficulty in determining their fair value, contributed services are not recognized in the financial statements.

3. Capital Assets

	<u>2001</u>	<u>2000</u>
Cost	59,079	56,790
Less accumulated amortization	<u>46,955</u>	<u>41,789</u>
Net book value	<u>12,124</u>	<u>15,001</u>

4. Deferred Contributions

Deferred contributions reported in the General Fund are restricted funding that was received in the current period or a prior period, but which will be earned in a subsequent period. Changes in the deferred contribution balance reported in the General Fund are as follows:

	<u>2001</u>	<u>2000</u>
Balance – January 1	15,106	28,051
Add amounts received in the year	93,287	57,412
Less amounts recognized as revenue in the year	<u>(85,595)</u>	<u>(70,357)</u>
Balance – December 31	<u>22,798</u>	<u>15,106</u>

5. Deferred Contributions Related to Capital Assets

The deferred contributions related to capital assets in the General Fund include the restricted contribution with which some office and computer equipment has been purchased.

	<u>2001</u>	<u>2000</u>
Balance – January 1	13,843	10,798
Add amounts received in the year	2,290	6,920
Less amounts recognized as revenue in the year	<u>(5,037)</u>	<u>(3,875)</u>
Balance – December 31	<u>11,096</u>	<u>13,843</u>

6. Miscellaneous Revenues

The miscellaneous revenue of the General Fund includes the significant fund raising event “An Evening with Michael Ignatieff.” The miscellaneous revenue of the Little Sister’s Fund is primarily court-awarded costs.

7. External Restrictions on Fund Balances

All \$93,377 of external contributions to the Endowment Fund must be kept in perpetuity.

8. Internally Restricted Fund Balances

The BCCLA Board of Directors has internally restricted \$30,717 balance of the Little Sister’s Fund and all of the \$232,901 Special Project and Stabilization Fund.

9. Contingent Liabilities

The BCCLA involves itself in selected court actions involving civil liberties. In many of these cases there is the possibility that the courts could order the BCCLA to pay costs. There are no outstanding orders to pay costs and the amount that may become a liability of the BCCLA cannot be determined.

10. Little Sister’s Case

The Little Sister’s case was decided during the year and costs awarded to the plaintiffs by the courts. The balance in the Little Sister’s Fund represents the recovery of legal expenses previously incurred. The Board of Directors is considering how to use these funds in the future.

STAFF & VOLUNTEERS

Volunteers

The BCCLA salutes the following volunteers who, through their dedication and generous contributions, are an enormous help to us in running a smooth and sound organization. Many thanks to:

John S. Wilson, who again provided invaluable assistance to the Association by conducting our annual audit, provided advice on general policy and financial affairs and, in particular this past year, advised us on restructuring our Endowment Fund.

Helen Daniels continued to assist us with distribution of tax receipts and performed the important task of verifying membership and donation records.

Herlenda Basas, our former bookkeeper, assisted with donation records.

Lynda Hird, for general assistance with administrative tasks in the office. Lynda is a long time volunteer and project worker with the BCCLA.

Cathy Newell, Barb Newell, Charlie Kirkley, Hayley Potten, Denise Griffith, Ryan Resch, Larry Cohen, Dino Rossi, Jason Gratl, and Shona Moore for their help in making the Michael Ignatieff event a resounding success

Staff

Murray Mollard, *Executive Director*

Lindsay Lyster, *Policy Director*

Lil Woywitka, *Membership Secretary*

Ingrid Witvoet, *Office Manager*

In addition to salaried employees, a number of individuals provide services on a contract basis:

Laura Huey, *Student Rights Guide and Citizenship Teaching Curriculum*

Lynda Hird, *Citizenship Handbook Leaders' Guide*

Roedy Green of Canadian Mind Products, *Database consultant*

Katherine Ruffen of Dragomir Breckner, *Bookkeeper*

Pam Murray, *Webmaster and Education Resources Computer Consultant*

Nadene Rehnby of Hands on Publications, *Desktop Publisher for The Democratic Commitment*

SPECIAL TRIBUTE / JOHN WESTWOOD



JOHN WESTWOOD WILL BE FETED at the Annual General Meeting, and presented with a gift – all too modest a gift – to commemorate his long service with our Association. John saw many BCCLA presidents and executive committees come and go, and had a gift for finding just the right way to get the most out of all of them. He is not a man who relishes confrontation, but in a fight for someone's rights he is uncompromising, tenacious, and very often victorious. John Westwood has done a world of good for many, many people, and if there is any cosmic justice available, he will leave us to continue his good works elsewhere (although a seat on the BCCLA Board will always be reserved for him) and live a long, healthy, and happy life.

Protecting the
freedoms
of British
Columbians
since **1962**



THE MANDATE of the B.C. Civil Liberties Association is to promote, defend, sustain and extend civil liberties and human rights in the province of British Columbia.

THE BCCLA WISHES TO THANK the Law Foundation of BC and all our members and donors for their continued support of the preservation of civil liberties for British Columbians, and for all Canadians.

For additional copies of this report or more information about our work, please contact:

British Columbia Civil Liberties Association
425 – 815 West Hastings Street
Vancouver, British Columbia
Canada V6C 1B4

phone: 604.687.2919
fax: 604.687.3045
e-mail: info@bccla.org
web site: www.bccla.org

