

BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

# Annual Report 2002



## **ANNUAL GENERAL MEETING**

The Annual General Meeting of the British Columbia Civil Liberties Association

Date: Thursday, March 27, 2003

Time: 7:30 p.m.

Location: Vancouver YWCA, 4th Floor, 535 Hornby Street, Vancouver, BC

**GUEST SPEAKER:** Jamie Cameron, Professor of Law, Osgoode Hall Law School, York University

**THE DEMOCRATIC COMMITMENT**

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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**

**REFLECTIONS ON 40 YEARS / LYNDA HIRD / 5**

**NEW POSITIONS / TAKING A STAND**

Prom King Marc Hall / 6

Human Rights Complaints Process / 6

Blood Samples Act / 7

DNA Databank / 7

Lawful Access / 7

**HIGHLIGHTS / THE YEAR IN REVIEW**

2001 Annual General Meeting / 8

Prisoners' right to vote / 8

Surrey School Board / 8

Drug law reform / 9

**CASEWORK / ANOTHER BUSY YEAR**

Access to information / 10

Due process/police complaints / 10

Patients' rights / 12

Privacy / 12

Freedom of expression/association / 13

Discrimination /14

Private offences / 15

Police complaints / 15

Political rights / 15

**REG ROBSON CIVIL LIBERTIES AWARD / 16**

**THE LEGAL COMMUNITY / OUR THANKS / 17**

**STAFF & VOLUNTEERS / 18**

**TREASURER'S REPORT / ALAN ROWAN / 19**

**AUDITOR'S REPORT / 20**

**FINANCIAL STATEMENTS / 21**

**MEMBERSHIP REPORT / SUPPORTERS / 26**

**TRIBUTE TO BCCLA COMPANIONS / 27**

# PRESIDENT'S REPORT / JOHN DIXON

**From a sermon delivered at the Unitarian Church on Sunday, February 2, 2003**

THERE IS A LOT OF TALK JUST NOW of enemies of freedom and democracy. But there have been far more potent enemies of democracy and individual freedom than the Al Qaeda network, and they have no need of terror or weapons of mass destruction to do their work. Socrates, along with his remarkable student Plato, remains a powerful danger to democracy NOT because he threatens our physical safety, but because his ideas continue to mock our complacent certainty that democracy is not only the best form of government, but the only legitimate form of government. Here is Socrates' argument, as handed down to us by Plato:

People are different in their abilities and talents, and although something can be done about this, it remains the case that some are simply going to be more intelligent, energetic, and courageous than others. Society has a lot of different jobs to do, and people are most fruitfully and happily employed at a job that fits their abilities and temperaments. Of all of the functions and vocations in a society, none

approaches the importance of the ruling function. Its excellence or lack of excellence has an impact on everybody's life. Only the most fit – the brightest, most energetic, and most courageous – may be permitted to rule, and even then they must be

carefully prepared for their role to produce a wise servant of the entire community.

Now, this argument poses such a tremendous threat to democracy not because of some terrible deception that is perpetrated by Socrates and Plato. It proceeds from the simple fact that every single one of their premises is sound.

So what can democracy say in its defence? Democracy says that though it is true that everyone is not the same, it is nevertheless also true that everyone is WORTH the same. It also says that this equal worth of persons must mean that no one can be excluded from participation in their own governance.

It is hard to pinpoint where this belief or faith in the equal worth and dignity of persons came from. It is peculiar to democracy, and it is peculiar to the West, so it is probably reasonable to trace it to

Christ's egalitarian interest in companions so low that they would undoubtedly scandalize the Surrey School Board. Then, after a long history of the submersion of Christianity in the procrustean embrace of the Roman, Byzantine, and Medieval Church, Luther bursts forth with his reformation idea that each and every one of us is competent to come to God on her or his own terms.

But this equality stuff does not solve democracy's problem. It just restates it. The challenge remains: if we are to have a government of all, instead of a government of the best, then we will have a government that is less than the best, and must suffer the considerable consequences.

So now I come to my modest point. Democracy does not – cannot sensibly – dispense with Socrates' unassailable contention that only the best should rule. What Democracy can do is move the line between the best and the rest.

With Socrates, the crucial dividing line exists in the external world, where it separates the few that should rule from the very many that must be subject. We take that line out of the world, where it is obnoxious to our democratic faith, and internalize it in every citizen, where it ennobles all of us.

We are not to be ruled by the best AMONG us, but by the best WITHIN each of ourselves. Each of us is to bring a self-disciplined contribution to the shared task of ruling ourselves.

This democratic leap requires an incredible act of faith. Not passive hope, but active faith. And by active faith I insist that the realization of democracy – or even its survival in some diminished form – depends utterly upon our determination to conduct our public lives with real civic virtue. If we fail in this, there will be no need for terrorists to steal our freedom from us; we shall have already turned our backs on it.



BCCLA President John Dixon

# REFLECTIONS ON 40 YEARS / LYNDA HIRD

WHAT WAS THE BCCLA LIKE IN THE MID SIXTIES? No staff. No office. Boxes of letters and files in peoples' basements, kitchens and offices. Meetings that sometimes ran four and five hours at a stretch. Meager public support and almost total lack of interest from the media. No serious attention from any level of government. I would like to highlight a few of the recollections I have of the BCCLA's 40 year journey from these humble beginnings.

Our first office – a rented storefront on Camosun at 16<sup>th</sup>, had fresh paint, a huge ancient Board table and little else. But all the substantive work of the Association was done by the people around that table. The only staff person was a part-time administrative assistant. Those were the days of hippies, “Hair” and the first editions of *The Georgia Straight*. We defended them all as they struggled against official harassment from license inspectors, city councils, and the police in the lower mainland. During these times, there were no Human Rights Commission, no Legal Aid or Legal Services Society, no Office of the Ombudsman, no Police Complaints Commission and of course, no *Charter of Rights and Freedoms*. We did what we could to protect civil liberties after the invocation of the *War Measures Act*.

The two people more often than not at the centre of BCCLA activities during this period were Bob Rowan and Reg Robson, respectively a UBC philosopher and sociologist. Bob is a compelling teacher and naturally eloquent speaker. His papers on censorship and freedom of speech remain the BCCLA standard for elegant, trenchant language. Reg's sharp intellect, coupled with fierce determination and tenacity, was the driving power that kept us going. We would kid him about his amazing ability to turn five people into seven committees. But it was always difficult to say no to Reg; he demanded more of himself than of anybody else.

By the mid-seventies, a raft of government grants funded our community information projects, supplying an ever-changing group of staff to prepare written and video materials in our new offices at 207



Lynda Hird graduated from U Cal-Berkeley Law School in 1964, and has been a BCCLA board member, staff person and volunteer at different times over the last 35 years.

West Hastings. We also sent new BCCLA community workers throughout B.C. to develop community information offices and encourage interest in civil liberties. From this temporary heyday of project funding and staff proliferation, we plunged once more into financial crisis, moving back into one room and staffing the office in the mornings only. Nevertheless, the Board remained feisty, and under Jim Dybikowski's leadership, took on the B. C. government's proposed *Heroin Treatment Act* – our first really big court case.

By the 1980s, we had regained a modicum of funding and moved to East 11<sup>th</sup> Avenue. Things were changing. New government agencies and offices now provided services to deal with certain problems that earlier had come to the BCCLA's door. The enactment of the *Charter* gave the BCCLA – and all Canadians – a new and powerful tool for protecting our rights. These changes allowed the BCCLA to give greater attention to public policy issues and to focus casework on areas not covered adequately by government agencies.

John Russell first brought his talents as writer, philosopher, and administrator into our office when he volunteered to answer phones in the late 1970s, and practiced his viola during quiet moments. By the time he left in 1988, John had become the BCCLA's first Executive Director – a staff position of vital importance to the substantive work of the Association – and we had moved to more generous

*continued on page 16*

## NEW POSITIONS / TAKING A STAND

### Prom King Marc Hall

Marc Hall, a 17 year old gay student at an Oshawa area Catholic high school, wanted to take his boyfriend to the Prom but the principal and the local Catholic school board objected. Mr. Hall went to court to challenge their prohibition.

The case posed a challenge because of competing civil liberties concerns – freedom of religion vs. gay equality – both of which are important values for the Association.

The BCCLA decided to support Mr. Hall's efforts. In assessing cases of this kind, three factors should be considered: (1) the degree and nature of harm suffered, (2) the vulnerability of the group suffering the harm, and (3) the place of the institution on the private-public continuum. Each of these factors exists along a continuum, and the analysis will involve a consideration of all three in combination. Applying these factors to Marc Hall's case, the harm is direct and not merely speculative to Marc. Marc is both a youth and gay, and thus doubly vulnerable. Finally, the institution has a strong public foundation. Taken together, these factors justify state intervention to protect Mr. Hall from the discriminatory policies of the school board. In our view, this case can be distinguished from the position we took in Trinity Western University in which we supported the University's right to a private code of conduct prohibiting "homosexual behaviour." Marc is a youth, whereas the students and faculty at TWU are adults who had voluntarily signed the pledge to abstain from homosexual behaviour. There was a direct and discernable harm to Marc, whereas there was no evidence of harm in the TWU case. Finally, TWU is a purely private institution, whereas the Catholic school system in Ontario is constitutionally enshrined and fully publicly funded.




Marc Hall, 17, challenged his school's decision to bar him from bringing his boyfriend to the prom. PHOTO COURTESY WWW.EQUALMARRIAGE.CA

### Human Rights Complaints Process – A New Era

The BCCLA has been at the forefront of fighting for effective human rights protection since our beginnings in 1962-63. Long before human rights protections existed, the Association assisted individuals who complained of discrimination and lobbied to create human rights protection in our law. We continue to work to ensure that human rights legislation is accessible and effective.

In 2002, the BCCLA wrote the provincial government with our views on a proposed shift to a direct access model in which complainants would complain directly to the B.C. Human Rights Tribunal rather than to a human rights commission.

In our view, this shift – a radical departure from the old model – could work if there are adequate resources to provide intake support and enough adjudicators on the Tribunal to deal effectively with complaints. New legislation passed in the fall of 2002 and to come into effect in 2003 has included many of our recommendations though we were dismayed that the government decided to reduce the time limit for filing a complaint from one year to a mere six months. In early 2003, the Association made submissions on new draft Rules of Practice and Procedure proposed by the Tribunal. As well, we again urged the provincial government to adequately fund the new system. The BCCLA will closely monitor the new process and continue to advocate for a human rights system that effectively prevents and sanctions discrimination while ensuring fairness to disputing parties.

 BCCLA submissions can be viewed on line at: [www.bccla.org/othercontent/02hrcommission.html](http://www.bccla.org/othercontent/02hrcommission.html)




## Blood Samples Act

The BCCLA made a submission to the federal Committee studying a private member's Bill that would permit court-ordered testing of a person suspected of carrying the Hepatitis B Virus (Hep B), the Hepatitis C virus (Hep C), or the Human Immunodeficiency Virus (HIV), in circumstances where a health-care worker, firefighter, volunteer, peace officer, security officer, or "good Samaritan" believes on reasonable grounds that she or he may have been exposed to a risk of infection. The BCCLA took the position that the involuntary blood testing scheme proposed by the law would be incompatible with fundamental Canadian values. If passed, the law would:

- violate the bodily integrity of test subjects since invasive blood testing would be involuntary;
- violate the privacy of test subjects by disclosing sensitive personal information about an individual to others without consent;
- implicitly discriminate against certain groups such as intravenous drug users and sexual minorities,
- fall outside the federal government's power to enact criminal law; and
- constitute an unjustifiable infringement of the rights guaranteed by the *Charter of Rights and Freedoms* to all individuals.

The Committee declined to send Bill C-217 back to the Commons for 3<sup>rd</sup> reading. Instead, it has been referred to the Uniform Law Commission, thereby effectively rendering it dead.

 To view the BCCLA's submission in detail, visit: [www.bccla.org/othercontent/02bloodsamples.html](http://www.bccla.org/othercontent/02bloodsamples.html)


## DNA databank proposals

In 1994, the BCCLA released a position paper supporting the establishment of a DNA data bank which allows the police to collect DNA samples from suspects in serious crimes and to access it for specific law enforcement purposes.

In 2002, the BCCLA responded to a new discussion paper from the federal Department of Justice to support a Parliamentary review of the DNA databank scheduled for June, 2005. The Association's response sets out a number of concerns:

- There is a need for increased protection of privacy and clear oversight of the database by the Privacy Commissioner of Canada;


- Mentally disordered offenders require greater protection than other convicted offenders;
- We are concerned about *ex parte* orders to provide a sample where an offender is not represented; we recommended that offenders should have the right to be heard, even if it is after the fact; and
- We recommended a limit of 12 to 24 hours on the detention of a convicted offender for the taking of a sample.

 The BCCLA's complete comments on this program can be viewed at [www.bccla.org/othercontent/02DNAbank.html](http://www.bccla.org/othercontent/02DNAbank.html)  
To view the Association's 1994 position paper, visit [www.bccla.org/positions/privacy/94dna.html](http://www.bccla.org/positions/privacy/94dna.html)

## Lawful Access

In the summer of 2002, the federal Department of Justice released a consultation paper on "Lawful Access." The government proposes that law enforcement and other authorities to be given access to electronic communications networks for eavesdropping on criminals and anyone else the government suspects of unlawful activity. The proposals would require internet service providers to retain their customers' email and internet transaction records as well as to permit their networks to be tapped, the cost of which could be passed along to subscribers. The government justifies the need for this system on the rapid introduction of new technologies they say are making it increasingly difficult for law enforcement and security agencies to monitor telephone conversations and other electronic communications.

The BCCLA took a strong stand against the proposals, which are not justified by either the need to implement the Council of Europe Convention on Cybercrime or by other public policy needs. The government provided no examples of police operations that have been impeded by a lack of lawful access. We are also opposed to proposals that would permit interception and investigation of Canadians' communications on behalf of a foreign government for actions that are not even a crime under Canadian law.

 The BCCLA's submission to the Department can be viewed at [www.bccla.org/othercontent/02lawfulaccess.html](http://www.bccla.org/othercontent/02lawfulaccess.html)

# HIGHLIGHTS / THE YEAR IN REVIEW

## 2001 Annual General Meeting

Over the last couple of years, the Association has sought to host events that will raise the public profile of both civil liberties and the Association. At our Annual General Meeting in 2002, His Excellency John Ralston Saul spoke to an overflow crowd of more than 700 people on the important role freedom of expression, uncertainty, and the voicing of disagreement have for citizenship and democracy. In Mr. Saul's view, loyalty, certainty and inevitability are the enemies of



John Ralston Saul

citizenship and democracy. He told about the detention of his own work (*Voltaire's Bastards*) by Canada Customs. Mr. Saul's talk was followed by a question period on topics ranging from immigration to collective rights to the arms race and its impact on democratic dialogue and beyond. Thanks to law firm Lawson Lundell for sponsoring this event.

Large events such as this provide an important opportunity for the BCCLA to provide public education on important civil liberties topics, create greater awareness of the Association and increase public support for and membership in the Association. As we move into 2003, we will continue to host this kind of event, including a talk by The Honourable Madam Justice Beverley McLachlin, Chief Justice of Canada in November as well as events in June 2003 to celebrate our 40<sup>th</sup> Anniversary. Stay tuned for details.

## Major Victories at the Supreme Court of Canada

### **R. v. Sauve**

In October 2002, the Supreme Court of Canada ruled that a section of the *Canada Elections Act*, which prohibited inmates serving sentences of two years or more from voting in federal elections, was unconstitutional.

The BCCLA intervened in the case, represented by John Conroy, Q.C., to argue that the ban on

voting was unconstitutional for a number of reasons, including:

- its retroactive effect of adding punishment to people who had already been sentenced;
- its unequal effect on different types of prisoners, which could result in one person on parole for a very serious offence being able to vote, while someone still in jail for simple possession of marijuana being denied the ballot;
- the high importance of the right to vote in a democracy; and
- the importance of voting rights in re-integrating prisoners into civil society.

The Court's decision, delivered by Chief Justice McLachlin, emphasized the fundamental importance of the right to vote, a right unlike other *Charter* rights since it is not vulnerable to being overturned by legislatures via the notwithstanding clause. The Court agreed with the BCCLA that the right to vote serves important functions for prisoners continued attachment to civil society. Ultimately, the Court could not accept the government's justification for this law since the law's arbitrariness undermined its symbolic goal of teaching civic virtue to prisoners. Furthermore, the Court found that taking away prisoners' ability to vote did not accord with traditional principles of sentencing such as deterrence, rehabilitation or retribution.

**i** To view the BCCLA factum, visit: [www.bccla.org/othercontent/01sauvefactum.html](http://www.bccla.org/othercontent/01sauvefactum.html)

To view the SCC decision, visit [www.lexum.umontreal.ca/csc-scc/en/rec/html/sauve2.en.html](http://www.lexum.umontreal.ca/csc-scc/en/rec/html/sauve2.en.html)

### **Chamberlain et al. v. The Board of Trustees of School District No. 36 (Surrey)**

Tolerance and respect for diversity were the big victors in this decision by the Supreme Court of Canada in December 2002. At issue was the legality of the school board's resolution refusing approval, as supplemental teaching material, of three books that portrayed families parented by members of the same sex. The B.C. Civil Liberties Association had intervened at trial and the Court of Appeal and was again represented by Chris Sanderson, Q.C. and Keith Bergner of Lawson Lundell before Canada's top court. Our factum was based on provisions in the B.C.



*School Act* which require that schools be conducted on strictly secular and non-sectarian principles and which we argued enshrine the principle of the separation of the church and state into our provincial law. Measured against this standard and *Charter* values of equality, we argued, the decision of the school board, which was admittedly based on the religious and philosophical opposition of some parents to homosexuality, could not stand.

In a clear majority decision (7-2), the Supreme Court of Canada decided that the school board's decision was unreasonable for several reasons:

- the board violated the principles of tolerance and secularism in the *School Act* by not incorporating the interests or experiences of same-sex parented families;
- the board ignored its own policies that require recognition of diverse communities and the needs of those communities; and
- the board ignored provincial curriculum that mandates the teaching of diverse families.

The Court particularly made a point of rejecting the school board's concern that permitting the use of the books would create "cognitive dissonance" since it would undermine the values taught by some parents. Chief Justice McLachlin, writing for the majority, emphasized that dissonance is the inevitable consequence of exposing students to other ways of thinking, such exposure being a primary function of education.

Though not fully accepting our interpretation of the *School Act*, the Court's decision does provide an important check on the use of religious beliefs as a basis for administering public schools. However, the Court's decision remains unsettling as it may provide a crack in the door for those teachers or school board members who wish to import religious beliefs into the schools such as teaching creationism (the belief that God physically created the Earth). More battles likely await.



Murray Mollard and Chris Sanderson, Q.C.

## Drug Law Reform: 2003 Presents Windows of Opportunity

2002 witnessed major changes in the political landscape at both the federal and local levels that suggests that politicians are finally ready, and in some case are pushing, for reform of our drug laws. The BCCLA, starting with our submission to the Le Dain Commission in 1968, has continually fought for an approach that regulates harmful drug use as a matter of health rather than criminal conduct. It appears that the politicians, following the majority of Canadians, finally understand this shift.

In Vancouver, the victory of Mayor Larry Campbell and councillors affiliated with the Committee of Progressive Electors (COPE) means that the harm reduction initiatives, such as safe injection sites, forged under the leadership of outgoing mayor Philip Owen should become reality in 2003. Federally, Parliamentary Committees in both the Senate and the House recommended various forms of decriminalizing marijuana. The Senate proposes more radical reforms of legalization and state-sponsored distribution of marijuana.

Meanwhile, the federal Minister of Justice, Martin Cauchon, promised to introduce legislation on marijuana. This promise caused the judges of the Supreme Court of Canada in November of 2002 to postpone the appeal by three Canadians challenging Canada's marijuana possession laws until the spring term. Not surprisingly, several days after this decision of the court, Prime Minister Chretien announced that the Justice Minister had been hasty, and that the people of Canada may not be ready for such change. Though Chretien has since backtracked and the federal government now appears to be ready to introduce legislation in 2003, the on again-off again political commitment to reform demonstrates how important the Supreme Court of Canada hearing will be.

The BCCLA is set to intervene represented by Joe Arvay, Q.C.

**i** View the case online at [www.lexum.umontreal.ca/csc-scc/en/html/chamber1.en.html](http://www.lexum.umontreal.ca/csc-scc/en/html/chamber1.en.html). Our factum can be found at [www.bccla.org/othercontent/O2scsurreyschoolfactum.html](http://www.bccla.org/othercontent/O2scsurreyschoolfactum.html).

**i** To view the BCCLA factum, visit [www.bccla.org/othercontent/O2marijuanafactum.html](http://www.bccla.org/othercontent/O2marijuanafactum.html). To view the report of the Commons Special Committee on the Non-Medical Use of Drugs go to [www.parl.gc.ca/InfoComDoc/37/2/SNUD/Studies/Reports/snudrp02-e.htm](http://www.parl.gc.ca/InfoComDoc/37/2/SNUD/Studies/Reports/snudrp02-e.htm). The Senate Committee's report is available at [www.parl.gc.ca/37/1/parlbus/commbus/senate/com-e/ill-e/rep-e/repfinalvol1part5-e.htm](http://www.parl.gc.ca/37/1/parlbus/commbus/senate/com-e/ill-e/rep-e/repfinalvol1part5-e.htm).


# CASEWORK / ANOTHER BUSY YEAR

## ACCESS TO INFORMATION

### Government Weakens FOI

The phrase “open government” apparently has a different meaning for the BC government than for most people. In a move widely criticized by freedom of information advocates, including the BCCLA, the government expanded the exemption for cabinet committees under B.C.’s *Freedom of Information and Protection of Privacy Act*. The government did this to include newly created caucus committees as long as at least two members of the committee are also members of cabinet. Because all members of caucus are on at least one of these caucus committees, the effect is to exempt the entire Liberal caucus from FOIPPA.

The BCCLA issued a press release condemning the move, and President John Dixon wrote to Premier Campbell expressing the Association’s strong disapproval of widening the exemptions for cabinet committees. Unfortunately, despite the criticism from the media and groups like BCCLA, the government enacted the provisions exempting these committees.


 The BCCLA press release and letter can be viewed at [www.bccla.org/pressreleases/02cabinetprivacy.html](http://www.bccla.org/pressreleases/02cabinetprivacy.html)

### Cameras in the Courtroom

In 2002, the Supreme Court of Canada was scheduled to hear an appeal of the decision excluding cameras from the *Pilarinos and Clark* criminal trial. The BCCLA obtained intervenor status before the court. A factum was prepared by Board Member Jason Gratl for use by our counsel, Leonard Doust, Q.C. Unfortunately, the Supreme Court decided that the matter was moot because the trial had ended, and no appeal was filed. This is unfortunate because lower courts need direction from the Supreme Court on this issue and it is difficult to get these cases before the top court.

In our factum, the BCCLA took the position that television is THE medium by which most Canadians acquire news and information. As such, TV has an important role for the accessibility and accountability of courtrooms, and thus public confidence in the judicial system. The principle that

the courts are open to the public is a cornerstone of democracy, and should underlie the access provided to the media. Our position is subject to other important interests such as a fair trial and privacy, and we said the balance between these competing interests should be determined by judges hearing applications in specific cases to permit cameras. A judge would be able to order conditions that are appropriate and minimally impair access to the court, similar to the process already used for publication bans. This approach is flexible enough to accommodate new technologies that may be developed. We will continue to advocate this position and seek to get this issue back before the courts.

 The BCCLA factum in this case can be found at [www.bccla.org/othercontent/02camerafactum.html](http://www.bccla.org/othercontent/02camerafactum.html)

## DUE PROCESS/POLICE COMPLAINTS

### Working to ensure the Vancouver Police Department respects civil liberties

While the BCCLA is often first in line to criticize the police for wrongdoing, we also seek to work with police to encourage respect for civil liberties. In 2003, we were involved with several initiatives on this front.

#### *Bait Cars*

In late September, the BCCLA was approached by the VPD, seeking our input on proposed measures for combatting auto theft. The police were planning the use of bait cars outfitted with electronic monitoring gear and cameras plus a remote kill switch for the engine to be operated by an officer. These cars were to be placed in lots with high theft rates, with signs at the entry warning of their presence.

We saw no civil liberties concerns with part of the plan. However, we objected to cars with keys left in them and to engines left running – especially in front of gas stations and convenience stores where youth hang out – fearing this would border on entrapment.

As a result of our input, the police do not use bait cars with keys in the ignition.

Active files	2002	2001	2000
Administrative decision-making	7	2	10
Children's rights	2	3	5
Discrimination	14	7	3
Due process	30	19	17
Freedom of speech and association	27	25	28
Native rights	-	1	-
Patients' rights	3	1	1
Review panels	109*	60	44
Police complaints	40	24	27
Political rights	8	6	7
Prisoners' rights	7	3	6
Privacy and access to information	32	22	29
Private offences	12	10	7
<b>Total cases</b>	<b>291</b>	<b>183</b>	<b>184</b>

\*Amendments to the *Mental Health Act* have been approved by the Legislature but have not yet been proclaimed. When these amendments are implemented, mental health facilities and involuntary patients will no longer choose designates for review panels. Under the new system, the province will appoint all panel members.

### *Invitation to Observe Woodsquat Policing*

In November, the BCCLA Executive met with an inspector from the VPD who asked if the Association would act as 'official observers' if the police were required to remove the squatters' protest from around the Woodward building in downtown Vancouver.

The plan would have involved two BCCLA observers who would be kept around 100 to 200 feet from the inner perimeter while the area was being secured during the initial part of the operation. After the area was secured, BCCLA observers would be allowed to enter the inner perimeter in order to see and hear what was going on. The observers' role could have involved offering advice and suggestions should civil liberty issues arise.

Although we seriously considered the offer, we declined, fearing that we could reasonably be perceived to be facilitating police enforcement rather than simply observing. This would undermine our longstanding role in police accountability and would conflict with our independent status.

In the end, the Woodsquat protest ended peacefully. However, we were encouraged that the VPD indicated a willingness to consider a more tactful and sophisticated response to demonstrations in contrast to their previous slash and burn tactics.

### *Meeting with Internal Investigation Unit*

BCCLA officials met with the entire VPD internal affairs staff who investigate police complaints. We offered our perspective on what constitutes a successful complaint system. In our view, the touchstone for success would be complainants who, after the internal review is completed, would be able to say that the police thoroughly and fairly investigated their allegations and gave sufficient reasons for their decision, even if the complainant disagreed with the result. This would allow complainants to go forward on solid footing to ask for a public hearing. Internal Affairs staff largely agreed with our views.

### **Special Legislative Committee to Review the Police Complaint Process**

The Special Legislative Committee's responsibility to review the police complaint process brought to a dramatic end the tenure of commissioner Don Morrison who was appointed in 1998. Mr. Morrison resigned in the face of allegations of incompetence by staff and former colleagues. Former Alberta judge Benjamin Casson was appointed on an acting basis.

# CASEWORK

The BCCLA has generally been disappointed with the quality of oversight of the police by the Office of the Police Complaint Commission since its creation. The lack of adequate oversight and the controversy involving Mr. Morrison has significantly eroded public confidence in a process critical to a system of accountability for police.

The BCCLA met with the Committee to discuss changes to the *Act* and also with government officials drafting amendments following the Committee's recommendations. But most pressing in our minds is the appointment of a new Police Complaints Commissioner who will be able to restore confidence in the system. Late in 2002, the province announced the appointment of Dirk Rynevelg, Q.C., who has extensive criminal law experience including with the War Crimes Tribunal in the Hague. The BCCLA will seek the earliest opportunity to meet with him to press for action to restore faith in the system.

## PATIENTS' RIGHTS

### Criminal Code Mental Disorder provisions

In April 2002, the BCCLA appeared before the House of Commons Justice Committee during their review of the Mental Disorder provisions of the *Criminal Code*.

The Association focused on the plight of people languishing in forensic psychiatric institutions, in some cases for many years longer than if they had been found guilty.

The Association focused on the plight of accused people languishing in forensic psychiatric institutions, in some cases for

many years longer than if they had been found guilty of the crimes they were charged with committing.

The Justice Committee reported in the spring, and a number of our recommendations were specifically mentioned, including those for the treatment of permanently unfit accused. Unfortunately, the Committee did not accept our submission with respect to proclaiming the provisions of the *Code* passed by Parliament in 1992 regarding the capping of incarceration to the maximum sentence that would have been given under the *Criminal Code*.

The Minister of Justice hoped to have legislation before the House sometime in Spring 2003.

**i** To view the BCCLA submission please see [www.bccla.org/othercontent/02CCmentalhealth.html](http://www.bccla.org/othercontent/02CCmentalhealth.html)

## PRIVACY

### CCRA "Big Brother" Database

The Canada Customs and Revenue Agency (CCRA), has been under attack from civil libertarians, privacy activists and federal and provincial Privacy Commissioners for the creation of a new government travel data base.

This data base, Advance Passenger Information/ Passenger Name Record (API/PNR), requires airlines to provide detailed information on everyone they carry on flights outside Canada. This information can be held by CCRA for as long as six years.

The Advance Passenger Information database includes the name, date of birth, gender, travel document type/number/date of issue, citizenship and/or nationality of passengers, and the Passenger Name Record.

The PNR will include, but not be limited to:

- all the passenger's destinations,
- form of payment for the ticket,
- seat selection,
- number of pieces of baggage checked, and
- date the booking was made.

It is particularly objectionable that this information will be shared with other government departments on demand.

The BCCLA together with six other groups wrote in protest to the Minister of National Revenue, Elinor Caplan. The Association has repeated its objection to this intrusion into personal privacy in press releases, media interviews and submissions to government on other anti-terrorism proposals, and will continue its campaign in 2003. There is some indication in early 2003 that Minister Caplan may reevaluate the database. Whether this is simply posturing or a serious commitment remains to be seen.

**i** The BCCLA's press release and letter to Minister Caplan can be viewed at [www.bccla.org/pressreleases/02travellerdb.html](http://www.bccla.org/pressreleases/02travellerdb.html)

### Police video surveillance

The BCCLA made further submissions to the Vancouver Police Department in response to its "new and improved" proposal to create a video surveillance network in Vancouver's downtown eastside. We remain opposed to this because of privacy concerns and because there is a lack of



sociological data that proves the system would actually reduce crime. As well, we hosted federal Privacy Commissioner George Radwanski for a public address in which he also condemned the proposal. The November municipal election has altered the political landscape for this proposal as Mayor Campbell has gone on public record as doubting the efficacy of video surveillance.

Meanwhile, Mr. Radwanski has launched a *Charter* challenge to the RCMP cameras in Kelowna. Federal government lawyers have challenged his jurisdiction to launch a lawsuit. The VPD has indicated that it wants to await the outcome of the federal action before proceeding with its own proposal. We will continue to resist attempts to impose this dubious technology on citizens walking on public streets.

**i** The BCCLA position paper on video surveillance in public places can be viewed at [www.bccla.org/positions/privacy/99videosurveillance.html](http://www.bccla.org/positions/privacy/99videosurveillance.html)



**WOODWARDS SQUAT** We argued that there was an important aspect of free speech in the conduct of squatters that the court must take into account. PHOTO COURTESY SYLVIA MACHAT

## FREEDOM OF EXPRESSION/ASSOCIATION

### Woodwards Squat

The BCCLA played an important role in the legal proceedings related to the protest for housing which took place around the former Woodward department store in Vancouver. The City of Vancouver applied for an injunction to move the protesters based on a city bylaw that forbids erecting any structures on sidewalks. A number of groups, including the BCCLA, opposed the application.

Leo McGrady, Q.C. acted for the Association, arguing that there was an important aspect of free speech in the conduct of squatters that must be taken into account by the court. As the injunction application was an interlocutory matter, we were unable to argue that a *Charter* violation exists as that can only be heard during the hearing on the merits. Therefore, we argued that the court should take into account *Charter* values like free speech when considering how to exercise its discretion in granting an injunction and the form of the injunction. We urged the court to use its discretion to suspend any injunction, allowing the City and squatters to find some resolution.

The court dismissed all arguments with respect to *Charter* values, citing the minority opinion in the *Committee for the Commonwealth of Canada* case while ignoring the opinions of several justices who recognized that streets and parks are time-honoured places for expression. In the end, the protest was resolved peacefully through negotiations with the City.

**i** To view the BCCLA's factum go to [www.bccla.org/othercontent/03woodwardsinjunction.html](http://www.bccla.org/othercontent/03woodwardsinjunction.html)

### Little Sisters II

Little Sisters Book and Art Emporium will be heading back to court against the Canada Customs and Revenue Agency (CCRA) in June 2003.

The battle was rejoined when CCRA prohibited two publications Little Sisters was trying to import from the United States, claiming they were obscene. The publications in question are volumes 18 and 24 of the gay male comic anthology *Meatmen*. Customs' conduct is reminiscent of that which the Supreme Court of Canada deemed unconstitutional in *Little Sisters I*.

The BC Civil Liberties Association is backing the case with financial, moral and intellectual assistance. Joseph Arvay, Q.C. is again acting as counsel for Little Sisters. As a result of the 2000 Supreme Court ruling, CCRA will have the burden of showing that the material in question is obscene.

However, this case is about much more than whether two gay comics are obscene. We have asked the court for a broader ruling about the nature of

# CASEWORK

ensorship at the border, in light of the continued high-handed conduct of Canada Customs. In early 2003, the court ruled we can bring our constitutional challenge to the obscenity provisions of the *Criminal Code*.

## G-8 Summit

The high levels of security surrounding the G-8 summit meeting in Kananaskis last summer involved the BCCLA in several issues. Vice President John Russell wrote to the Mayor of Calgary urging him to find public space for demonstrators after City Council closed its parks to anti-globalization activists looking for a location for their Solidarity Village. Meanwhile, President John Dixon wrote to Citizenship and Immigration Minister Denis Coderre about the

conduct of Immigration officers based on complaints from Americans who were refused entry at the border and quotes from RCMP officers that they

The high levels of security surrounding the G-8 summit in Kananaskis last summer forced the BCCLA to become involved in several issues pertaining to civil liberties.

would be looking for “tools of civil disobedience” to identify troublemakers.

BCCLA summer student Dave Eby spent the week of the summit in Calgary providing legal information to protesters and reports back to the BCCLA in Vancouver.

On a related note, a number of journalists and photographers were denied press credentials with little or no reason given. The BCCLA has provided assistance to some of these journalists in filing Access to Information and Privacy complaints, and by writing to then-Solicitor General Lawrence MacAulay to account for the actions of police in denying accreditation to apparently legitimate journalists.

## Centralized Editorial Policy at CanWest Global

In 2002, the BCCLA became involved in the turmoil surrounding the centralization of the editorial policy of the Southam newspaper chain (owned by CanWest Global) in Winnipeg. The controversy grew from the requirement that none of the chain’s papers contradict national editorials. Resistance to this policy was linked to the firing of the publisher of the Ottawa Citizen.

BCCLA president John Dixon engaged in a spirited correspondence with CanWest Global president Gordon Fisher over the issue, expressing the Association’s concern that fear among journalists about pursuing stories that contradict national editorial positions might lead to self-censorship and the narrowing of political and social coverage and commentary. For the most part, CanWest remained unrepentant.

The Senate Transportation and Communications committee may be looking at the issue of media concentration later in 2003.

## DISCRIMINATION

### Wall of Shame in Cold Beer and Wine Store

A cold beer and wine store in Vancouver put up a number of photographs of individuals under the heading “Wall of Shame.” The pictures were of people the store identified as “shoplifter” or “bum” at the bottom of each photo. The photos were placed in a prominent location in the store to ensure customers could see the images.

The BCCLA wrote to the manager of the store, setting out the possible legal and ethical issues involved in this display. As a result of the BCCLA’s action, the manager removed the heading “Wall of Shame” and changed the photo captions to “Banned.”

### BCCLA protests American Special Registration

The BCCLA acted immediately when the United States announced “special registration” requirements that would include the fingerprinting, photographing and interviewing of Canadian citizens born in a number of Middle Eastern countries.

President John Dixon wrote to Foreign Affairs Minister Bill Graham to urge that he object to this program because it is discriminatory, because it would impose huge hardships on people born in those countries who have to travel to the U.S. for business or to visit family on a regular basis, and because these provisions would tar individuals solely on the basis of their country of birth.

Minister Graham raised the matter with various American officials, and as a result, both U.S. ambassador Paul Cellucci and Secretary of State



Colin Powell confirmed that the place of birth of a Canadian citizen would no longer automatically trigger the requirements of their special registration program.

The BCCLA continues to maintain a watching brief on this issue, as with all aspects of the so-called war on terrorism.

## PRIVATE OFFENCES

### Surrey Methadone Pharmacy Bylaw

In November 2002, the City of Surrey passed a bylaw increasing the business license fee for pharmacies primarily dispensing methadone from \$195 to \$10,000 per annum. The city claimed the increase was justified by increased costs of policing and by-law enforcement associated with the pharmacies.

In response, the BCCLA met with methadone patients, halfway houses and the affected pharmacies, and has filed a freedom-of-information request regarding the creation of the bylaw.

The pharmacies have filed an application for judicial review of the bylaw on a number of grounds, including its discriminatory effect contrary to section 8 of the *Human Rights Code* and section 15 of the *Charter*. We have retained the services of Derek Creighton to act for us in the pending legal challenge.

## POLITICAL RIGHTS

### Cutback to Officers of the Legislature

At the beginning of 2002, the Select Standing Committee on Finance and Government Services recommended to the B.C. government that the budgets of six of seven statutory officers be cut by 15 to 45% over the next three years. These offices are watchdogs on how the government works. The Committee proposed the following cuts:


- Chief Electoral Officer (45%)
- Child, Youth and Family Advocate (45%)

- Information and Privacy Commissioner (35%)
- Ombudsman (35%)
- Police Complaint Commissioner (30%)
- Auditor General (15%)

The BCCLA worked hard to press for the establishment of several of these offices. In our view, they are critical because they promote good government, regardless of which political party is in power. Many of them have legislative authority to respond to complaints which the BCCLA used to assist with. But where our assistance was usually limited to moral suasion, these agencies have real authority to resolve the complaints.

The BCCLA protested the cuts with press releases, letters to government and media statements throughout the year. Although these agencies were able to carry out their work in year one of the cutbacks (2002), some agencies like the Ombudsman are now narrowing their case loads due to staff cuts. Further cuts in 2003 and 2004 will see further reductions in services.

We will continue to press the government to ensure that these agencies adequately serve British Columbians.

 The BCCLA's press release and letter to Premier Campbell can be viewed at [www.bccla.org/pressreleases/02budgetcuts.html](http://www.bccla.org/pressreleases/02budgetcuts.html)

### Strata Corporation election campaign restrictions

During the 2002 municipal elections, the BCCLA received complaints from residents of strata buildings that the strata corporations had passed bylaws restricting election advertising or canvassing by candidates for office or their workers. Some even prevented condo owners from putting campaign signs in the windows of their units.

The BCCLA wrote to the boards of the strata corporations in question pointing out that the *Canada Elections Act* as well as the *Landlord and Tenant Act* specifically prevent such restrictions by landlords or by strata corporations during federal elections.



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](http://www.bccla.org/acceptance.html)

# REG ROBSON AWARD / PHILIP OWEN



## PHILIP OWEN – 2002 REG ROBSON CIVIL LIBERTIES AWARD RECIPIENT

Mr. Owen's public life spans over two decades. He entered municipal politics in 1978 as a Vancouver Parks Board Commissioner and became a City Councillor in 1986. In 1993, he was elected the 42<sup>nd</sup> Mayor of Vancouver, an office he held for three terms until 2002 when he retired from municipal politics.

The distinguishing feature of Philip Owen's public career for which the BCCLA wishes to pay tribute is his courageous and innovative approach to the drug problems in Vancouver. Working with local health authorities, the federal and provincial governments and with the support of a large majority of the population, he established the Four Pillars Approach to Drug Problems which integrates prevention, treatment, enforcement and harm reduction. His commitment to harm reduction in particular, the most controversial of these pillars, is most noteworthy to the BCCLA. By staying on course with these reforms, Mr. Owen has been instrumental in refocusing Vancouver's approach to treating drug addiction as a health problem rather than merely a criminal issue. In recognition of this achievement, Mr. Owen has also received the B.C. Provincial Health Officers Award, the first non-medical professional to receive this award.

For his commitment to changing public policy in an area of ongoing concern to civil libertarians, Philip Owen is deserving of the B.C. Civil Liberties Association's highest award in our 40<sup>th</sup> year.



The doors to the Portland Hotel's new safe injection site on Hastings Street, waiting to open. JIM BRAUNAGEL PHOTO

*continued from page 5*

offices at 119 West Pender. The restructuring of the BCCLA during this time made it possible for the Association to meet the challenges of its increasing public policy workload. John Dixon's 1985 – 1989 presidency brought unprecedented attention to the Association, partly because of the significance of the issues he raised – human rights related to AIDS, and Canada Customs censorship related to Little Sister's Bookstore – but also because of his eloquent and persuasive defence of civil liberties principles.

Space does not allow me to say much about the BCCLA in the 1990s and beyond, but you are

anyway more aware of our recent past. Like John Russell, subsequent Executive Directors John Westwood and Murray Mollard have amply justified the BCCLA's move to make the Executive Director and the Policy Director significant participants in the substantive life of this Association. Let me close with this comment: from my experience – which started in 1968 when I clipped newspaper articles for the Association in that first big drafty old office – I think today's BCCLA Board and staff are splendid descendants in energy, spirit, talents, and commitment of all those who put this Association together in 1963. We members and friends salute you.

# THE LEGAL COMMUNITY / OUR THANKS

OCCASIONALLY, WE NEED TO GO TO COURT to enforce our rights and freedoms. We are able to do so only because of the countless hours lawyers and students donate to our causes. To them, and to the Vancouver Bar Association who gives us a generous grant to defray disbursements associated with these cases, our heartfelt thanks.

**Joe Arvay Q.C.** and **Irene Faulkner** of Arvay Finlay for their work on the latest round of the battle between Little Sisters bookstore and the Canada Customs and Revenue Agency. This case will be heard in the summer of 2003.

**Joe Arvay Q.C.** and **Matthew Pollard** of Arvay Finlay for representing us as an intervenor before the Supreme Court of Canada in a trio of appeals challenging the constitutionality of the criminalization of simple marijuana possession.

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

**Derek C. Creighton** of the Access Law Group for his work advising the BCCLA on the Surrey bylaw on methadone pharmacies. Mr. Creighton will represent the Association in upcoming litigation in this matter.

BCCLA Board member **Greg DelBigio** of Westlake & DelBigio for his assistance and review of our submission on the federal government's Lawful Access proposals.

**John Dives** of Dives Grauer & Harper for representation on an injunction seeking removal of protesters from the lawn of the Legislative Assembly in Victoria.

**Len Doust, Q.C.** of McCarthy Tetrault LLP and BCCLA Board member **Jason Gratl** of Bolton Muldoon for their work on the BCCLA intervention in *Pilarinos and Clark v. A.G.-B.C.* This case dealt with the question of cameras in the courts.



Leo McGrady, Q.C.



Chris Sanderson, Q.C.

**Leo McGrady Q.C.** of McGrady Baugh & Whyte for representing the Association in the proceedings related to the Woodward squat/protest. Although we were unsuccessful in blocking the injunction application, the protest ultimately ended peacefully.

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

**Chris Sanderson Q.C.** and **Keith Bergner**, both of Lawson Lundell, and **Chris Gora** of Farris Vaughn, for their assistance in our successful 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.

**Rick Twining** of Whitelaw Twining and BCCLA Board member **David Sutherland** of Sutherland and Associates for assistance regarding employee matters.

**Cameron Ward** of Ward & Company for his assistance in an ongoing complaint by the Association and a professor at the University of British Columbia against the Vancouver Police Department.

**Mr. Justice James Williams** (formerly of Smart & Williams and the BCCLA Board) for his assistance in reviewing drafts of our forthcoming Arrest Handbook, while in private practice.

The BCCLA also wishes to thank the following law students for their assistance in research:

- Janet De Vita
- Wanda A. Kelley
- Violetta Kokolus
- Jennifer Marston
- Warren Smith

# 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 and providing advice on general policy and financial affairs.

**Helen Daniels** who 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, who assisted Helen 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.

**Darrin Feist**, for extraordinary assistance in reconfiguring our computer network.

Thanks also to the following individuals for assistance at our Annual General Meeting:

**Bronwyn Bjorkman**      **Kurt Sharpe**  
**Dean Goddard**        **Rick Twining**  
**Katherine Ruffen**

## Staff

**Murray Mollard**, Executive Director

**Lindsay Lyster**, Policy Director (to October 2002)

**Vincent Gogolek**, Policy Director

**Lil Woywitka**, Membership Secretary

**Ingrid Witvoet**, Office Manager (to May 2002)

**Jim Braunagel**, Office Manager

## Students

**Brooke Samis**

**Fairfax Culpepper**

**Christine Gibert**

**David Eby**

## Contractors

**David Eby**, Arrest Handbook Revision Project

**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





# TREASURER'S REPORT / ALAN ROWAN

THIS YEAR, I COULD BE WRITING A VERY DIFFERENT STORY. One fraught with scenes of gloom; darkened offices perhaps, littered with briefs not finished, and echoing of calls not returned. I could be, but am not. Faced with a potential five-figure deficit, the result of slow giving, and an unexpected, large and very late cut to our Gaming Commission grant, our Board members and donors responded magnificently. We raised over \$40,000 in December, putting paid to 85 per cent of the impending deficit, and allowing me, as Treasurer, to sit here today feeling greatly relieved. The Executive and our staff join me in saluting our members and donors for responding so enthusiastically and encouragingly to our call for help.

We continue to function as a result of the generosity of our individual donors, and of the ongoing major support of the B.C. Law Foundation. I must take a moment to recognize this contribution to our core funding, and to again thank Wayne Robertson, karima budhwani and the LFBC Board, and Jeff Scouten, our liaison governor. This is no-strings-attached money, and is so critical to our well-being.



Treasurer Alan Rowan  
PHOTO: ALISTAIR EAGLE

It would be a great relief if our funding from the Gaming Commission were so constructed, and our relationship as open. Regrettably it is not so. My concept of government has always been based upon the (naive?) assumption that it, and the people it employs, work for us. Deepening secrecy now seems to cloud all levels of official doings; accordingly we must view this as “soft funding.” We do need this help to allow us to complete our mandate, and we greatly appreciate the ongoing support of the Commission. We’d just like to experience more of the “open dialogue” we keep hearing about.

Continuing the funding theme, 2002 saw the splitting of our Endowment Fund, with all original bequests going into a trust fund administered by the Vancouver Foundation. We are now receiving income from this investment. The larger portion, re-named the Stabilization Fund, is currently in a cash account at Odlum Brown. The committee, frankly, had cold feet about jumping into a market that was

so confused. This was, arguably, very wise, given the general malaise that marked the investment environment last year. The committee shall be moving into the market this year, on a slow and steady basis.

The people who monitor our financial doings warrant special notice. Chief among these are Katherine Ruffen of Dragomir Breckner, our accountants, and John S. Wilson, who aside from providing us with sound advice, performs our year-end audit *pro bono*. Thanks very much to you both. Every year, we undertake various cases in the courts, in our defence of the rights of British Columbians, and indeed, all Canadians. Although we are often represented by our Executive Director, or our Policy Director – both lawyers – it is usually the case that our interests are carried by outside counsel. This comprises lawyers who understand the value of these cases, and agree to act on our behalf *pro bono* (no fee). The value of this in-kind donation to the Association, and to civil liberties in Canada, cannot be measured. Suffice it to say, we carry a large debt of gratitude for this and once again offer our most sincere thanks.

Although we are often represented by our Executive Director or Policy Director, it is usually the case that our interests are carried by outside counsel. The value of their in-kind donation cannot be measured.

The coming year will see a celebration of our 40th anniversary, as well as a talk by the Chief Justice of the Supreme Court of Canada in the autumn. This will be one of a series of special events, and we look forward to seeing many of you there. Onward!

A handwritten signature in black ink, appearing to be '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, 2002, 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 and 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, 2002, 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 22, 2003



# FINANCIAL STATEMENTS

## British Columbia Civil Liberties Association statement of operations and changes in fund balances for the year ended December 31, 2002

	General Fund	Stabilization Fund	Little Sister's Fund	Endowment Fund	Total 2002	Total 2001
<b>Revenues</b>						
Membership and donations	110,775				110,775	93,971
Law Foundation – operating grant	134,300				134,300	131,241
Specified grants and donations earned	27,759				27,759	37,095
Casino revenue earned	33,986				33,986	5,037
Capital grants earned	4,373				4,373	46,420
Investment revenue	436	11,184		3,192	14,812	15,023
Miscellaneous	3,498				3,498	79,729
	315,127	11,184	-	3,192	329,503	408,516
<b>Expenses</b>						
Salaries and benefits	204,006				204,006	177,390
Rent and utilities	26,558				26,558	27,291
Office operating	18,104				18,104	20,341
Contract services	10,262				10,262	27,901
Insurance, interest and bank charges	2,613				2,613	2,864
Fund raising	10,576				10,576	7,710
Publications and printing	11,548				11,548	9,751
Legal defense	14,393		29,092		43,485	53,217
Miscellaneous	12,894				12,894	7,184
Amortization	6,030				6,030	5,166
	316,984	-	29,092	-	346,076	338,815
Excess (deficiency) revenue over expenses	(1,857)	11,184	(29,092)	3,192	(16,573)	69,701
Fund balance, January 1	5,771	232,901	30,717	93,377	362,766	292,715
Endowment contributions				675	675	350
Interfund transfers	1,703	(623)		(1,080)	0	-
<b>Fund balance, December 31</b>	<b>5,617</b>	<b>243,462</b>	<b>1,625</b>	<b>96,164</b>	<b>346,868</b>	<b>362,766</b>

## British Columbia Civil Liberties Association statement of financial position as at December 31, 2002

	General Fund	Stabilization Fund	Little Sister's Fund	Endowment Fund	Total 2002	Total 2001
<b>Current Assets</b>						
Cash and short-term deposits	68,973	3,045	-		72,018	99,587
GST, interest and other receivables	1,715	658	1,625		3,998	7,073
Due from other funds		43,499	11,822	125		
Prepaid expenses and supplies	11,618				11,618	9,470
	82,306	47,202	13,447	125	87,634	116,130
<b>Non-Current Assets</b>						
Investments		196,260		96,039	292,298	281,697
Lawyer's trust account					-	-
Capital assets	10,936				10,936	12,124
	10,936	196,260	-	96,039	303,235	293,821
	93,242	243,462	13,447	96,164	390,869	409,951
<b>Liabilities</b>						
Accounts payable and accrued liabilities	6,007				6,007	13,291
Due to other funds	55,446					
Deferred contributions	19,450		11,822		31,272	22,798
Deferred contributions related to capital	6,722				6,722	11,096
	87,625	-	11,822	-	44,001	47,185
<b>Net Assets</b>						
Invested in capital assets	-				-	1,029
Externally restricted				94,675	94,675	93,377
Internally restricted		243,462	1,625	1,489	246,576	235,073
Unrestricted	5,617				5,617	33,287
	5,617	243,462	1,625	96,164	346,868	362,766
	<b>93,242</b>	<b>243,462</b>	<b>13,447</b>	<b>96,164</b>	<b>390,869</b>	<b>409,951</b>

## British Columbia Civil Liberties Association statement of cash flows for the year ended December 31, 2002

	2002	2001
<b>Cash flows from operating activities*</b>		
Cash received from general contributions	110,775	93,971
Cash received from specified donations	11,822	
Cash received from Law Foundation – operating	134,300	131,241
Cash received from Casinos	30,720	52,030
Cash received from Law Foundation – other	21,000	41,257
Cash received from Court Award		70,058
Cash received from Canadian Auto Workers	1,000	
Cash received from United Way	3,500	
Cash received from Lawson Lundell	3,500	
Cash received from publications and miscellaneous	3,497	9,671
Investment income received	436	569
Cash paid for salaries and benefits	(204,006)	(177,390)
Cash paid for materials and services	(116,479)	(115,337)
Net cash generated through (used for) operating activities	65	106,070
<b>Cash flow from financing and investing activities</b>		
Cash contributions for Endowment Fund	675	350
Income received on investments	12,888	10,119
Purchased investments	(309,869)	(182,119)
Proceeds on sale of investments	302,606	168,245
Cash paid for services from lawyer's trust	(29,092)	(43,274)
Cash received for capital acquisition		2,290
Cash paid for capital acquisition	(4,842)	(2,290)
Net cash provided by (used for) financing and investing activities	(27,634)	(46,679)
Net increase (decrease) in cash and short-term deposits	(27,569)	59,391
Cash and short-term deposits, January 1	99,587	40,196
<b>Cash and short-term deposits, December 31</b>	<b>72,018</b>	<b>99,587</b>

## Notes to financial statements for the year ended December 31, 2002

### 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.

Effective December 31, 2001 the Board of Director's created a new fund to be called the Stabilization Fund. The 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 Stabilization Fund will normally receive the income earned and received by the Endowment Fund and will receive the surplus of the general fund in any fiscal year. The 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>2002</u>	<u>2001</u>
Cost	63,922	59,079
Less accumulated amortization	<u>52,985</u>	<u>46,955</u>
Net book value	<u>10,937</u>	<u>12,124</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>2002</u>	<u>2001</u>
Balance – January 1	22,799	15,106
Add amounts received in the year	70,218	93,287
Less amounts recognized as revenue in the year	<u>(61,746)</u>	<u>(70,357)</u>
Balance – December 31	<u>31,271</u>	<u>22,799</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>2002</u>	<u>2001</u>
Balance – January 1	11,096	13,843
Add amounts received in the year		2,290
Less amounts recognized as revenue in the year	<u>(4,373)</u>	<u>(3,875)</u>
Balance – December 31	<u>6,723</u>	<u>11,096</u>

### 6. External Restrictions on Fund Balances

All \$94,675 of external contributions to the Endowment Fund must be kept in perpetuity.

### 7. Internally Restricted Fund Balances

The BCCLA Board of Directors has internally restricted \$1,625 balance of the Little Sister's Fund and all of the \$243,462 Stabilization Fund.

### 8. 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.

# MEMBERSHIP REPORT / SUPPORTERS

	2002	2001	2000
Special	218	223	213
Individual	342	330	311
Family (two people)	190	180	146
Organization	9	7	6
Total memberships	759	740	676
Donors only	272	223	334
Total supporters	1,031	963	1,010

## 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. In 2002, we completed a major restructuring of the Endowment Fund by placing it in the capable hands of the Vancouver Foundation who will manage it for minimal cost while returning income to us. We acknowledge with gratitude the following:

### Bequests

Francis Earl Bertram  
Roderick Lionel  
Winona Grace MacInnis  
David Bruce Morgan  
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 Merrill Lathan  
In memory of Chrysta McCarron  
In memory of David Bruce Morgan  
In memory of R.E. Morgan  
(Founding Member)

In memory of Harry Rankin, Q.C.  
(Founding Member and Honourary Director)  
In memory of Roger Robson  
In memory of R.A.H. (Reg) Robson  
(Founding Member and Past President)  
In memory of Rev John Shaver  
(Honourary Director)  
In memory of Karl Siegfried  
In memory of Kay Aronstam Stockholder  
(Past President)

## A Word About BCCLA Supporters

Our members and supporters are the backbone of the BCCLA. They provide a major source of the financial wherewithal to do our job; they also give the Association credibility 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. We are encouraged that in 2002 we reversed the downward trend in total supporters with a modest increase.



## A Special Thanks to Our Long Time Supporters

The BC Civil Liberties Association has done much over the last forty years to defend Canada's fragile freedoms and enhance democracy. But much of this vital work would not have been possible without the extraordinary and faithful generosity of our members and donors. While all of you are deserving of our sincere gratitude, there is a select group who have been there with and for us almost from our humble beginnings. We wish then to pay special tribute to those whose contributions are measured over thirty years and more and who continue to give today.

You are truly our companions for life. To you, our sincere thanks and warm thoughts.

David F. Aberle

Bill Black

Don Brown

Georgina Margaret Brunette

Macdonald Burbidge

Thomas W. Chamberlin

Dr. Garry K.S. Clarke

Larry Cohen

L.B. Daniels

William and Tekla Deverell

F.E. Devito

David J. Donaldson  
and Diane D. Donaldson

J. McRee (Mac) Elrod

Norman Epstein

Dr. J.D. Forbes

John A. Galt

William Giesbrecht

Audrey E. Graham

George M. Griffiths

J. Dwayne Hamilton

Herschel Hardin

Dr. Peter Harnetty

Eileen Hertzman

Lynda Hird

Roger Howard  
and Betty Howard

June Humphreys

Robert Makaroff, MD  
and Shauna Little, MD

Adrian J. Marriage

Thomas A. Meikle

C.L. Mitchell

Margaret Morgan

Ruth Morton

Mary Rawson

Dr. Peter Remnant

John R. Rich

Reg and Monica Robson

Robert J. and Madeline B. Rowan

Roger Seamon

Luis de Sobrino

Basil Stuart-Stubbs

David Suzuki  
and Dr. Tara E. Cullis

Elizabeth B. Walker

Dr. Harold and Linda Weinberg

Tony Williams

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:**

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