

THE DEMOCRATIC
Commitment

JOURNAL OF THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

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Annual Report for 1999

Annual General Meeting

The Annual General Meeting of the BC Civil Liberties Association will be Thursday, March 30, 2000 at 7:30 pm in the YWCA, Room 1 on the 4th Floor, 535 Hornby Street, Vancouver, BC

Guest Speaker: Andrew Coyne, syndicated national affairs columnist for the National Post

The **Fourth Annual Reg Robson Civil Liberties Award**
will be presented in honour of the late **Constable Gil Puder**

Honourary directors

The BC Civil Liberties Association takes pride that prominent individuals from a variety of backgrounds and political persuasions demonstrate their belief in the importance of our work by lending their names to our list of Honourary Directors.

This year, we are especially pleased that former British Columbia Information and Privacy Commissioner, **David Flaherty**, has agreed to lend his support to the Association.

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

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The BC Civil Liberties Association

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Monday to Friday.

Board of Directors

Craig Jones, *President*
Sam Black, *Vice-President*
John Dixon, *Secretary*
Alan Rowan, *Treasurer*
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Murray Mollard, Pam Murray
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The Democratic Commitment is a quarterly publication of the BC 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.

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“[The BCCLA is] a scrupulously non-partisan association—defender of the free speech of bigoted right-wingers and liberal-minded homosexuals—and... [is] a seriously undervalued treasure in our community.

—Stan Persky
Vancouver Sun, March 20, 1999



Brief history of the BCCLA

The BC Civil Liberties Association, which was established in 1962, is the oldest continuously active civil liberties organization in Canada. We are a non-profit, non-partisan organization incorporated under the Society Act, with charitable status under the Income Tax Act.

FROM OUR BEGINNINGS as a small volunteer group that met in members' homes, the BCCLA has grown in size and stature over the years. We now have a modest, four-person office in Vancouver, relatively stable funding and a large and active Board of Directors.

The major areas of our work are:

- assisting individuals to address violations of their civil liberties
- educating citizens about the importance of protecting civil liberties
- encouraging reform of laws and policies which infringe on civil liberties.

In setting policy, the BCCLA Board of Directors carefully weighs claims to rights and freedoms against competing rights and against the public interest. As a result, our views on matters of public importance are often sought by governments, by private sector institutions, and by the media.

When we judge that a law or policy violates civil liberties, our first, second and third strategies are to try to persuade the government or institution to change it. Going to court is expensive and time consuming. However, if all else fails, we are prepared to litigate the issue or intervene in a court challenge.

Casework

THE BCCLA DOES NOT NORMALLY offer legal advice or representation. We mainly offer paralegal and practical advice, help clients to use existing complaints mechanisms and make submissions to government bodies and officials on their behalf. In rare cases we may arrange for *pro bono* counsel to represent a client when there is an important civil liberties principle at stake.

Typical examples of casework are:

- successfully defending a local theatre charged with obscenity for producing the critically acclaimed play "The Beard"
- arranging for counsel for clients facing Police Board hearings into their police complaints
- successfully challenging a provincial government decision to remove abortions from coverage under the Medical Services Plan

- meeting with school officials and school boards on such topics as teaching creationism in science classes, students' access to sex education and random searches of student lockers
- approaching the Police Commission with concerns about high speed police chases, police use of "breach of the peace" powers and videotaping police interactions with citizens
- critiquing the McEwen Report into alleged sexism and racism in UBC's Political Science Department
- sitting as a member of the PharmaNet Committee which oversees some uses of the sensitive prescription information on BC citizens
- attending meetings with clients when they are interviewed by police about their complaints.

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Brief history of the BCCLA

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Public education

THE KEY TO PROTECTING fundamental rights and freedoms is an informed and vigilant citizenry. From the beginning the BC Civil Liberties Association has devoted considerable resources to producing and publishing handbooks, brochures and a quarterly journal; speaking at public gatherings and in the media; and (more recently) taking advantage of the opportunities presented

The police must have legal authority to search somebody or move them along; they do not have that authority... simply because it is New Year's Eve.

—Executive Director John Westwood
Vancouver Sun, December 29, 1999

by the Internet. Our public education efforts have included:

- producing and distributing continuously since 1963 our quarterly journal *The Democratic Commitment*
- publishing and distributing three widely-read handbooks: *Youth and the Law*, *Discrimination*, and *Arrest: Civil Rights and Police Powers*
- conducting two landmark studies, *Ethnic Conflict in Vancouver* and *AIDS Discrimination in Canada*, and distributing reports on these
- publishing and distributing the books *Catastrophic Rights*, on AIDS patients' access to experimental

therapies; *Liberties*, a collection of important BCCLA position papers; and *The Privacy Handbook*, a practical guide to citizens' privacy rights

- writing, translating into four foreign languages, and distributing *The Citizenship Handbook*, a guide to citizenship rights and responsibilities for new Canadians; and a companion brochure "Civil Liberties in Canada ... and How to Protect Them"
- publishing and distributing the brochures "Drug Testing in the Workplace" and "Making a Complaint Against the Police"
- organizing the conference "The Charter: Ten Years After"
- speaking at numerous conferences, workshops and seminars on civil liberties topics
- making numerous presentations in schools
- traveling around the province to speak at public gatherings and encourage the formation of local civil liberties groups
- designing and maintaining a web site (www.bccla.org) containing position papers, legal factums, submissions to governments, press releases and case updates
- appearing numerous times each year in the media.



—Vancouver Sun Editor-in-Chief,
John Cruikshank, speaking
at the 1997 AGM

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Brief history of the BCCLA

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Public policy and law reform

OVER THE YEARS, the Board of Directors has developed 226 policy briefs, which serve as the principled cornerstones for our work. We meet with government and private sector officials to persuade them to change laws or policies which infringe on civil liberties and to develop new laws and policies which protect fundamental rights and freedoms. Our efforts have included:

- playing a major role in the development of the *Human Rights Act*, the *Police Act* and the *Freedom of Information and Protection of Privacy Act*
- making a well-received submission to the Supreme Court of Canada on providing for public interest intervenors in court cases
- advocating for a provincial Ombudsman and Rentalsman
- submitting briefs on assisted suicide and the use of DNA for criminal investigation purposes to the Minister of Justice
- meeting regularly with the Security Intelligence Review Committee, the Information and Privacy Commissioner, the BC Police Commission (now the Police Complaints Commissioner) and the Attorney General.
- testifying before numerous provincial and federal government committees and commissions, including:
 - ◆ Parliamentary committees considering the proposed *Charter of Rights and Freedoms*, the *Canadian Security Intelligence Service Act* and the five-year review of that *Act*, sentencing and corrections reform, the “rape shield” law, regulation of new reproductive technologies and changes to the *Young Offenders Act*

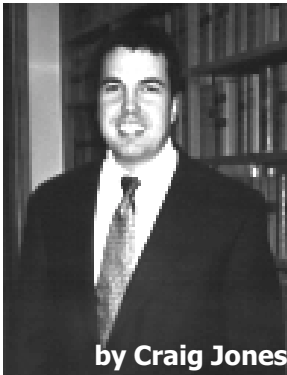
- ◆ Senate committees on assisted suicide and on decriminalization of marijuana
- ◆ the Oppal Commission on policing in British Columbia
- ◆ the MacDonald Commission regarding illegal activities of the RCMP.

When our efforts are unsuccessful, we are sometimes able to go to court, either by arranging for *pro bono* counsel for clients, by intervening in legal cases or by litigating the issue ourselves. Examples include:

- challenging the mandatory features of the former *Heroin Treatment Act*
- providing counsel for two women who successfully challenged mandatory school prayers under the *School Act*
- successfully challenging the lack of absentee voter provisions under the *Election Act*
- launching a constitutional challenge to Canada Customs’ censorship powers
- supplying counsel for a successful challenge to the *Public Service Act* provision giving preference to Canadian citizens
- intervening in:
 - ◆ *R. v. Butler* at the Supreme Court of Canada on the obscenity law
 - ◆ *Trinity Western University v. BC College of Teachers* in BC Supreme Court and at the BC Court of Appeal
 - ◆ *R. v. Cuerrier* at the BC court of Appeal and then Supreme Court of Canada on consent to sexual relations
 - ◆ *James Chaimberlain et. al. v. School District #36 (Surrey)* on religion in public schools.

President's message

The Annual General Meeting of the Association is a good time to reflect on the year before, which has been a busy one, without question. But it's also a good time to reflect on the purpose of the Association, and take stock of why the BCCLA still deserves its place in the public arena after almost four decades.



by Craig Jones

A FEW WEEKS AGO I penned an opinion piece for the *Vancouver Sun*, entitled "The Mayor, the Police, and the Culture of Arrogance". It was critical of what the Association views as the dangerously cozy

relationship between Vancouver city authorities, who have a purely political mandate, and the Vancouver Police Department, which is expected to enforce the laws of Canada.

The tenor of the piece was strident, perhaps overly so considering the usually restrained tone taken by the Association; the reaction, however, was enlightening, and reaffirmed my belief that the British Columbia Civil Liberties Association continues to fulfill its mandate to the people of our community.

A little while later at a social event, I was approached by a BC Judge whom I had never met before. She had seen the article, and took me aside to say "thank heavens you said those things you did. We can't say them, but they need to be said. Whatever you do, don't stop." More surprisingly, we had a couple of police officers call us and say that we hit the nail on the head; there are systemic problems which are not being addressed,

and the resulting confusion hurts everyone, the police included. A flood of letters and calls from the general public reinforced this sentiment.

The praise was welcome, in part because it is rare. Being—very publicly—"contrary to popular opinion" is not an unfortunate side effect of civil liberties work, it is one of its most laudable features. Quite often, threats to liberties arise where politicians, who owe their livelihood to popular support, fear to tread. Though many know what needs to be done, few will step forward to do it, and those that do can expect to be rewarded with either vociferous criticism or profound silence for their troubles. So it has always been.

I have been, over the last year, incredibly proud of the BC Civil Liberties Association, especially during the very emotional debate surrounding the Sharpe appeal dealing with Canada's so-called "child porn" laws. We took a principled stand when to do so meant to descend into the lion's den of call-in shows and church-group debates, not to mention suffering the withering fire of Appellate Judges.

We took the shots and we gave back as good as we got. By the time the issue had wound its way to the Supreme Court of Canada, emotions had cooled, and a



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President's message

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host of editorial writers and former politicians began to openly admit that we were right, that the law was bad, and that it needed to be changed.

Whatever result at which the Supreme Court may arrive, the BCCLA remains bloodied but unbowed, and strongly united in our stand against the cynical populism which led to the enactment of the "child porn" law in the first place.

Leading the charge, as he's so often done before, was BCCLA past-President (now Secretary) John Dixon, the man most responsible for the size 18 shoes into which my tiny feet now disappear. When John took the reins on the child porn issue, it was as if someone had introduced a Gatling Gun on the Plains of Abraham. Now that the matter before the Court is on the verge of closure, John can devote time again to the important work of writing the definitive tome on the topic of free speech, something he's been promising the world for some years now.

As we enter our next year, one of our greatest challenges is dealing with increasingly 'ambitious' municipal politicians. Not happy to grow pale in the shadow of real legislators, some mayors and city councillors from all over the province are taking a bite of demagoguery, and finding it to their taste.

From Burnaby's attempt to ban sales of spray paint to anyone under 20, to New Westminster and Victoria's insistence that convicted druggies stay out of town, to the absolutely mind-numbing attempt

by Langley politicians to force rental tenants to allow random and illegal searches by police officers, city officials or landlords, it seems that our most junior politicians are losing control of their faculties. Not to mention Vancouver's attempts to crack down on people carrying wine downtown on fireworks night and a host of other indignities, large and small.

But that is, of course, just one of the fronts on which we'll be fighting in the year 2000. Some of the others, old wars and new, are discussed in these pages.

As always, we express the deepest thanks to all our members, who are willing to weigh in on the side of principle. Also as always, we owe a special thanks to the many members of the legal and academic communities who have continued to support us through unbelievably generous donations of time, and, often, money.

Most of all, a tip of the hat to our incredible staff, John, Murray, Lil and Pam, who have the unenviable task of making concrete our musings and focusing our efforts to practical ends. Their performance in 1999 has been simply extraordinary.

I hope to meet you at the Annual General meeting!



Craig Jones LL.B.

Brickbats & bouquets

Our second annual reporting of the best and worst defenders of civil liberties in British Columbia.

Brickbats to:

■ **BC Human Rights Commission & Tribunal**

the former for ordering a hearing into a sexual harassment complaint that had previously been rejected by UBC's Equity Office, the latter for losing control of the process, then issuing a decision vastly expanding the scope of sexual harassment.

■ **International Forest Products Limited** for applying for an injunction barring the public and the press from a large area around a disputed logging operation.

■ **New Westminster City Council** for enacting a bylaw banning the sale of drug paraphernalia despite police advice

that no problem exists, and for supporting illegal police behaviour in cracking down on the street drug trade.

■ **Slocan Forest Products Limited** for launching a civil suit against an environmental group to punish and intimidate the group for protesting Slocan Forest Products' practices.

■ **The University of British Columbia** for requiring a pro-life group to pay for extra security for its provocative display, and for supporting a "women only" ad.

■ **Vancouver Police Department** for acting beyond its legal powers to ward off feared public mayhem, and the Vancouver Police Board for its support of such police tactics.

Bouquets to:

■ **All the lawyers in BC who donate their time and talents for *pro bono* work**
Need we add why?

■ **Association of Canadian Chiefs of Police**
For recommending the decriminalization of the possession of marijuana and other controlled substances.

■ **David Flaherty**
for his years of service as BC's Information and Privacy Commissioner, especially his outspoken criticism of privacy invasions.

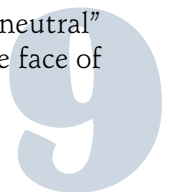
■ **The Insurance Corporation of British Columbia (ICBC)**
For quickly reversing its policy on criminal record checks of employees in non-sensitive positions

■ **Kim Bolan**
the *Vancouver Sun* reporter, for continuing to report on Sikh extremists despite death threats.

■ **Vancouver Police Department/Police Board**
for devoting considerable resources to solving the murders of Downtown eastside women.

■ **Vancouver/Richmond Health Board**
for its creative projects for harm reduction projects in the Downtown eastside.

■ **Victoria Public Library**
for continuing its "content neutral" meetings rooms policy in the face of strong criticism.



Reg Robson

civil liberties award



Each year, this award honours a person or persons who, in the opinion of the Board of Directors, made a substantial and long-lasting contribution to the cause of civil liberties in British Columbia and in Canada.

Constable Gil Puder, 1959 - 1999

GIL PUDER WAS A veteran Vancouver police officer who truly believed that policing is an honourable profession. Though a “good cop” with a sterling 17-year service record as a patrol officer, Emergency Response Team member and use of force expert, Gil viewed his professional duties as subordinate to his responsibilities as a human being, a parent and a Canadian citizen.

He came to believe that the American style “War on Drugs” has been not only an abject and expensive failure in Canada, but as well damaging to the larger community and to the profession of policing itself. Gil spoke from experience, having been a member of the drug squad, having had to kill an addicted bank robber, and having a friend, Sgt. Larry Young, killed by a cocaine dealer in a drug raid gone wrong.

Gil expressed these views in a much-discussed article in the *Vancouver Sun*. He was then invited to present his views at an international forum on drug use, and prepared a paper entitled, “Recovering our Honour: Why Policing Must Reject the War on Drugs.” The paper contains a powerful account of the harm that drug enforcement has had on policing. Among his comments were:

- given the entrenched police culture that rewards arrests rather than community satisfaction, enforcement usually involves “trophy busts” and harassment of poor, hungry people on street corners and filth-strewn alleyways
- drug arrests and arrests for property crimes committed to get money to buy drugs are very easy to make, and earn officers large overtime paycheques for court time.

In response, (then) Chief Constable Chambers forbade Gil from expressing his views at the conference. When the time came, Gil courageously stood up and read the paper. The BCCLA (and Gil, no doubt) was relieved that no disciplinary action followed.

Information about important public policy issues is essential for a vibrant democracy, especially information about the inner workings of powerful state agencies such as the police. Gil put his career on the line to express his views on the impact of the War on Drugs on policing. These views are now a central part of the debate in the public forum, which is exactly where they deserve to be.

Gil Puder recently died of cancer. He is survived by his wife Christine and two sons, Brendan and Jason.

1999 highlights

R. v. Sharpe

The highest profile case for the BC Civil Liberties Association in 1999, and one of the most emotional and difficult for Canadians, was a constitutional challenge to the law prohibiting the possession of “child pornography.” We place that expression in quotation marks because the law goes much farther than banning real child porn.

ROBIN SHARPE WAS CHARGED with possession and distribution of child pornography—stories he had written and photographs of young boys. At trial, he successfully challenged the

constitutionality of the possession law on the grounds that it violated his rights to privacy and freedom of expression. News of this decision created an uproar. Although few had taken the time to read the judgment, people across the political spectrum—police, child advocates, the media, members of all political parties and most citizens—were outraged and called for an immediate invocation of the *Charter’s*

“notwithstanding clause” to reinstate

the law. The trial judge even received a death threat.

The Crown appealed this decision to the BC Court of Appeal and the BC Civil Liberties Association intervened, and

argued that:

(1) We would not oppose a law banning the possession of photographic or video images of real children being abused or portrayed in sexually explicit settings. A crime is committed in the production of such images, and that crime is extended by possession of them.

(2) A law criminalizing the mere possession of ideas is unprecedented in Canada, and threatens one of the most basic freedoms in a democracy: the right to be free from state intervention into one’s private thoughts and opinions.

(2) In criminalizing possession of products of the imagination like stories, drawings, poems; and photographic images of legal sexual activity between youths aged 14 to 17, the law captures far too broad a range of behaviour.

Madame Justices Rowles and Southin, the majority of the Court of Appeal, agreed and dismissed the appeal.

The Crown appealed this decision to the Supreme Court of Canada. We again intervened, making substantially the same arguments as in the earlier case. Decision was reserved.

The “child porn” law was rushed through Parliament in 1993, despite the misgivings of a number of Parliamentarians and legal experts. They thought “better this law than none at all.” Whatever the Supreme Court of Canada decides, we hope Parliament will revamp the law and get it right this time.

The decision does not strike down any Canadian laws that prohibit the sexual interference with minors or children. Any cries to the effect that the court has callously stripped Canadian children of the protection from either sexual assailants or pornographers are baseless.

—Secretary and past President John Dixon
Vancouver Sun, July 2, 1999

1999 highlights

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New Westminster police complaint

THOUGH NEW WESTMINSTER was once a quiet suburb of Vancouver, the construction of SkyTrain has created in the municipality some ‘big city’ problems, notably a flourishing street drug trade. In response to public pressure, City Council gave police extra resources and *carte blanche* to deal with the problem. Over a period of several weeks, police cracked down on street drug dealers and other suspicious characters, using tactics designed to make life so uncomfortable for them in New Westminster that they would move elsewhere.

The crackdown was video-taped by a local TV station and broadcast on the news. The BCCLA viewed the tapes, and was so disturbed by police tactics that we filed a policy complaint, on our own behalf, against the police. Among our concerns were that police:

- (1) failed to require the TV station to fuzz out identifying features of those in contact with the police
- (2) entered private dwellings on the coattails of immigration and health officials, without a warrant or consent
- (3) used choke holds to take down suspects on the street
- (4) detained suspects without cause, and “escorted” them out of town using police vehicles and taxis
- (5) said that the problem was due to “Hondurans”, thus unfairly stigmatizing

law-abiding people from Honduras and others in the Latin American community.

A lengthy investigation conducted by another police force found that some of our complaints were well-founded, while others were not:

- (1) police were wrong in failing to ensure that identifying information was fuzzed out of broadcast footage
- (2) investigators were troubled at how police gained entrance to private dwellings and recommended changes to policy to ensure informed consent
- (3) legal “throat holds” rather than choke holds were used to prevent suspects from swallowing drugs. However, our complaint did prompt police to institute a policy banning choke holds
- (4) evidence existed of only one instance of using police vehicles to “escort” suspects out of town. We continue to press them on the propriety of using “breach of the peace” powers to detain suspects, and
- (5) police have begun work with the Latin community to avoid racial tensions.

The BC Civil Liberties Association is satisfied that the investigation was fair and thorough. When, as here, there is wide public support for police to do what is necessary to deal with a problem, the potential increases for police to exceed their legal powers. At such times citizens’ vigilance is crucial.

1999 highlights

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Vancouver police overstep their legal powers

IN A REMARKABLE SERIES OF EVENTS last year, the Vancouver Police Department assumed extraordinary—and in our view illegal—powers to address so-called threats to peace and good order. Their actions included:

- arresting and detaining a peaceful anti-Serb protester, on the grounds that arresting him was less likely to result in a breach of the peace than protecting him from the violence threatened by Serb protesters
- searching handbags and backpacks of hundreds of Symphony of Fire attendees for

alcohol, simply because they were headed for the event

- threatening anyone intending to go downtown for the New Year's celebrations that they "better have a place to go" because police wouldn't allow them to congregate on city streets.

In the latter two cases, police justified their actions by claiming they feared another Stanley Cup riot. And in all three instances both the Vancouver Police Board and the Mayor backed up police actions.

It is colossal arrogance on the part of the police to assume such Orwellian

powers and to expect that citizens will be cowed into subservience by the mere mention of the Stanley Cup Riot. And one can't help but shake one's head at the *Alice in Wonderland* logic behind arresting a peaceful protester because others are threatening him. We wish we could rest assured that these were the aberrant actions of individual officers, but they are actually Vancouver Police Department policy.

Where can citizens look for relief from such oppressive police policies? The *Police Act* provides for policy complaints, but the trouble is that they must be directed to the Police Board, which the Mayor chairs. In most cases, it would be appropriate for the Police Board to receive and respond to policy complaints, but here police acted with not only the support but also the encouragement of the Board and the Mayor. Not much of an impartial review, and the Police Complaints Commissioner can do little but make recommendations to change policy and report the recommendations in his annual report.

The BCCLA does not want to risk damaging the careers of individual officers by lodging conduct complaints, since the officers were just following VPD policy. What we want is a recognition by the VPD that in these cases it exceeded its legal authority, and a commitment to obey the law in the future. We will work towards this goal in 2000.

It is colossal arrogance on the part of the police to assume such Orwellian powers and to expect that citizens will be cowed into subservience by the mere mention of the Stanley Cup Riot.

1999 highlights

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APEC Hearings

WITH GREAT RELIEF, the BCCLA and other parties in the APEC hearings put the fiasco of 1998 behind them and under the sure hand of new Commissioner Ted Hughes turned to the business at hand: looking into the conduct of the RCMP during the APEC conference in November, 1997.

The Commission heard most witnesses over the course of the year, including students, police officers and government officials. The most important issue for the BCCLA is whether in restricting protests the RCMP violated the expression rights of the protesters, and if so whether it did so for political motives. The allegation that police were influenced by government officials to restrict protest beyond what was required for security purposes goes to the

heart of the relationship between the police and the citizenry in a democracy.

We were extremely fortunate to be represented **Michael Doherty** of the British Columbia Public Interest Advocacy Centre. As our counsel, Michael attended every day of the hearings and kept the Association's concerns before the Commission. Michael's time represents a huge contribution from BC PIAC to the Association and we are most grateful for it. Testimony will continue into early 2000, with final submissions by mid-year.



—The BCCLA's counsel at the APEC hearing, Michael Doherty

Federal government secrecy

IN A RELATED CASE, the BCCLA took the lead in challenging the federal government's refusal to disclose documents to the RCMP Public Complaints Commission. The government claimed that to release them would harm law enforcement, national security or international relations. **Rick Twining** of the firm Whitelaw Twining acted as legal counsel for us in this

matter and made a strong submission in Federal Court on our behalf.

Although we do not expect the court to order the disclosure of all documents, judges should at least review the documents and assure themselves that the harms test has been met before making a decision, a practice which is at present unfortunately rare. Decision was reserved.

1999 highlights

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Reprinting *The Citizenship Handbook*

The Citizenship Handbook
A GUIDE TO DEMOCRATIC RIGHTS & RESPONSIBILITIES FOR NEW CANADIANS



The cover of the English version. The handbook is also available in Chinese, Punjabi, Spanish and Vietnamese.

IN 1998 WE PRODUCED and distributed 10,000 copies of the immensely popular *The Citizenship Handbook: A Guide to Democratic Rights and Responsibilities for New Canadians*. The book, which is available in five languages, introduces new Canadians to their responsibility to become active citizens in their new home, and to their rights as citizens in a democracy.

Since in 1999 requests for the book continued to pour in, we received funding to print another 10,000 copies. With the assistance of a network of immigrant service organizations we were able to

satisfy the immediate demand, and have enough copies on hand to last for the next 2-4 years. We are most grateful to the following for their financial support of this project:

- The Vancouver Foundation
- The Law Foundation of British Columbia
- BC Gaming Commission
- BC Ministry Responsible for Multiculturalism and Immigration
- Department of Canadian Heritage
- VanCity Savings and Credit Union

The book is free, and copies are available from our office (604) 687-2919.

British Columbia's new High Risk Offender Program

THE ATTORNEY GENERAL has put a new program in place to deal with high risk offenders—both those being released from prison and others already in the community. Following Manitoba's lead, it created a High Risk Offender Community Advisory Committee, composed exclusively of criminal justice personnel. Files on potentially dangerous persons are assessed by Ministry staff, and sent to the Committee with recommendations. The Committee decides whether a community notification is warranted, and/or if conditions on the person's liberty under sections 810.1 or 810.2 of the *Criminal Code* should be sought from a court. The Committee's recommendations are forwarded to police, who are responsible for notifying the community or seeking court-ordered conditions. If police follow the Committee's recommendations, they

are indemnified against civil action.

The BCCLA has no principled objection to the program, although we expressed concern about the Committee's make-up and the fact that decision was by a majority vote. The committee responded by requiring consensus for a decision, and explored with us the possibility of adding offenders rights advocates to the Committee. This has not happened, because some Committee members are opposed to the idea, and because no advocates have stepped forward.

In the course of discussing the program, strong concern was expressed about sections 810.1 and 810.2 of the *Criminal Code*. They allow a court to place restrictions on a person's liberty when it judges that the fear the person will commit a violent or child sex offence is reasonable. This issue will be taken up by the Association in 2000.

New positions

Video Surveillance of Public Places

THIS YEAR, THE VANCOUVER Police Department proposed installing first 16, then after further thought, 25, video cameras in the Downtown Eastside. The initial cost, they say, would be borne by local merchants. The cameras would be police-operated, pan streetscapes and be able to zoom in on individuals with enough detail to identify a tattoo or the title of a book. The aims of the new surveillance scheme are preventing criminal acts, deterring potential criminals and securing convictions.

Video surveillance has been tried in a number of cities around the world, with mixed success. Some of them report reduced crime, while others have abandoned the experiment. The benefits are dubious. Even where street crime is reduced in one area, it may only be driven out of the cameras' range to another public area or indoors.

On the other side of the ledger, the threats to privacy are substantial. At first glance one might suppose that we have no right to privacy in public spaces—when we walk down a city street, we understand that anyone can observe our behaviour. Yet with video cameras we do not know whether we are being observed, and do not know when to adjust our behaviour. Moreover, it would be agents of the state who are watching us and recording our activities. This raises the stakes significantly. Finally, we need not be doing anything wrong in order to suffer a loss of privacy—we lose privacy when police surreptitiously watch and record (perhaps to their amusement) our

visit to a hair replacement clinic, a psychiatrist, or a Health or Needle Exchange van.

The BC Civil Liberties Association does not oppose street video surveillance in all cases. However, before we would support a surveillance scheme like the one proposed by the Vancouver Police Department, they would have to ensure that:

- (1) a serious harm exists that would be addressed by surveillance
- (2) no less invasive means of addressing the harm exists
- (3) public notification of the areas of surveillance is provided
- (4) there is oversight ensuring that the tapes are used only for crime reduction purposes
- (5) on balance, the benefits of the video surveillance outweighs the resultant loss of privacy.

In the case of the Downtown Eastside, the BCCLA is skeptical that video surveillance will reduce, rather than simply displace, street crime. Residents are split as to whether any gains in safety outweigh their loss of privacy; and the issue of controls over the use of the tapes for other purposes has not been addressed. We therefore oppose the Vancouver Police Department's proposal.

But surely the burden of proof falls on those who offer us security as a consequence of video surveillance, given that there is no question that we will purchase it at the cost of privacy.

—Board member Dale Beyerstein
Vancouver Sun, June 23, 1999

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New positions

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Secure Care: protecting children at risk

PARENTS, POLICE AND CHILD care workers are frustrated by their inability to help children who live on the street or work in the sex trade. In 1998, the government appointed a committee to look into possible solutions. The committee suggested legislation to allow authorities to detain these children for a 72 hour period to assess their needs and create a plan of care. The province asked the BCCLA to comment on the proposed legislation.

Forced care or treatment of competent adults is repugnant. However, we allow intrusions on the autonomy of children, depending on the age and mental health of the child. For example, children under 14 cannot legally consent to sex, those under 16 have limits placed on their right to enter into contracts and those under 18 are barred from adult theatres and bookstores.

Children subject to this law would be very young and in dire straits: not in school,

drug or alcohol addicted, possibly compromised by fetal alcohol syndrome, unable or unwilling to rely on family for support, prostituting themselves and at risk not only for sexually transmitted diseases but assaults by “johns” or their pimps and unwilling to access the services already in place.

The BCCLA does not oppose “secure care”, so long as strict conditions are met. These conditions include:

- a full range of services is available
- the “child” is under the age of 16
- there is an imminent risk of serious harm, and no less intrusive way to address it
- the child is apprised of her rights and has access to legal counsel
- a detention is reviewed as soon as possible by a court or the Children’s Commissioner, and
- detention does not exceed 72 hours.

HIV testing of accused rapists

THIS YEAR, THE Board considered whether a person who is sexually assaulted, in a manner in which HIV transmission could have occurred, should have the right to ask a court that the accused be tested for HIV.

The arguments for granting courts this power are that (1) the information can be crucial for the victim in deciding whether to change her lifestyle because of the possibility of being infected; (2) the information could ease the fears of a victim if the accused tests negative, or allow her to begin treatment if the

accused tests positive; and (3) the person charged with assault already has diminished rights, and forced HIV testing is only as invasive as, for example, a search of his home.

The arguments against forced testing are (1) that it, like any forced medical treatment is abhorrent; (2) the person has not been convicted and is presumed innocent; and (3) given the “window period” in which an infected person will

HIV testing continued on next page ➔

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New positions

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test negative, the benefit to the victim is substantially reduced.

In considering this question, the Board sought the advice of an expert in epidemiology. We learned that there is a “viral load” test for HIV which is extremely accurate 3-5 days after exposure. Although the test is more

expensive than the standard test for antibodies, testing the victim would allow her to know with virtual certainty whether she had been infected. However, the Board decided that, since the issues around testing are parallel between victim and accused, forced testing of the accused can not be justified.

VGH bubble zones

THE BCCLA SUPPORTS, in principle, the *Access to Abortion Services Act*, provincial legislation that allows the creation of ‘bubble zones’, or no-protest areas, around free-standing abortion clinics. Women’s right of access to abortion services and their privacy interests outweigh the limited curb on expression.

However, we learned in 1999 that Cabinet had approved a new bubble zone around the Surgical Daycare Unit at Vancouver Hospital. We questioned the need for the bubble zone since few abortions are performed in the hospital itself and the vast majority of operations in the clinic are not abortion-related. Women who use the hospital’s abortion services can not be identified by the few protesters, and so are not harassed and intimidated by protesters. Thus, the rationale for bubble zones around Everywoman’s Health Clinic, that protesters know why any woman is entering, do not apply.

When we asked the hospital and the provincial government what information VGH supplied to support its request for a bubble zone, we received virtually nothing. Both insisted that, given the violence and fears surrounding the issue, they would not supply information. A request for the information under the *Freedom of Information and Protection of Privacy Act* yielded little, aside from an assurance that the few incidents involving protesters which had been described to us were the basis for granting the bubble zones.

We concluded that in the absence of any evidence that protesters were harassing and intimidating women who sought abortion services at VGH, the bubble zone violated the expression rights of pro-life protesters. We further concluded that the secrecy of the process for establishing bubble zones is unnecessary, and a violation of the access to information rights of all citizens.

Meetings & delegations

As part of both our public education and law reform activities, the BCCLA attends numerous meetings and gives presentations to a number of groups throughout the year. Among the officials and groups we met with in 1999 were:

- Vancouver Public Library Board on access to meeting rooms by hate groups
- legislative review committee regarding the *Police Act*
- the Downtown Eastside Residents Association (DERA) on video surveillance
- various government officials, including:
 - ◆ Police Complaint Commissioner
 - ◆ (former) Vancouver Police Chief
 - ◆ Information and Privacy Commissioner
 - ◆ the Prime Minister's Task Force on the Western Provinces
- The International Conference on Administrative Law on the independence of tribunals
- UBC Law class on personal information and privacy
- several Law 12 classes on various civil liberties issues
- Vancouver Area Drug Users Network (VANDU) on policing issues
- two "Philosophers Cafes" on privacy and on harassment policies
- Justice Institute of BC on community notification of sex offenders
- UBC Humanists Association on censorship
- Langara College journalism students on human rights law
- regular participation on the PharmaNet Committee
- SUCCESS Youth Opportunities group on civil liberties
- mental health workers on police complaints
- Canadian Memorial Centre for Peace on child pornography
- Ministry of the A-G regarding regulation of private security personnel
- SFU Political Science class on CSIS.

Casework

	1999	1998	1997
Administrative Decision Making	5	7	4
Children's Rights	6	7	5
Discrimination	4	5	5
Due Process: Legal	19	20	20
Freedom of Speech & Association	34	40	16
Patients' Rights	1	1	2
Patients' Rights: Review Panels	30	49	58
Police Complaints	42	35	28
Political Rights	8	8	9
Prisoners' Rights	6	8	5
Privacy & Access to Information	34	42	34
Private Offences	4	5	5
Total Cases	193	227	191

Note: The Association's case acceptance policy is available on-line at www.bccla.org/caseaccept.html or by calling the office.

Freedom of speech & association

Billing demonstrators for police services

AS REPORTED IN THE 1998 Annual Report, the BCCLA continued to press for changes to the City of Vancouver's policy and the Vancouver Police Department's practice of billing for police services during political demonstrations using city streets. To our satisfaction, the City and police have backed off this practice and are currently redrafting bylaws to respect freedom of

expression while permitting some form of regulation. Our attention will now turn toward the City of Surrey where this obnoxious practice continues. In a related development, BCCLA submissions to the City of Victoria in 1999 have helped to ensure that organizers of the annual Earthwalk event are not subjected to prohibitive bills for policing the event.

Demonstrations are a time-honoured way in which citizens can participate in the political process and a thing we should encourage. We shouldn't be setting up roadblocks for citizens to express their views. Billing will do just that.

—Policy Director Murray Mollard
This Magazine, July/August 1999

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Casework

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UBC pro-life displays

IF THERE IS ANY INSTITUTION in society that should understand the importance of the free expression of ideas, it is a university. Yet two incidents that arose at the University of British Columbia when students tried to publicly display pro-life messages caught the BCCLA's attention in 1999.

In the first incident, a campus pro-life club arranged for an American pro-life group to bring a large display to the UBC campus. The display included large images that would have been offensive to many. UBC agreed to allow the display, but required a \$10,000 deposit from the group to cover extra expenses involved in providing security. The University reasoned that violence against the display and the group was

a distinct possibility, and extra security personnel would be required. The US group refused to put up the money, and the display was never brought to campus.

When the student group complained to the BCCLA, we wrote to the University

objecting to the requirement to pay for extra security. Even though the display would have been provocative, it is not the group that threatened violence but others who oppose its message. It is unfair to the group to charge them for others' threat of violence. Such a practice would effectively prevent the expression of controversial groups' ideas on campus. Although UBC stuck to its guns, it has set up a committee to look at constructing a policy to deal with such issues in the future.

In the second incident, the same small group set up a display outside the Student Union Building. The display was promptly demolished by three Executive members of the Alma Mater Society, UBC's student society. The pro-life group alleged that when they complained to the AMS, they were jeered at, and no action was taken against the three Executive members. The students also complained to the President's Office and to the police, but had received no response by year's end. We wrote to the AMS offering to talk to them about freedom of speech, but not surprisingly have received no reply. The group has retained a lawyer to press the police to act and to consider civil action.

I personally think that UBC students are tough enough that they wouldn't break down into a sobbing mess of jelly if they saw these things [photos of aborted fetuses].

—President Craig Jones
Vancouver Sun, October 1, 1999

SLAPP suit in the Kootenays

A "SLAPP" lawsuit, or strategic litigation against public participation lawsuit, is typically brought by a corporation against citizens who oppose the corporation's activities. Often, there is no real attempt to pursue the litigation, which generally has little merit—the aim is to intimidate and harass the group.

When some individuals and groups protesting a local forest company's logging operations in the Kootenays

began interfering with the company's logging operations, the company sought and received an injunction against such activity. Although the environmental group involved obeyed the injunction, the company filed a lawsuit alleging nuisance, conspiracy and interference with business interests. The group appealed to the BCCLA for assistance in defending itself against the law suit, and we are seeking a lawyer to represent them.

Casework

continued from previous page

Can professional bodies censor their members' speech?

A PROFESSIONAL PERSON approached the BCCLA with concerns that a new policy of his professional regulatory body unduly limited the free speech of members. The policy was created in response to a complaint to the professional body about our complainant's comments on a controversial issue. Although the policy encourages members to participate in discussions on matters of public importance, it forbids them from claiming to represent the professional

body or the profession as a whole unless they have specific authorization to do so. It also reminds them to refrain from becoming involved in "unseemly dialogue".

Since no action under the policy had been taken, and since we judged the requirement not to speak for the profession or the professional body without authorization to be reasonable, we declined to accept the complaint. Should a complaint about an actual application of the policy be brought to our attention, we would re-open the file.

Due process

Reporter claims CBC Ombudsman unfair

A CBC TELEVISION REPORTER alleged that the CBC Ombudsman's handling of a complaint against him was unfair. The Ombudsman had upheld a complaint that the reporter had treated a news subject unfairly and misrepresented the subject's stated views.

Since the BCCLA was not in a position to second-guess the Ombudsman's findings, we concentrated on the process. If, as alleged, the Ombudsman did not give the reporter an opportunity to present his information and perspective, then the process was unfair. We were also concerned about bias—the Ombudsman and the reporter apparently

had had previous run-ins, which made it seem that the decision was not sufficiently impartial. We made recommendations to the CBC for improving the mandate and independence of the Ombudsman and his accountability to the CBC and to the public at large.

We did not find that the office of the CBC Ombudsman violates the free speech rights of reporters or the public. The office is more of an internal quality control mechanism than a censor, especially given that the Ombudsman relies on moral suasion, and has no order-making powers.

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Casework

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American powers on Canadian soil

IN AN EFFORT TO COOPERATE with American authorities, the federal government sought to pass *Bill S-22, The Preclearance Act*, legislation that would give US Customs agents sweeping powers to search and detain Canadians on Canadian soil, for as little reason as refusing to answer a question.

Following the lead of the Canadian Bar Association, we wrote to the government

expressing concern about the extent of the powers granted to foreign authorities. The government responded by making significant changes to the legislation. For example, Canadians are permitted to refuse to answer questions without fearing detention, though they may have to forego the opportunity to travel to the States.

Political rights

Bill 88

BILL 88 REQUIRES candidates for political office in municipal government to use their real names on candidate registration forms and to post a \$100 refundable deposit. A citizen complained to us that the deposit unduly restricted poor people from running for municipal office, and the requirement to use one's real name unnecessarily eliminated the opportunity to satirize

issues or the process itself.

We disagree. A deposit of \$100 is not so steep that low income persons who are serious about the election would be barred from running. And the inability to have a good laugh or poke fun at the election process by registering under bizarre or ridiculous names is not an unreasonable restriction. Candidates should take the election process seriously.

Challenge to the *Election Act*

AS NOTED IN THE 1998 Annual Report, the BCCLA, represented by **Art Grant** of Grant Kovacs Norell, intervened in a challenge to BC's *Elections Act* limits on third party spending on advertising during elections and opinion poll reporting restrictions. We argued that the effect, if not the intent, of the legislation was to give existing political parties a virtual monopoly on defining the most important issues during an election

campaign.

The court reserved its decision and we await the outcome in 2000.

Editor's Note: In its February 9, 2000 decision, the Supreme Court of British Columbia found that the restrictions on polling and advertising violated freedom of expression and the press, and that these restrictions could not be justified in a free and democratic society; i.e., We won! We await word of an appeal by the government.

Casework

continued from previous page

Privacy

Bill C-6

BILL C-6, THE FEDERAL *Personal Information Protection and Electronic Documents Act*, will protect the privacy of clients and employees in the private sector. Although initially it will apply only to federally regulated agencies like banks, airlines and insurance companies, after three years, it will be extended to all private sector agencies engaged in commercial activities now under provincial jurisdiction—unless the provinces enact their own comparable privacy laws. The Bill is expected to receive final approval in 2000.

The *Act* will regulate the collection, use and disclosure of personal information. Based on the fair information principles of the Canadian Standards Association Model Code for Privacy. It responds to the European Community Directive prohibiting EC nations from sharing personal information with countries lacking strict privacy codes. The *Act* will be enforced by the Privacy Commissioner of Canada. In some circumstances, complainants will also be able take

grievances to the Federal Court.

The BCCLA played a major role in discussions leading up to the passage of Bill C-6. We were involved extensively in consultations with Industry Canada and testified before the Standing Committee on Industry urging changes to earlier drafts of the Bill. After the bill was passed by the House, the BCCLA testified before the Senate Committee reviewing the legislation and urged the Senate to pass it without amendments. Unfortunately, the Senate yielded to lobbying from the health industry and recommended temporarily exempting personal health information from coverage. We fear the health sector will end up with a separate, and weaker, privacy code. In 2000, we will continue to battle for passage of the original Bill C-6.

In a related effort, we have begun consultations with the provincial government on legislation to protect privacy in the rest of the private sector in British Columbia.

Casework

continued from previous page

Discrimination

UBC advertises for female only applicants

THE BCCLA'S POSITION ON affirmative action is that preferential hiring is in almost all cases unacceptable, the only exception being where there is strong evidence of ingrained bias that has not been remedied by less invasive means.

When the UBC Department of Physics and Astronomy advertised a position open only to women candidates, we contacted the Department Head. He insisted there was no bias in the Department, and explained that the position was funded by a federal government program designed to increase women's presence in science faculties.

We wrote to the UBC Board of

Governors opposing UBC's acceptance of the funding under these conditions. The Board responded by asserting that the advertisement was consistent both with UBC's policy on equity and with human rights legislation. The Board also defended the practice by noting that the percentage of women teaching in the Physics Department was lower than in other Science faculties and lower than the percentage of female students.

In our view these responses miss the point: some ideal percentage of members of a disadvantaged groups in a profession is not a goal to be attained by unfairly discriminating against others. The cure is worse than the disease.

Private offences

Panhandling prohibitions

WE CONTINUED TO actively oppose municipal prohibitions on panhandling in 1999 by speaking out in the media against these laws. This year, the City of Victoria added its name to the growing list of cities seeking to prohibit begging in BC. In response, the BCCLA made submissions to the City of Victoria to amend some provisions within the proposed bylaw, without success. A legal challenge to Vancouver's bylaw by a group of anti-poverty organizations is set for 2000.



Board of Directors

AT ITS MONTHLY MEETINGS, the BCCLA Board of Directors sets policy on the many civil liberties issues which come before it. Discussion papers or draft briefs are studied and often revised during debate before a position is adopted by majority vote. Since 1962 the BCCLA has accumulated 226 position papers. Summaries of our major positions are available on our web site (www.bccla.org/positions/positions_index.html). The Board is also responsible for oversight of the budget, and for direction of our legal cases.

In 1999 changes to the Board,

- **Harbans Dhillon** resigned when she was appointed to the Provincial Court bench
- **Patrick Smith** stepped down after many years on the Board
- **Alayne Fleishman** (law student), **Stephen Katz** (tax consultant), **Ann Pollak** (lawyer) and **Dino Rossi** (student) were appointed to the Board.

We express our deep appreciation to Harbans and Patrick for their huge contribution to the BCCLA over the years.

In 1999 a new committee was struck: the Legal Defense Fund Committee. The purpose of this Committee is to raise funds for the disbursement expenses for

our legal cases, and to advise the Board on the availability of these funds for legal cases.

Members of the Legal Defence Fund Committee are: **Stephen Katz**, **Alan Rowan**, **David Sutherland** and **Alan Twigg**.

Through its Executive Committee, the Board supervises the day-to-day work of staff, interprets policy as it pertains to current issues, makes decisions on the allocation of resources, and participates closely in the Association's substantive work.

Important changes to the Executive Committee in 1999 were:

- **Andrew Irvine** stepped down as President
- **John Cox** stepped down as Treasurer
- **Craig Jones** was elected as our new President
- **Alan Rowan** was elected as the new Treasurer.

The BCCLA owes an enormous debt to Andrew for his steady hand at the helm and wonderful ability to draw the best from fellow Board members, and to John for his many years ensuring the Association's financial ship sailed smoothly.

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Volunteer legal counsel

THE BCCLA IS NOT primarily an organization that looks to legal responses to perceived civil liberties infringements—we prefer education and principled argument as means to persuade government and private sector institutions to honour civil liberties principles. However, with the advent of the *Charter of Rights and Freedom*, more and more civil liberties issues are being decided in the courts. In some instances, if we want to have an impact, we must have the legal resources to go to court.

Except in rare circumstances, we do not have the resources of our own to go to court. Thus, the donation of their time and expertise of lawyers willing to represent the BCCLA on a *pro bono* basis is a huge asset. This not only allows us to intervene in cases where we have a unique perspective to bring to the court, it allows us to go to court on our own behalf when no one else has desire and the resources to do so. Further, the mere existence of the ability to take legal action gives us clout in persuading governments to honour civil liberties principles.

We wish to express our deep appreciation to the following lawyers who represented the BCCLA on a *pro bono* basis in 1999:

Timothy Delaney of Lindsay Kenney, who represented the BCCLA as an intervenor in *Trinity Western University v. BC College of Teachers*

John Dives of Dives Grauer Harper, who represented us in an application in BC Supreme Court to intervene in a challenge by an environmental group to a “bubble zone” injunction

Michael Doherty of British Columbia Public Interest Advocacy Centre, who represented the BCCLA at the APEC hearings

Bruce Elwood of Blake, Cassels & Graydon, who along with **John McAlpine, QC** (McAlpine Dundmunseth Mickelson) and **Richard Peck, QC** (Peck and Company) represented the BCCLA in beginning a challenge to a New Westminster bylaw

Art Grant of Grant Kovacs Novell and **Heather Neun** of Lesperance Mendes Mancuso who represented the BCCLA as intervenors in a challenge to the *Elections Act* limit on third party advertising and restriction on publishing poll results

John McAlpine, QC and **Andrew Gay** of McAlpine Gundmunseth Mickelson, who represented the BCCLA as intervenors in *R. v. Sharpe* at the BC Court of Appeal and **Bruce Ryder** of Osgoode Hall Law School, York University, who greatly assisted in drafting our factum

Russell McKay of Vertlieb Anderson who provided counsel to a BCCLA client **Michael O’Keefe** of Thorsteinssons who advised the Association regarding our charitable tax status.

Chris Sanderson and Keith Bergner of Lawson Lundell Lawson & McIntosh and **Chris Gora** (sole practitioner) who represented the BCCLA as intervenors in *James Chamberlain et. al. v. The Board of Trustees, School District of Surrey* at the BC Court of Appeal

Rick Twining of Whitelaw Twining who represented the BCCLA in an application for the release of APEC related documents at the Federal Court of Canada.

Other volunteers

A NUMBER OF OTHER persons generously donated their time and talents to the BCCLA in 1999. We take the opportunity here to salute them.

Audit

John S. Wilson Jr. continued his extraordinary gift to the BCCLA by once again conducting our annual audit. Over and above the huge donation of his time and talents, John's thoughtful advice on financial and organizational matters was invaluable to us.

Office

Helen Daniels is stalwart in the office, and handles many of the tasks associated with our membership and donation records. **Lynda Hird** took on the task of sifting through boxes of old case files, extracting documents for archival purposes. **Mary McDonald** kindly offered her time to proofread the annual report.

Research

The BCCLA benefitted from several significant donations of time in conducting research for our cases. **Lisa Matthews** spent many days "on the ground" in New Westminster collecting valuable information

for our upcoming challenge to a municipal bylaw. **Michael Vonn** did much of the preliminary legwork in preparation for responding to a complaint about lack of political representation on aboriginal reserve land. And **David MacFarlan** assisted our *Elections Act* intervention by collecting court registry information.

A special note of thanks to **Scott Vrecko**, who provided invaluable assistance with casework. For a period of several months, Scott gave a couple of days a week to the Association to review complaints, provide analysis and undertake correspondence. We wish Scott the best with his law studies at Cornell University.

Fund raising

Special mention and a great big "thanks" go to **Alan Twigg**, who, in addition to sitting on the Legal Defense Fund Committee, hosted an event at which we were able to raise \$2400 for the Legal Defence Fund, put together a blue-ribbon panel of Advisors to the Fund, and designed, produced and mailed a fund raising package for the Fund—all on a volunteer basis.

Mental Health Review Panels

In 1999, as in previous years, the BCCLA provided the names of individuals to act as patient designates at review panel hearings. This year, we would like to thank **Alison Sawyer, Laura Spitz and Kenzie Gouden** for donating their time.



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—From left to right, volunteers Alan Twigg, Helen Daniels and Lynda Hird

Staff

PERHAPS THE GREATEST benefit of the BCCLA's long term financial stability is our ability to attract highly qualified individuals as staff members, individuals willing to make a commitment to the Association. Our staff are able to grow into their positions, gaining experience and expertise which is invaluable to us.

As the Association's activities increase, so does the pressure on staff, who not only keep the office running smoothly, raise funds and offer administrative support to the Board and our *pro bono* lawyers, but as well take on much of the substantive work. That they do all this not only with skill and dedication, but with typical patience and good humour makes the Board's job that much easier.

As at December 31, 1999 BCCLA staff members were:

John Westwood, *Executive Director*

Murray Mollard,
Policy Director/Caseworker



—Starting at top left, staff members
Murray Mollard, Pam Murray
Lil Woywitka and John Westwood.

Pam Murray,
Communications Director/Office Manager

Lil Woywitka, (part-time)
Membership Secretary

During 1999, the following also were part of the regular BCCLA staff:

Russell Wodell, (part-time)
Publications Director

Linda Shpikula, *Office Manager*

In addition to regular staff, several persons worked on a contract basis in various capacities. These were:

Lynda Hird, *Project Worker*

Jennifer Rowley, *Assistant Caseworker/
Project Worker*

Eli Basas, *Computer Consultant*

Roedy Green, *Computer Consultant*

Katherine Ruffen (of accounting firm
Dragomir Breckner), *Bookkeeper*

Herlenda Basas, *Bookkeeper*

Membership report

	1999	1998	1997
Special	197	172	206
Individual	284	255	333
Family (two people)	140	154	220
Organization	6	9	11
Memberships	627	590	770
Donors only	451	514	483
Total supporters	1,078	1,104	1,253

Our members and supporters are the backbone of the BCCLA, both 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 government. It is important for the Association to retain the support of our loyal supporters.

Although it is difficult for the BCCLA to attract large numbers of supporters given our sometimes controversial positions, we are proud to note that those individuals we do attract tend to support us over the long run, and to increase the level of that support as time goes on.

We are pleased to note that in 1999 we lost only 58 supporters through attrition, as compared with 249 the previous year. Unfortunately, we were able to attract only 32 new supporters in 1999, and so ended up with 1078 members and supporters at the end of the year.

Memorials and Bequests to the BCCLA Endowment Fund

We created the BCCLA Endowment Fund in 1986, after a period of wildly fluctuating revenues. The Fund is intended to provide long term financial stability for the Association, and to allow

us to take on special projects that we could not otherwise afford.

Gifts and bequests to the Endowment Fund are placed in the Capital Account, held in perpetuity and invested in secure financial instruments. Only the interest from these is available for the Board of Directors to fund special projects or smooth out funding fluctuations.

We acknowledge with gratitude the following:

Bequests

Bequest: Francis Earl Bertram

Bequest: Roderick Lionel

Bequest: Winona Grace MacInnis

Bequest: David Bruce Morgan

Accelerated Bequest: Dr. Cecil K.

Stedman

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 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



—Treasurer Alan Rowan

I AM PLEASED TO REPORT to members that we ended 1999 not only with a huge amount of valuable civil liberties work done, but with our financial heads above water!

Although our financial health is sometimes precarious, the BCCLA is blessed with three crucial sources of income upon which we rely for our daily bread.

First, since its birth in 1962, the BCCLA has relied heavily on a core group of supporters who sustain us through thick and thin. We can count on \$80-90,000 annually to help offset our basic expenses.

Equally important is the commitment of the Law Foundation of BC to support the Association over the long haul. Unlike most funding agencies, the Law Foundation views core funding of key organizations as central to carrying out its mandate. Thus, the BCCLA has been able to plan for the future, take on long-term projects, and offer a “nearly normal” level of security to our dedicated staff.

Although we rarely draw on the money accumulated in the income account of the Endowment Fund, the knowledge that it is there when we need it also affords us some financial security. This year we used income from the Endowment Fund to open the new Legal Defence Fund, and to tide us over a period of slow cash-flow.

Finally, I must mention a generous 1999 grant from the BC Gaming Commission which we used for special projects and purchases, and also to cover regular expenses for our education and community work.

We also received a generous donation from the Vancouver Bar Association, which again in 1999 recognized the significant resources we bring to bear

when managing legal cases where Vancouver lawyers represent us *pro bono*.

We cannot say enough good things about the lawyers who donate their time and expertise to represent the BCCLA in our litigation. Legal actions have become a key weapon in the Association's fight for recognition of civil liberties principles in laws and government policy decisions.

I am very pleased to note that in 1999 we kept core expenses like salaries, office and other ongoing expenses at 1998 levels. Special project expenses like contract staff, printing and postage, were largely covered by grants.

Prospects for financial stability in 2000 look promising. The Law Foundation has renewed funding at 1999 levels, and has also made an additional \$12,209 available. We will use these funds to hire a part-time Casework Assistant, so our Policy Director/Caseworker has more time for policy development.

Unfortunately, our expenses are likely to rise, too. In 2000 we are faced with a \$10,000 annual rent increase. Two of our computers are past their prime and will need to be replaced. And we expect a significant increase in our legal defence costs. However, we should be able to deal with these extra expenses, and break even at the end of the year.

I heartily salute my fellow Board members, and our hard-working staff, for their dedication to not only making the BCCLA the finest civil liberties organization in Canada, but also one with financial stability and staying power.

Alan Rowan
Treasurer

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Auditor's report

To the members of the British Columbia Civil Liberties Association:

I HAVE AUDITED THE statement of financial position of the British Columbia Civil Liberties Association as at December 31, 1999, 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 to 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, 1999, 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 21, 2000

Financial statements

British Columbia Civil Liberties Association Statement of Operations and Changes in Fund Balances for the Year ended December 31, 1999

	General Fund	Legal Defence Fund	Little Sister's Fund	Recall Fund	Endowment Fund	Total 1999	Total 1998
Revenues							
Membership and Donations	84,870			-	-	84,870	89,322
Law Foundation operating grant	122,088					122,088	122,088
Legal Defence Donations earned			-	-		-	20,996
Specified grants and donations earned	46,674	2,429	22,157	1,227		72,487	70,739
Capital grants earned	3,881					3,881	4,070
Casino revenue earned	41,927					41,927	24,089
Interest	572		57	-	14,485	15,114	14,991
Miscellaneous	1,332		279	-		1,611	670
	301,344	2,429	22,493	1,227	14,485	341,978	346,965
Expenses							
Salaries and benefits	180,678					180,678	176,388
Rent and utilities	18,137					18,137	17,596
Office operating	23,198					23,198	23,513
Contract services	7,226					7,226	7,026
Insurance, interest and bank charges	2,110		-	-	-	2,110	3,764
Fund raising	6,006					6,006	10,458
Publications and printing	42,112					42,112	60,928
Legal defence	(0)	6,751	41,550	1,227		49,528	87,040
Miscellaneous	5,506		-	-	-	5,506	4,758
Amortization	3,783				-	3,783	4,607
	288,756	6,751	41,550	1,227	-	338,284	396,078
Excess (deficiency) revenue over expenses	12,588	(4,322)	(19,057)	-	14,485	3,694	(49,113)
Fund balance, January 1	(6,818)	-	27,118		263,513	283,813	328,301
Endowment contributions					1,582	1,582	4,625
Interfund transfers	-	6,300		-	(6,300)	-	-
Fund balance, December 31	5,770	1,978	8,061	-	273,280	289,089	283,813

British Columbia Civil Liberties Association
Statement of Financial Position
as at December 31, 1999

	General Fund	Legal Defence Fund	Little Sister's Fund	Recall Fund	Endowment Fund	Total 1999	Total 1998
Current Assets							
Cash and short-term deposits	48,675	-	-	-	909	49,584	85,554
GST, interest and other receivables	2,858		1,319	32	1,194	5,403	21,562
Due from operating fund		1,978	6,742	-	5,324		
Prepaid expenses and supplies	9,536					9,536	4,677
	<u>61,069</u>	<u>1,978</u>	<u>8,061</u>	<u>32</u>	<u>7,427</u>	<u>64,523</u>	<u>111,793</u>
Non-current Assets							
Investments, at cost (market value 265,109; \$206,119 in 1998)					265,853	265,853	196,838
Lawyer's trust account						-	18,622
Capital assets	11,480					11,480	9,361
	<u>11,480</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>265,853</u>	<u>277,333</u>	<u>224,821</u>
Total assets	<u>72,549</u>	<u>1,978</u>	<u>8,061</u>	<u>32</u>	<u>273,280</u>	<u>341,856</u>	<u>336,614</u>
Liabilities							
Accounts payable and accrued liabilities	13,886		-		-	13,886	17,500
Due to other funds	14,044						
Deferred contributions	28,051	-		32		28,083	26,523
Deferred contributions related to capital	10,798					10,798	8,778
	<u>66,779</u>	<u>-</u>	<u>-</u>	<u>32</u>	<u>-</u>	<u>52,767</u>	<u>52,801</u>
Net Assets							
Invested in capital assets	679					679	583
Externally restricted		-			92,992	92,992	91,410
Internally restricted		1,978	8,061		180,288	190,327	199,221
Unrestricted (deficit)	5,091			-		5,091	(7,401)
	<u>5,770</u>	<u>1,978</u>	<u>8,061</u>	<u>-</u>	<u>273,280</u>	<u>289,089</u>	<u>283,813</u>
Total liabilities and net assets	<u>72,549</u>	<u>1,978</u>	<u>8,061</u>	<u>32</u>	<u>273,280</u>	<u>341,856</u>	<u>336,614</u>

**British Columbia Civil Liberties Association
Statement of Cash Flows
for the year ended December 31, 1999**

	Total 1999	Total 1998
Cash flows from operating activities*		
Cash received from general contributions	84,870	89,332
Cash received from specified donations	29,294	25,737
Cash received from the Law Foundaton - operating	132,262	122,088
Cash received from British Columbia Gaming Commission	43,000	24,297
Cash received from Vancouver Foundation	19,060	
Cash received from Law Foundation - other	17,671	
Cash received from Multiculturalism BC	8,150	500
Cash received from Labatt's Breweries	3,289	
Cash received from Student Summer Works	1,092	
Cash received from Van City Credit Union		5,000
Cash received from other sources	2,521	2,123
Cash received from publications and miscellaneous	1,611	670
Investment income received	628	1,784
Cash paid for salaries and benefits	(180,678)	(176,388)
Cash paid for materials and services	(92,940)	(84,971)
Net cash generated through (and used for) operating activities	69,830	10,172
Cash flow from financing and investing activities		
Cash contributions for Endowment Fund	1,582	4,625
Income received on Endowment Fund investments	10,022	11,354
Purchases investments	(68,610)	(84,791)
Proceeds on sale of investments	4,768	
Project donations returned	(3,481)	
Cash paid for services from lawyer's trust	(49,528)	(70,365)
Cash received from Gaming for capital acquisition	5,349	7,997
Cash paid for capital acquisition	(5,902)	(7,997)
Net cash provided by financing and investing activities	(105,800)	(139,177)
Net increase (decrease) in cash and short-term deposits	(35,970)	(129,005)
Cash and short-term deposits, January 1	85,554	214,559
Cash and short-term deposits, December 31	49,584	85,554

British Columbia Civil Liberties Association

Notes to the Financial Statements

for the year ended December 31, 1999

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 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.

Revenues and expenses related to the Association's challenge of the provincial recall legislation is reported in the Recall Fund.

Revenues and expenses related to the legal defence of civil liberties through the use of pro bono lawyers are reported in the Legal Defence Fund.

Endowment contributions are reported in the Endowment Fund. Investment income earned on resources of the Endowment fund is reported in the Endowment fund and may be used for BCCLA programs and services as directed by the Board of Directors.

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

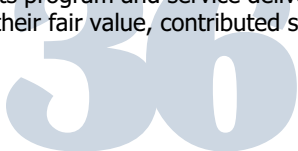
Purchased capital assets are recorded in the General Fund at cost. Contributed capital assets would be recorded in the General Fund at fair value at the date of contribution. Amortization is provided on a straight-line basis over an asset's estimated useful life, which are six years for furniture and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

	1999	1998
Cost	49,129	43,227
Less accumulated amortization	37,649	33,866
Net book value	11,480	9,361

4. Deferred Contributions

Deferred contributions reported in the General Fund are restricted funding which 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:

	1999	1998
Balance - beginning January 1	18,782	78,681
Add amounts received relating to subsequent years	97,869	42,926
Less amounts received as revenue in the year	(88,600)	(102,825)
Balance - ending December 31	28,051	18,782

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.

	1999	1998
Balance - beginning January 1	8,778	4,851
Add amounts received relating to subsequent years	5,349	7,997
Less amounts recognized as revenue in the year	(3,329)	(4,070)
Balance - ending December 31	10,798	8,778

6. External Restrictions on Fund Balances

External contributions to the Endowment Fund must be kept in perpetuity.

7. Internally Restricted Fund Balances

The BCCLA Board of Directors has internally restricted \$8,061 to continue the Little Sister's lawsuit.

The Endowment Fund contains \$180,288 in internally restricted funds, part of which is income generated on investments and part of which has been transferred from the general fund.

8. Contingent Liabilities

In two legal actions in which the BCCLA is a plaintiff (Little Sister's case and the Recall challenge) the BCCLA is responsible for lawyers' fees and disbursements only to the extent that donations are received specifically for those legal actions. The BCCLA would be liable for any costs that may be awarded in these actions. No amount has been accrued for possible costs as it is not possible to estimate the amount of costs or the likelihood of costs being awarded.

9. Revenue Canada Audit

In December 1998 Revenue Canada informed the BCCLA that it would conduct an audit of the Association for the year 1997. Such audits include a review of the procedures for issuing charitable donation receipts and the charitable purposes of the Association. The results of this audit are unknown.



British Columbia Civil Liberties Association

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