

BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

# Annual Report 2004

Due Process

Patients' Rights

Prisoners' Rights

Freedom of Speech

Police Accountability

Political Rights

Access to Information

Discrimination

Children's Rights

Privacy

Autonomy



## ANNUAL GENERAL MEETING 2005

MARCH 31 / 7:30 PM / FAIRMONT WATERFRONT HOTEL / VANCOUVER

GUEST SPEAKER: **Michael Stevenson, President, Simon Fraser University**  
*Threading the needle: Civil discourse and free speech at the university*

REG ROBSON CIVIL LIBERTIES AWARD: **Joe Arvay, Q.C.**

## THE DEMOCRATIC COMMITMENT

MARCH 2005 / VOLUME 39 / NUMBER 1

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David Barrett	John Fraser, P.C., Q.C.	Darlene Marzari
Ron Basford, Q.C.	Gordon Gibson	Father James Roberts
Thomas Berger, Q.C., O.C.	Patricia O. Hall	Svend Robinson, M.P.
Robin Blaser	Don Hamilton	David Suzuki
The Right Honourable Kim Campbell, P.C., Q.C.	Mike Harcourt	Milton Wong
Andrew Coyne	Walter Hardwick	
Hugh Curtis	Rev. Phillip Hewett	The BCCLA laments the recent passing of Ron Basford. Mr. Basford was one of the original three “heavy hitters” (along with then Ombudsman Karl Friedman and MP John Fraser) who assisted the BCCLA with obtaining core funding from the Law Foundation of British Columbia.
Bill Deverell	Robert D. Holmes	
F.E. Devito	Michael Ignatieff	
Michael Feld	Art Lee	
David Flaherty	Alex MacDonald, Q.C.	
	Rafe Mair	

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*for board member bios, visit [www.bccla.org](http://www.bccla.org)*

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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.

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# PRESIDENT'S REPORT / JOHN RUSSELL

We have a need to simplify information about the world. So we generalize. But then we risk oversimplifying the vast complexity of our lives and circumstances.

One of the virtues of the B.C. Civil Liberties Association has been its wariness of over-generalization and over-simplification. When we appear before government, commissions, or the courts, we are invariably welcomed for bringing a carefully reasoned and nuanced perspective to the table. If you look through this report, you will find evidence of this on each page.



John Russell

The BCCLA has never been a “knee-jerk civil libertarian” organization. This is because it draws on the resources of a diverse and talented board and staff who work together to craft well-informed, principled responses to civil liberties issues. A main benefit of this work is that it lifts the quality of public discussion on complicated issues surrounding the protection of civil liberties.

As a case in point, let me focus on a difficult instance of the need for more considered public discussion.

Many religious groups have struggled with recent changes to our society. The recognition of homosexual rights is a key example, and the current federal proposal for recognizing same-sex marriage is a specific instance.

Certain religious communities have felt marginalized by such developments. Aside from their objections to such changes, they complain that the civil libertarian idea of “a separation of church and state” has diminished their equal status as citizens.

Unfortunately, this slogan is a source of misunderstanding. It is a prime example of a misleading generalization. Drawn from a different time, it is an anachronism today.

The idea of a separation of church and state appeared centuries ago, when seeking to stabilize societies long riven with religious strife and intolerance, political philosophers, led by the devout

Christian John Locke, argued that the state had no role in imposing particular religious outlooks on its subjects.

Few democrats would argue with that message today, and its success in healing religious discord is unsurpassed. But the slogan fails to reflect the real idea behind it.

The enduring idea here is not the separation of church from state, but *the separation of the state* from any official role in imposing on citizens specific ways of life – be they religious *or secular*. In short, the state has no place deciding what will give deepest meaning to its subjects’ lives.

This is the thread that has informed the BCCLA’s response to a variety of issues where religious objections have been raised to extending equality rights. Thus, government cannot restrict the legal benefits of marriage to heterosexuals. That establishes heterosexual marriage as a state-preferred way of life. Since homosexual marriage violates no rights of others, it has equal claim to the benefits of this institution. That involves no diminution of religious rights. It simply avoids giving them special preference.

This explains why Stephen Harper is wrong to argue that homosexual marriage will lead to recognizing polygamy. Polygamous relationships raise genuine issues about protecting equal rights of children and, typically, women. This is why the state should not recognize polygamy. It does not follow, of course, that polygamous relationships should be criminalized, as they are currently. That would be too quick a generalization (see our report on the Bountiful controversy on page 8).

These are complicated matters requiring the attention of an organization with the resources and expertise to address them. I hope you agree that we are fortunate to have such an organization doing this work for British Columbians and, indeed, for all Canadians.

JOHN RUSSELL

# ABOUT THE BCCLA / FIGHTING FOR FREEDOM

The B.C. Civil Liberties Association's success as an organization is due to an extraordinary cast of people with a singular focus – preserving citizens' freedom in a free and democratic society. Though the Association has grown from its early days of operating out of the homes of members after its formation in 1962, we remain a grassroots organization reliant on the expertise, dedication and assistance of Board members, a small staff, volunteers and supporters.

The BCCLA is run by a volunteer Board of Directors of over thirty members with diverse backgrounds in academia, law and business. The BCCLA Board distinguishes itself by not only setting the policies of the Association but also through actively advocating for civil liberties before government and private institutions. To support the Board, the Association employs a small staff and relies on volunteers.

The Association's work comprises four program areas:

## Public Education (see page 6)

The BCCLA's educational efforts include:

- Free Publications like our newsletter *The Democratic Commitment*, *The Citizenship Handbook*, *Rights Talk – Students and Civil Liberties at School*, and *The Arrest Handbook/Pocketbook*
- Free Speakers Bureau: BCCLA representatives speak to hundreds of people each year
- Media Work: The BCCLA is a trusted source for thoughtful perspectives on the latest issues
- Website: Visit our website ([www.bccla.org](http://www.bccla.org)) for a comprehensive collection of our work
- Public Events: The BCCLA hosts public talks by leading public figures like Michael Ignatieff and Beverley McLachlin, Chief Justice of Canada. We also organize seminars such as the marijuana law reform conference in 2004 and an annual seminar for high school students

## Complaint Assistance (see page 8)

Each year, the Association provides assistance to hundreds of individuals who raise civil liberties concerns. The BCCLA assists only those complainants whose concerns impact a wide group of people. The Association also provides referrals for legal advice or other assistance.

## Law Reform (see page 8)

The Association plays a vital role in law and policy reform by meeting with and making oral and written submissions to Ministers, legislative committees, key bureaucrats and officials. Over the years, the Association has built up extensive contacts and respect among public officials at the local, provincial and federal levels.

## Litigation (see page 16)

Occasionally, the Association goes to court to protect freedom. Our moral suasion efforts are more successful when others know that we have the capacity to go to court to seek legal remedies. In this effort, we are very fortunate each year to have the assistance of lawyers who donate their services and expertise.

To accomplish each of these programs, the Association devotes considerable energy to researching its positions and submissions.

## Funding

The BCCLA receives funding from three primary sources. The Law Foundation of British Columbia provides an ongoing operational grant that covers approximately one third of our budget. The Association also receives a gaming grant each year. Finally, the BCCLA relies to a great extent on individual donors and members to financially support our work. If you are not yet a supporter of the BCCLA, please join today!

# Public Education / Reaching Out

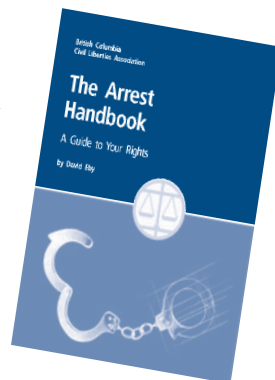
Civil liberties principles involve complex ideas. A major part of our work is to educate the public, the media and decision makers about the central role civil liberties play in a free and democratic society. Here are some of our education activities in 2004.

## Media Work

With more than forty years of civil liberties work under its belt, the BCCLA continues to be a trusted source for reliable information about civil liberties. In 2004, the BCCLA provided almost 300 interviews to all types of media including national and local publishers or broadcasters in radio, TV, print or the web. Some of these comments were the result of our twenty press releases and one press conference but many more are because journalists seek us out when they are reporting on a story that may have civil liberties implications. As a result of this media work, thousands of Canadians can read, see or hear about our work and the importance of civil liberties in our democracy. Of note, we turn away reporters without comment if we have not carefully considered an issue, even when there is a civil liberties angle. We pride ourselves on education and advocacy only when we have done our homework.

## Publications

The BCCLA distributes free publications which provide basic education on civil liberties. Current publications available include: *The Arrest Handbook* and *Pocketbook, Rights Talk: Students and Civil Liberties at School, The Citizenship Handbook: A Guide to Democratic Rights and Responsibilities for New Canadians, Liberties* (a compendium of BCCLA positions to 1988), *Drug Testing in the Workplace* and *The Privacy Handbook*. Both *The Arrest Handbook* and *The Citizenship Handbook* are available in multiple languages. Please contact the BCCLA office for free copies. In 2004, we distributed nearly 2,400 of these publications.



The BCCLA also publishes *The Democratic Commitment*, our newsletter for supporters of the BCCLA. In 2004, nearly 5,700 copies of the newsletter were distributed.

## Website [www.bccla.org](http://www.bccla.org)

Since the late 1990s, the BCCLA website has become an important source for information about BCCLA positions, education and advocacy work. In 2004, we recorded 144,412 total Asessions@, 331,469 total Apageviews@, and 726,263 total Ahits@. In 2003, we recorded 591,466 total hits to our website.

## Public Speaking

Book a BCCLA Director or staff person to speak to your group today! Sex, drugs or reform of assisted suicide laws; no topic is off limits for the BCCLA as long as it involves civil liberties and freedom. In 2004, the BCCLA made about 15 presentations to diverse sizes of audiences ranging from over 2,500 people at the Fill the Hill rally on Parliament to 25 at a Kiwanis Club meeting.

## Muslim Voices Project

In 2004, BCCLA representatives met with leaders from the Muslim community to discuss concerns about treatment by law enforcement and security intelligence officials and government agencies in general. The enthusiasm of our initial meeting resulted in the launch of an effort to educate members in the community about their rights and to offer assistance to those who wished to complain about mistreatment. As part of our outreach efforts, the Association visited mosques throughout the Lower Mainland to distribute information and answer questions. The BCCLA will continue to provide an outlet for help in 2005 with a poster awareness campaign.

## Public Events

An engaged citizenry revels in the opportunity to hear and respond to the stimulating ideas of important public figures. For that reason, the BCCLA has sponsored talks by **Michael Ignatieff**, **John Ralston Saul** and the **Right Honourable Beverley McLachlin, Chief Justice of Canada**. In 2004, the BCCLA sponsored two different kinds of events. In January, we held a rally at the Vancouver Art Gallery for **Maher Arar**, the Canadian of Syrian descent who was extradited by the United States to Syria to face torture as an alleged terrorist, rather than returned to



Vancouver Mayor Larry Campbell speaks at Beyond Prohibition.

Canada. The 300 people in attendance signed petitions to Prime Minister Martin demanding a public inquiry. Mr. Martin appointed Justice Dennis O'Connor to head up a public inquiry in February 2004. The BCCLA is now an intervenor in the inquiry.

Also in 2004, the BCCLA organized and hosted a major conference for over 100 delegates on marijuana law reform at the Wosk Centre for Dialogue entitled: *Beyond Prohibition: Legal Cannabis in Canada*. The event brought together politicians, academics and business people who are involved in legal cultivation and social activism. Speakers included Vancouver Mayor Larry Campbell, ex-Vancouver Police Department drug squad officer, Walter McKay, Boston University economics professor Jeffrey Miron, BC Compassion Club Society founders Hilary Black and Rielle Capler and Senator Pierre Claude Nolin who chaired the Senate Committee reviewing drug laws in Canada. Conference proceedings and papers are available on the BCCLA website.



Maher Arar and family



Maher Arar demonstration

# Complaint Assistance & Law Reform / Casework

The BCCLA is unique in Canada for its assistance to individuals whose civil liberties have been violated. BCCLA casework also includes advocacy before all levels of government and private institutions for laws and policy that better respect civil liberties. The following is a brief sampling of open case files in 2004.

## Children/Youth Rights


### Bountiful

The BCCLA called on the BC Government to initiate a full and public investigation into allegations against the religious leaders in Bountiful, B.C. Prompted by Vancouver Sun columnist Daphne Bramham who reported extensively on allegations of child abuse, sexual exploitation and denial of equal access to education and property rights, the BCCLA obtained a copy of a 1993 report which was completed on behalf of the former Ministry of Women's Equality and the report corroborated the more recent allegations.

While all the allegations in this matter are serious, the BCCLA is particularly concerned with issues related to the independent schools. We contend that high and early dropout rates at the schools indicate that Bountiful students are not receiving an education that will allow them to function outside the community or to be knowledgeable about their rights as citizens and that a careful investigation into the independent schools is thus necessary. We also maintain that the systemic nature of the allegations against Bountiful leaders require that a thorough investigation be coordinated through several ministries including the Ministry of Children and Family Development, the Ministry of Education and the Ministry of Community, Aboriginal and Women's Services.

The Attorney General has announced that an inquiry has been launched and the BCCLA is

continuing to press the government for adequate investigations.

 To view BCCLA's President John Russell's Op-Ed on Bountiful see: <http://www.bccla.org/othercontent/04.bountifulrussell.htm>

### Drug Sniffing Dogs in Schools

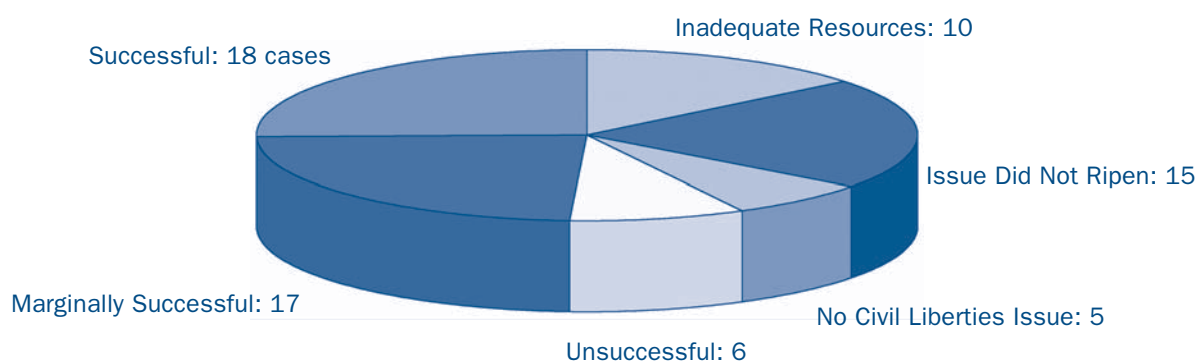
The BCCLA confronted the initiative by the Abbotsford School District to introduce drug sniffing dogs into schools as part of their drug policies. Our research suggests that random searches are subject to a high rate of error (up to 80%) such that the considerable intrusion of locker searches will be exacerbated by the embarrassment of not finding drugs. We are concerned that the stigmatizing effect of such searches will leave students with the difficult task of clearing their names, when in fact they may have no drugs in their lockers. We met with the Chair of the school board and the trustee who was the lead proponent for drug dogs, but despite our efforts to educate them, the school board passed their policy. Particularly troubling was their justification that schools deal fairly with often erroneous accusations of students cheating. This fact fails to appreciate the important distinction between school officials making serious allegations of wrongdoing knowing that there is a very good chance that they will finger an innocent student versus dealing with accusations by others. The BCCLA plans to complain to the Information and Privacy Commissioner that this program violates the *Freedom of Information and Protection of Privacy Act*.



Active files			
	2004	2003	2002
Administrative decision-making	5	6	7
Children's rights	4	1	2
Discrimination	5	5	14
Due process	24	18	30
Freedom of speech and association	19	23	27
Patients' rights	2	2	3
Review panels	n/a	n/a	109
Police complaints	28	34	40
Political rights	5	4	8
Prisoners' rights	7	5	7
Privacy and access to information	22	28	32
Private offences	8	13	12
Total cases	129	133	291

## Closed Cases

Total Closed Files: 71 cases



## Case Acceptance Policy

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 if we have the resources to provide assistance. Our full case acceptance policy is on our web site: [www.bccla.org/acceptance.html](http://www.bccla.org/acceptance.html)



# CASEWORK

## Discrimination

### Racial Profiling

The BCCLA has made access-to-information requests to Citizenship and Immigration Canada and the new Canada Border Services Agency for any policies, guidelines, directives, training materials or other information regarding how these agencies make assessments to scrutinize individuals' entry to or departure from Canada. In particular, we are seeking information to ascertain whether these agencies engage in profiling based on race, place of origin, ethnic background or religious affiliation. Stay tuned for the results in 2005.

## Due Process

### Arar Inquiry

Despite over half a year into his mandate as Commissioner for the Arar Inquiry, Justice Dennis O'Connor's commission hasn't yet completed *in camera* hearings involving CSIS, the RCMP, Foreign Affairs and other government agencies implicated in the Arar affair. Maher Arar is the Canadian born in Syria deported by the U.S. to Syria to face torture based on allegations of terrorist activity. The worry for civil libertarians is that Canadian institutions such as the RCMP or CSIS aided and abetted his extradition to Syria. The BCCLA received intervenor status as part of the Factual Inquiry but so far we have been mostly shut out of the process due to the secret nature of the hearings since the federal government seeks to claim national security confidentiality over the totality of the proceedings and evidence. The BCCLA has had some opportunity to work with Commission Counsel to suggest lines of inquiry. But frustratingly, just before Christmas, the federal government refused to agree to a proposed public release of a summary of evidence provided by CSIS *in camera* despite the summary being considerably watered down to appease federal officials and despite *amicus curiae* counsel Ron Atkey, a former Chair of the Security Intelligence Review Committee, and Justice O'Connor finding that earlier, more revealing versions of the summary would not harm national security interests. The BCCLA will continue to work

for as much public disclosure as possible. We will also submit a brief on proposed changes to oversight of RCMP's national security work as part of the Arar Inquiry's Policy Review. The BCCLA has been generously assisted by Joe Arvay, Q.C. and Matt Pollard, a masters of law student in Europe.

**i** For information on the latest events at the Inquiry, visit the Inquiry website at [ww.ararcommission.ca/](http://ww.ararcommission.ca/).

For information regarding BCCLA work on the Arar file, visit [www.bccla.org/antiterror.html](http://www.bccla.org/antiterror.html)

### Security Certificates (new position)

The BCCLA has condemned the use of security certificates under the *Immigration and Refugee Protection Act* to deport non-citizens who are alleged to be threats to national security. The Association has joined several human rights groups, including Amnesty International, in objecting to the absence of even the most minimal of procedural safeguards in the security certificate process. Under this process, detainees can be held in solitary confinement for years without an opportunity to challenge the evidence on which their confinement is based. If upheld, the certificate results in deportation in some cases to countries known for human rights abuses including the use of torture or execution.

The BCCLA will press the federal government to include the security certificate process in its review of anti-terrorism legislation in 2005. The Association is also preparing to apply for intervenor status in an anticipated appeal of a Federal Court decision upholding the constitutionality of the security certificate process.

**i** To view the BCCLA's position on security certificates, visit: [www.bccla.org/positions/antiterror/05Security%20Certificates.htm](http://www.bccla.org/positions/antiterror/05Security%20Certificates.htm)

### Judicial Appointments to the Supreme Court of Canada (new position)

In 2004, a confluence of events resulted in considerable public scrutiny of the process for judicial appointments to the Supreme Court of Canada. The resignation of Justices Arbour and Iacobucci required the appointment of two new judges which were filled by Justices Rosalie Abella and Louise Charron. In addition, Prime Minister

Martin had promised to review the appointment process to give MPs more say in the process, a promise reiterated by Minister of Justice Irwin Cotler. Arguably, these promises were Liberal responses to long-standing criticisms, mostly from Reform-Alliance-Conservative Parties, of judicial activism by the Court because of novel *Charter* jurisprudence. In 2003, Conservative Party leader Stephen Harper had criticized the appointment of judges who had found Canada's heterosexual-only marriage laws unconstitutional.

The BCCLA reviewed the judicial appointment process for the Supreme Court of Canada, fashioned a new position and advocated for modest but important change.

The heart of the BCCLA's position is that a judicial appointment process must safeguard the principle of judicial independence. Prior to changes in 2004, the appointment process was vulnerable to criticisms that it could be subject to manipulation for purely political and partisan purposes. The Prime Minister alone, though he would consult with Cabinet and receive recommendations from the Minister of Justice, was responsible for making appointments and could use this power for outright political goals. Though there have never been suggestions of such manipulation, there remained a real possibility that one day, a Prime Minister could exercise such a choice.

Given the need for change, the BCCLA recommended the process be reformed based on three principles:

1. Merit: only those judges who demonstrate the professional capacity, personal characteristics and diversity needed by the Court should be eligible for appointment;
2. Democratic Legitimacy: to achieve public confidence in the process, the judiciary, the legal community and Parliamentarians should participate in a more transparent process enshrined in law; and
3. Judicial Independence and Impartiality: for the rule of law to govern – a necessity in a free and democratic society – the appointment process

must ensure judicial independence (through security of tenure, financial security, and institutional independence) and impartiality (an absence of bias or pre-conceived opinion).

Based on these principles, the BCCLA recommends that a Judicial Advisory Committee made up of the judiciary, legal community (representatives of law societies and legal academics)

and Parliamentarians (both federal and provincial) be given the task to create a short list of meritorious candidates from which the Prime Minister, on advice from Cabinet and his Minister of Justice, would select an appointment. The BCCLA also recommends against public or “confirmation” style hearings that exist in America. We do not see how such hearings

would enhance the principles outlined above. Furthermore, as evident in some controversial cases in the U.S., they might unnecessarily politicize and lower public confidence in the process.

Though there were modest reforms in 2004 through unilateral changes introduced by the Minister of Justice, the BCCLA does recommend that an improved process be enshrined in a federal law. Sooner or later, we expect further initiatives from a federal government.

**i** To view the BCCLA position on the judicial appointment process, visit: [www.bccla.org/positions/dueprocess/04judicial%20appointments.htm](http://www.bccla.org/positions/dueprocess/04judicial%20appointments.htm)



The Supreme Court of Canada. PHILIPPE LANDREVILLE PHOTO

## Free Expression

### Camosun College

The BCCLA received a complaint from a student at Camosun College, in Victoria, that the College was unjustifiably denying him the right to freely distribute his ideas on campus. Our complainant was part of a student group who challenged the wisdom of religion and did so in an overtly provocative way by postering hallways with quotes from famous people like Einstein, Nietzsche and Gloria Steinem deriding religion. The College, which

# CASEWORK

had received complaints from religious groups on campus, confiscated posters and threatened the complainant with discipline. Coming to his aid, the BCCLA wrote the administration reminding them of the importance of intellectual freedom, especially on a campus of higher education. The BCCLA received a non-committal letter in response. In December 2004, the student forced the issue by repostering this time without the threat of sanction and without the confiscation of posters.

## New Protection Against Defamation for Libraries

As part of a complaint by the B.C. Library Association, the BCCLA was approached with concerns about the impact on the distribution of library holdings which are subject to litigation involving a claim of defamation. As the law stood, a plaintiff could contact a library to notify it that a particular item available on loan to the public was subject to a claim of defamation and request that the library cease lending it. The library would then be liable for damages for publication if a court found that the item was indeed defamatory. In the face of this risk, the BCCLA found that libraries would meekly acquiesce to the request of a plaintiff. Such was the case in Kamloops, Vancouver and Victoria library districts involving the book *Children of the Matrix*, which was subject to a defamation lawsuit by Richard Warman. Given this blatant violation of free expression by way of prior restraint, the BCCLA urged B.C. Attorney General Geoff Plant to amend legislation. The A.G. heeded our advice and the government passed Bill 62 which amends the *Libel and Slander Act* to provide legal immunity for libraries from liability for distributing materials in a collection prior to a finding of defamation.


 To view the new legislation, visit: [www.legis.gov.bc.ca/37th5th/3rd\\_read/gov62-3.htm](http://www.legis.gov.bc.ca/37th5th/3rd_read/gov62-3.htm)

## Safe Streets Act

The BCCLA vigorously opposed the introduction of the new *Safe Streets Act*. In letters to government officials, by way of press releases and in numerous media interviews, we condemned the so-called “aggressive panhandling” legislation, arguing that it

is redundant, because the *Criminal Code* already prohibits intimidation, and that it is discriminatory.

The Association’s particular concern is the provision that prohibits asking for money or anything of value – however politely – in certain areas such as around bus stops or bank machines. We believe that this provision denies the poor and the homeless the same constitutional rights as other citizens to occupy public space and ask for help. In our opinion, it is clear that the legislation will target specific people, not specific actions, and so will be applied in a discriminatory manner. The *Safe Streets Act* came into force in January, 2005. The Association is considering a legal challenge.

 To view our op-ed on the *Safe Streets Act*, see: [www.bccla.org/othercontent/04safestreetsvonn.htm](http://www.bccla.org/othercontent/04safestreetsvonn.htm)

## Freedom of Religion

### Dress Codes

The BCCLA received a complaint from an employee whose workplace dress policy required her to wear pants, a stipulation that offended her religious beliefs. After we wrote a letter to the employer, the complainant was offered an alternative position in the company which did not require her to adhere to the dress policy and she happily accepted the new position.

## Political Rights

### Advertising on TransLink Buses

In the fall of 2004, the BCCLA received a call from legal counsel representing the Canadian Federation of Students. CFS was having trouble persuading TransLink, the transportation authority for the Lower Mainland, to approve advertising on its buses and SkyTrain encouraging students to vote in the provincial election in May 2005. The campaign is meant to address the poor voter turnout among youth. The ads include the phrase *Rock the Vote*, the date of the next election as well as listing topics of interest to students like *Tuition fees*, *Minimum wage*, and *Environment*. The ads also included the CFS title and their website where one could find more information about these topics and others.

The BCCLA wrote TransLink urging them to approve the ads. We argued that the ads weren't "political" as defined by TransLink's ad policy which prohibits political advertising. Moreover, we urged them to amend their policy to permit political, even partisan political, ads. Regrettably, the Board of Directors of TransLink declined to



The BCCLA is working with the Canadian Federation of Students to persuade TransLink to run "political" ads that encourage students to vote in the 2005 provincial election.

approve the ad or amend its policy. The BCCLA will continue to work to persuade TransLink to change its policy.

**i** To view the Rock the Vote website visit: [www.rockthevotebc.com/SP10.php](http://www.rockthevotebc.com/SP10.php)

## Political Leafleting

The BCCLA received a complaint that people distributing election campaign literature were being prevented from leafleting on the public property outside a store. The store manager had made a public nuisance complaint to the police and informed the campaigners that the store proprietors didn't want to be associated with the political party that was doing the campaigning.

The Association contacted the store management and clarified the limits of the store's property and the right of the canvassers to use public property to leaflet. The canvassers continued to leaflet after our intervention without reported problems.

## Privacy and Access to Information

### Legislative Review of the *Freedom of Information and Protection of Privacy Act*

As part of a statutorily mandated review of legislation, an all-party special committee of the B.C. legislature examined the provisions and operation of the *Freedom of Information and Protection of Privacy Act*. This law, now over ten years old, regulates the public sector's collection of personal information and disclosure of government held records. As such, the law provides important protections for basic democratic values of privacy and accountability. The BCCLA made a submission to the committee arguing that, while the legislation was cutting edge ten years ago, it needed to be updated to ensure its progressive status. In particular, we urged the committee to recommend that the law create real teeth to encourage public bodies to pro-actively release information without a formal access-to-information request. A legislative obligation for routine disclosure would enhance the underlying purposes of the law – accountability – and make it

cheaper to administer. On the privacy side, the BCCLA urged a reform of the law to catch up with new standards imposed on the private sector in the *Personal Information Protection Act*. In particular, the private sector law requires organizations seeking to collect personal information to justify their collection as reasonable in the circumstances, something missing from the public sector law. This creates the anomalous situation in which companies are held to a higher standard than government. The special committee endorsed our first recommendation but disappointingly declined to follow our advice about privacy. The Liberal government has not formally responded to this report but did amend the Act to create whistleblower protections in the fall of 2004.

**i** To view the submission of the BCCLA, visit: [www.bccla.org/othercontent/04foippa.htm](http://www.bccla.org/othercontent/04foippa.htm).

To view the committee's report, visit: [www.leg.bc.ca/cmt/37thparl/session-5/foi/reports/Rpt-FOIPPA37-5.htm](http://www.leg.bc.ca/cmt/37thparl/session-5/foi/reports/Rpt-FOIPPA37-5.htm).

To view amendments to FOIPPA including whistleblower protection, visit: [www.leg.bc.ca/37th5th/3rd\\_read/gov73-3.htm](http://www.leg.bc.ca/37th5th/3rd_read/gov73-3.htm)

# CASEWORK

## Privacy Implications of the *USA Patriot Act*

The BCCLA has been a very active member of the Right to Privacy Campaign, an initiative of a broad-based group of organizations concerned about the privacy implications of the Province's outsourcing of the administration of the Medical Services Plan and Pharmacare to a US-linked company. A short time after the Campaign's first press conference, the Office



British Columbians' MSP records are at risk of unauthorized disclosure through the operation of the *Patriot Act*.

of the Information and Privacy Commissioner for British Columbia announced an inquiry on the subject.

The basis of the privacy concern in outsourcing to a US-linked company is the operation of the *USA Patriot Act*. The *Patriot Act* authorizes the FBI to obtain orders from a secret intelligence court requiring any person or organization to disclose "any tangible thing", which could include entire databases of records. These surveillance and seizure provisions include a "gag order" that forbids a person who has been served with an order from disclosing the fact to anyone. There is no way to know if the US authorities have obtained personal information under these provisions and no ability to challenge the seizure. If the FBI seize personal information, the US Homeland Security Act provides for that information to be put into classified centralized databanks routinely available to various law enforcement and other agents of the American government. The MSP databases include information about British Columbians' health treatment, prescription drugs, net income, mental health history, criminal records and records from the Ministries of Children and Families and Human Resources.

The central finding of the Privacy Commissioner's report was the determination – contrary to the contentions of the Province – that information outsourced to US-linked companies is at risk of unauthorized disclosure through the operation of the *Patriot Act*. While not recommending a complete ban on outsourcing to US-linked companies, the Privacy Commissioner did release a comprehensive set of recommendations. The BCCLA condemned the Province for immediately signing the contract to outsource the MSP and Pharmacare administration without implementing the Privacy Commissioner's recommendations.

The BCCLA continues to be actively involved in this issue, which is now evident at the federal level, with audits of federal government contracts being done in order to assess the vulnerability of our information through the *Patriot Act*.

**i** To view the Privacy Commissioner's Report, see: [www.oipc.org/sector\\_public/usa\\_patriot\\_act/pdfs/report/privacy-final.pdf](http://www.oipc.org/sector_public/usa_patriot_act/pdfs/report/privacy-final.pdf)

To view the BCCLA's submission to the Privacy Commission, see: [www.bccla.org/othercontent/04patriot%20Act.htm](http://www.bccla.org/othercontent/04patriot%20Act.htm)

The website for the Right to Privacy Campaign is: [www.righttoprivacycampaign.com](http://www.righttoprivacycampaign.com)

## Pawnshop Customer Reporting By-laws

The BCCLA received a complaint from a pawnshop owner about a municipal by-law that requires collection and disclosure of customer information to the police. On the basis of this complaint, we made a submission to the Office of the Information and Privacy Commissioner which is conducting an investigation into municipal bylaws that require this type of surveillance database from a range of businesses. The BCCLA submission opposed these municipal by-laws on the grounds that they provide for constructive search and seizure without judicial oversight, that they are *ultra vires* municipal authorities because they deal with criminal law, and that they are discriminatory. The Office of the Information and Privacy Commissioner is continuing its investigation and we hope for a report in 2005.

**i** To view the submission of the BCCLA, visit: [www.bccla.org/othercontent/04loukidelis.htm](http://www.bccla.org/othercontent/04loukidelis.htm)

## Police Complaints

In 2004, the Association assisted various individuals with complaints against the police. For example, one complainant alleged that his report to police of having been assaulted while in prison was improperly dismissed. We assisted the complainant in making a formal complaint about the failure of the police to take a statement from the complainant. We also assisted complainants whose allegations included police harassment and threats, improper grounds for arrest and unlawful strip searches.

Over the last couple of years, the BCCLA has assisted a complainant who was able to revise her “criminal record” after an unsubstantiated allegation of criminal wrongdoing got recorded on the Police Information Retrieval System (PIRS) as a “charge”, despite the fact that Crown Counsel did not approve a charge. The RCMP had recommended that she be charged but, after a review, decided that the recommendation had been based on a faulty investigation. In British Columbia, Crown Counsel will only lay a charge if there is a substantial likelihood of success and it is in the public interest to do so. This issue has been on-going for almost two years and a source of deep frustration to the complainant. In 2004, we were finally able to get the situation rectified to the extent that the PIRS entry has now been amended and the complainant cleared to “level four” on a criminal records check. A level four clearance will ensure that someone who applies to volunteer or work with children, will receive a positive response on the criminal record check. We continue to work on whether the clearance is guaranteed at other RCMP detachments. There also remains a broader policy concern of the extreme difficulty that the complainant has had in having these records corrected. Regrettably, the criminal records procedure remains rife with problems which can result in significant prejudice to individuals.

## Private Offences

### Solicitation Laws (revised position)

In 2004, the BCCLA updated its 1982 position calling for the repeal of the laws prohibiting solicitation and common bawdy-houses. Our principled position has always been based on the belief that the criminal law should not be used to

prohibit activities that do not cause serious harm to others and that criminal sanctions must be proportionate and minimally impairing.

Our updated position does not apply to children in the sex trade. The Association has consistently maintained that child prostitution raises civil liberties concerns. Our position on the criminal prohibition of solicitation in relation to adults, however, is that they create more social harm than they prevent. So, although we acknowledge that victimization does occur in the sex trade, we believe that the current laws may actually contribute to this victimization, for example, by driving prostitution underground in ways that prevent sex trade workers from working legally and safely.


While the laws relating to prostitution (communication law, bawdy house law, procuring law) have all withstood *Charter* challenges, we believe that these decisions should be re-examined. The BCCLA has requested to appear as a witness before the House of Commons Subcommittee on Solicitation Laws to advocate for a regulatory alternative to the criminal law. The Association holds that removing the sex trade from the ambit of



Although we acknowledge that victimization does occur in the sex trade, we believe that the current laws may actually contribute to this victimization, for example, by driving prostitution underground in ways that prevent sex trade workers from working legally and safely.

the criminal law would allow marginalized sex trade workers to reclaim the rights to autonomy and safety which every citizen should enjoy.

The Association wishes to thank Sarom Bahk, a McGill University law student, who revised our position while working with us in the summer of 2004.

 To view our revised position on solicitation laws, see: [www.bccla.org/positions/privateoff/05solicitation.htm](http://www.bccla.org/positions/privateoff/05solicitation.htm)

# Litigation / Our Thanks To The Legal Community

Defending freedom sometimes requires going to court. The BCCLA is very fortunate to have committed members of the legal profession who volunteer their time and expertise in representing the Association in litigation or contributing financially to our work. To all of you, we owe a tremendous debt of gratitude.

## BCCLA Litigation in 2004

### Terry Lee May v. Warden of Ferndale Institute

The BCCLA is seeking to intervene in a prisoners' rights case that is going to the Supreme Court of Canada. Five prisoners in a minimum security facility were involuntarily transferred to medium security penitentiaries as a result of a new Correctional Service of Canada policy which does not allow "lifers" to be classified to minimum security if they have not completed particular violent offender programming. The reclassification constitutes a significant loss of residual liberty for the appellants and their remedy lies in the historic writ of *habeas corpus*, which determines the lawfulness of a detention.

At issue in the *May* case is the timeliness of the *habeas corpus* remedy. One of the prime innovations of this ancient remedy was that prisoners could plead it immediately when faced with an illegal detention. But in *Hickey v. Kent Institution*, the British Columbia Court of Appeal recently held that federal prisoners could only resort to the provincial superior courts for a remedy of *habeas corpus* if they had either exhausted all alternatives or adduced persuasive evidence that the alternatives were not effective. Otherwise, the court said, federal prisoners must seek their remedies in the Federal Court. However, a judicial review in the Federal Court takes 12 – 18 months, opposed to a *habeas corpus* application in the Supreme Court of British Columbia which can be set down for hearing on six clear days' notice to the respondents. The BCCLA is

very concerned that the removal of access to local superior courts will prevent federal prisoners from any *effective* remedy at all. Without access to a timely *habeas corpus* remedy, society would also lose the capacity to supervise the administration of penal sentences to ensure that they are lawfully implemented and that prisoners are protected from arbitrary deprivations of their residual liberty.

**Michael Jackson, Q.C.**, prison law expert and UBC law professor, is representing the BCCLA.

### Reference Re Same-Sex Marriage

Along with twenty-two other intervenors, the BCCLA participated in the reference by the federal government of proposed same-sex marriage legislation to the Supreme Court of Canada. One of the prime motives for the Association to intervene was to ensure that groups other than gay advocacy organizations were present to make the case that our Constitution requires that the law permit same-sex couples to marry. The BCCLA's factum was unique in arguing a general point of law that only the Parliament or a legislature could knowingly violate a *Charter* right, in this case the section 15 equality guarantee. Such a willful violation would then be subject to the Court's scrutiny to determine whether the government could justify a breach of a *Charter* right. The traditional definition of marriage is to be found in the common law. We argued that common law violations could never be justified. We of course also argued that in this case, government could not justify a ban on same-sex marriage. Though the Court found that the federal government had exclusive jurisdiction to define marriage, that the



proposed legislation was consistent with the *Charter* and that the guarantee of freedom of religion meant that religious groups could not be forced to perform civil or religious weddings, the Court declined to rule whether limiting marriage to opposite-sex couples was unconstitutional. By doing so, the Court thrust the question back into the political arena.

The Association was represented by **Elliott Myers, Q.C.**, BCCLA Board member **Craig Jones**, and **Rebecca Smyth** all of Bull Houser Tupper.

**i** To view the BCCLA factum, visit: [www.bccla.org/othercontent/Marriage%20Reference%20factum.pdf](http://www.bccla.org/othercontent/Marriage%20Reference%20factum.pdf)

To read the Court's decision, visit:  
[www.lexum.umontreal.ca/csc-scc/en/rec/html/2004scc079.wpd.html](http://www.lexum.umontreal.ca/csc-scc/en/rec/html/2004scc079.wpd.html)

## Little Sisters v. Commissioner of Customs and Revenue

The epic struggle between Little Sisters Book and Art Emporium and Canada Customs continues, and the BCCLA is along for the ride, every step of the way. In *Little Sisters I*, the Supreme Court of Canada upheld and clarified the process for Canada Customs to hold books, videos, etc. at the border for inspection and declare materials obscene. The Court also upheld the lower court decision that Customs had improperly discriminated against Little Sisters. In *Little Sisters II*, based on a more recent decision by Customs that four gay comic books are obscene, the bookstore is again challenging the obscenity decision but this time is also directly challenging the obscenity provisions of the *Criminal Code* and a high court decision known as *Butler* which had upheld the constitutionality of these provisions. The BCCLA has now been added as an intervenor to the action and we continue as partners with Little Sisters in this ongoing battle. In 2004, our legal counsel obtained an advanced cost award to assist in funding this litigation, an important precedent in itself. However, the government's appeal was heard in early 2005. Depending on how the cost award issue resolves, we hope to go to a hearing later in 2005 on the merits of the challenge.

**Joe Arvay, Q.C.** and **Irene Faulkner** of Arvay Finlay have been representing Little Sisters and the BCCLA for over 15 years.

**i** To read the Supreme Court of Canada decision in *Little Sisters I*, visit: [www.lexum.umontreal.ca/csc-scc/en/pub/2000/vol2/html/2000scr2\\_1120.html](http://www.lexum.umontreal.ca/csc-scc/en/pub/2000/vol2/html/2000scr2_1120.html)

## Kempling v. College of Teachers

Readers of *The Democratic Commitment* will be familiar with the case of Chris Kempling who was a high school teacher and student counselor in a Quesnel, B.C. high school. Mr. Kempling was also a minister of a local church. Acting on his religious beliefs, he wrote various letters to the editor in the local newspaper from 1997 to 2000 expressing his opinion about the immorality of homosexuality. In particular, Mr. Kempling appeared to link his personal religious beliefs with his professional duties as a student counselor in a way that indicated he would subvert his professional duties – and responsibilities of the school district to ensure tolerance – to his religious beliefs. As a result of these publications, the B.C. College of Teachers cited Mr. Kempling for professional misconduct and, after a hearing in which he declined to participate, found him guilty and suspended him. The BCCLA intervened at the B.C. Supreme Court to argue that Mr. Kempling had crossed the line by indicating that his personal beliefs, beliefs he is perfectly entitled to hold, would interfere with his professional responsibilities in a way that would undermine his ability to provide service and support to local gay and lesbian students. The B.C. Supreme Court substantially agreed with our position but Mr. Kempling has appealed to the Court of Appeal. The BCCLA has received leave to intervene at the Court of Appeal and expects to make submissions to the Court in 2005.

**Elliott Myers, Q.C.** and BCCLA Board member **Craig Jones** of Bull Houser Tupper are acting for the Association.

**i** The B.C. Supreme Court decision can be found at: [www.courts.gov.bc.ca/jdb-txt/sc/04/01/2004bcsc0133.htm](http://www.courts.gov.bc.ca/jdb-txt/sc/04/01/2004bcsc0133.htm)

The BCCLA factum for the Court of Appeal can be found at: [www.bccla.org/othercontent/04kemplingappeal.pdf](http://www.bccla.org/othercontent/04kemplingappeal.pdf)

## Pegura and Forster v. Surrey School Board – District #36

The BCCLA received leave to intervene in a Human Rights Tribunal case in 2004 that is likely to set an important precedent about deliberations in public forums. After the Supreme Court of Canada's decision on the Surrey School Board's use of books

# LITIGATION

depicting same-sex parents, the school board held public consultations. Two lesbians who attended the public meetings allege that the school board discriminated against them in allowing homophobic comments to be made by people addressing the board. The complainants allege that the school board facilitated a toxic environment.

The Association is intervening on the discrete issue of the interpretation of the relevant provision of the B.C. Human Rights Code and will be arguing that the Code cannot be used to censor offensive comments that are made in the course of a public meeting or democratic forum. The hearing is scheduled to resume in the fall of 2005.

BCCLA Policy Director **Micheal Vonn** is representing the BCCLA before the Human Rights Tribunal.

## Lawyers Assisting the BCCLA in 2004

**Dan Burnett** of Owen Bird for his assistance in defamation matters including advice regarding reform of the *Libel and Slander Act* to better protect libraries and library collection from prior restraint through defamation actions.

**Robin Elliot, Q.C.** for assistance with issues regarding judicial “accountability”.

**Gordon Maynard** of Maynard & Stojicevic and **Zool Suleman** of Suleman & Company for volunteering to assist with our Muslim Voices project in which we provide assistance and advice to members of the Muslim and Arab community who have concerns about mistreatment by government officials.

**Michael O’Keefe, Q.C.** and **Grant Russell** of Thorsteinssons for assistance with drafting a trust fund for the BCCLA.

**Matt Pollard** formerly of Arvay Finlay but now obtaining a Masters of Law in England for assistance with the Arar Inquiry.

**Ed Wilson** and **Melissa Yeung** of Lawson Lundell for assisting the BCCLA to negotiate a lease for office space.

## Law Students Assisting the BCCLA in 2004

BCCLA was also the beneficiary of the volunteer work of law students who provide research and assistance to BCCLA staff and representing lawyers. The following students assisted in 2004:

**Chris Hardcastle**, UBC Law

**Eleana Swift**, UBC Law

## Financial Assistance

The following law firms provided funding to the BCCLA as part of our **Time for Liberty** campaign. This campaign encourages law firms to contribute the financial equivalent of a certain number of billable hours. We welcome new firms to join their colleagues in the legal profession in supporting the work of the BCCLA. In addition, the BCCLA was the beneficiary of significant new support from individual lawyers too many to mention here. To you, our thanks.

Baker & Corson

Black, Gropper & Co.

Blake, Cassells and Graydon

Brooks Vinall Associates

Collins & Cullen

Crossin & Coristine

Desroches & Co.

Dosanjh Wooley

Fasken Martineau DuMoulin

Fiorillo & Glavin

Gardiner & Co.

Gottschau Law Corp

Gourlay Spencer Wade

Guy Holeksa Law Corp.

Hamilton Howell

Kambas Galbraith

Lawson Lundell

Lesperance Mendes

McCarthy Tetrault Foundation

Nathanson, Schacter and Thompson

Pamela Boles

Robert D. Holmes Law Corporation

Taylor Jordan Chafetz

Tim Louis & Company

Vancouver Bar Association

Vick, McPhee & Liu Law Corp.

# TREASURER'S REPORT / ALAN ROWAN

As we look back, our relative successes stand nakedly exposed. No hiding, no camouflage. Last year we did well in some ways, in others we came up short. In truth, as we look forward each year, we want to aim high. Lofty goals are often rewarded with a commensurate degree of success, but we should learn to expect the unexpected! The result last year was a bit of a THUD as certain aspects of our fundraising fell short of anticipated revenues.



Treasurer Alan Rowan  
PHOTO: ALISTAIR EAGLE

There were two items that together created our approximately \$22,500 deficit. The first item concerns the Gaming Commission grant, a topic in past reports. The irony last year was that after some successful lobbying by our E.D. and President, we received our largest grant ever. The unfortunate part was that due to administrative reorganization at the the Commission, we received our grant too late in the year to be of much benefit to '04. The bulk of the grant must be carried forward, and applied to fiscal '05. The remainder of our shortfall resulted from lower revenues from our in-house fundraising. We balanced the deficit by a withdrawal from the Stabilization Fund.

That said, I would like to note two things: one, the very generous grant from the Gaming Commission will greatly assist in 2005; and two, the *successes* generated by our fundraising efforts. In particular, two new programs last year not only brought immediate results, but will also pay dividends for years to come. Our Time for Liberty campaign is an appeal to law firms to donate the financial equivalent of some billable hours. Our aptly named Lunch Money campaign, also begun by Development Officer Tom Sandborn, reaches out to current or prospective donors. Regrettably, Tom has retired from his paid position with the BCCLA, but has agreed to step up to join the Board. Our heartfelt thanks to him, and a cheery welcome to the Board.

Where to from here? Well, we are continuing our search for a replacement for Tom. We're not at the panic stage yet, but this is an issue of dire importance to our future, and begs for a speedy resolution.

I would like to speak briefly about our Lunch Money campaign, and how our friends might assist. We generate recommendations from board members and friends, to compile a list of likely PROSPECTS. A call is made with an invite to join the caller and another for lunch (we pay). At lunch, the conversation will solicit information such as awareness of the BCCLA, and interest in specific rights and liberties issues. We reference current issues on our agenda, along with tales of past successes. This will be followed by a pitch for a contribution (the prospect is forewarned), and an invitation to submit names of friends who may share common cause. The program has been a success, and we invite interested members and donors to assist by submitting names for consideration. Please direct enquiries to Murray Mollard, or to me, Alan Rowan, at the office. Thank you.

In closing, our thanks to our many supporters who continue to make our work possible through their contributions. As well, I'd like to make special mention of various groups and individuals who provided good work, advice, gifts in kind or financial assistance to the BCCLA during the past year: The Law Foundation of B.C., The Notary Foundation, The Gaming Policy and Enforcement Branch of the government of British Columbia, Office Depot, The Global Group Furniture Program, Heritage Office Furnishings Ltd., Reboot Computer, Staples, Joe and Attila Lukacs, Jessica Stockholder, Nathan Raffla and Graham Gillmore.

ALAN ROWAN

# AUDITOR'S REPORT

To the Board of Directors and Members, British Columbia Civil Liberties Association

We have audited the statement of financial position of the British Columbia Civil Liberties Association as at December 31, 2004 and the statements of operations and changes in fund balances, financial position and cash flows for the year then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audit.

Except as explained in the following paragraphs, we conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in 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, the completeness of which is not susceptible of satisfactory audit verification. Accordingly, our verification of those revenues was limited to the amounts recorded in the records of the organization and we were not able to determine whether any adjustments might be necessary to memberships and donations, excess of revenue over expenses, assets and net assets.

In our opinion, except for the effect of adjustments, if any, which we may have determined to be necessary had we been able to satisfy ourselves concerning the completeness of the memberships, and donations referred to in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Association as at December 31, 2004 and the results of its operations for the year then ended in accordance with Canadian generally accepted accounting principles. As required by the Society Act of B.C., we report that these principles have been applied on a basis consistent with the prior year.

**TOMPKINS, WOZNY, MILLER & CO.**

CHARTERED ACCOUNTANTS

Vancouver, Canada

February 14, 2005

# FINANCIAL STATEMENTS

## British Columbia Civil Liberties Association STATEMENT OF OPERATIONS AND CHANGES IN FUND BALANCES As at December 31

	2004				Total 2003
	General Fund	Stabilization Fund	Little Sister's Fund	Total 2004	
<b>REVENUES</b>					
Membership & donations	148,080	—	—	148,080	127,528
Law Foundation – operating grant	134,300	—	—	134,300	134,300
Specified grants & donations earned	11,121	—	18,924	30,045	81,579
Gaming revenue earned	20,968	—	—	20,968	25,100
Investment revenue	109	4,311	—	4,420	10,208
Endowment income [note 6]	4,043	—	—	4,043	4,871
Miscellaneous and special events [note 11]	24,011	—	—	24,011	17,163
Amortization of deferred contribution related to capital assets [note 7]	1,985	—	—	1,985	3,184
	<b>344,617</b>	<b>4,311</b>	<b>18,924</b>	<b>367,852</b>	<b>403,933</b>
<b>EXPENSES</b>					
Salaries & benefits	197,000	—	—	197,000	180,984
Rent & utilities	30,746	—	—	30,746	31,075
Office operating [note 9]	38,711	—	—	38,711	17,416
Contract services [note 12]	49,225	—	18,924	68,149	57,438
Insurance	4,450	—	—	4,450	4,400
Bank charges	3,003	—	—	3,003	1,830
Fundraising	9,155	—	—	9,155	6,516
Publications & printing [note 10]	6,905	—	—	6,905	46,824
Legal defence	6,760	—	—	6,760	2,988
Miscellaneous and special events [note 11]	16,655	—	—	16,655	53,708
Amortization	4,458	—	—	4,458	5,310
	<b>367,068</b>	<b>—</b>	<b>18,924</b>	<b>385,992</b>	<b>406,659</b>
<b>Excess (deficiency) of revenue over expenses</b>	<b>(22,451)</b>	<b>4,311</b>	<b>—</b>	<b>(18,140)</b>	<b>(2,726)</b>
Fund balance, beginning of year	5,617	240,736	1,625	247,978	250,704
Transfer from Stabilization Fund	25,000	(25,000)	—	—	—
<b>Fund balance, end of year</b>	<b>8,166</b>	<b>220,047</b>	<b>1,625</b>	<b>229,838</b>	<b>247,978</b>

The complete 2004 BCCLA Audited Financial Statements are available at [www.bccla.org](http://www.bccla.org) or upon request.

# BCCLA People

<b>Membership Report / Supporters</b>					
	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>
Special	206	252	218	223	213
Individual	327	324	342	330	311
Family (two people)	232	198	190	180	146
Organization	11	11	9	7	6
Total memberships	776	785	759	740	676
Donors only	331	354	272	223	334
Total supporters	1107	1139	1031	963	1,010

## Bequests

Francis Earl Bertram (1997)  
 Roderick Lionel (1994)  
 Winona Grace MacInnis (1993)  
 David Bruce Morgan (1990)  
 Dr. Cecil K. Stedman (1989)  
 Accelerated Dr. Cecil K. Stedman (1984)

## In Memoriam

John B. (Jack) Bryan (1993)  
 Gordon H. Dowding –  
 Founding Member (2003)  
 Robert E. Jefferson (1993)  
 Merrill Lathan (1994)  
 Chrysta McCarron (1999)  
 David Bruce Morgan (1990)  
 Mr. R. E. (Lefty) Morgan –  
 Founding Member (1987)  
 Roger Robson (1990)  
 R.A.H. (Reg) Robson –  
 Founding Member (1996)  
 Karl Siegfried (1994)  
 Homer Stevens –  
 Honourary Director (2002)  
 Kay Aronstam Stockholder (1998)  
 Harry Rankin  
 – Honourary Director (2002)  
 Rev. John Shaver  
 – Honourary Director (2001)

## Staff

Murray Mollard, Executive Director  
 Micheal Vonn, Policy Director (from May 2004)  
 Kirk Tousaw, Policy Director (to April 2004)  
 Lil Woywitka, Membership Secretary  
 Jim Braunagel, Office Manager  
 Tom Sandborn, Development Officer (to December 2004)  
 Sarom Bahk, Summer Law Student  
 Melissa Dahabieh, SFU co-op student

## Contractors

Katherine Ruffen of Dragomir Breckner, Bookkeeper  
 Nadene Rehnby of Hands on Publications, Desktop  
 Publisher for The Democratic Commitment

## 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:

Herlenda Basas for assistance with donation records.  
 Lynda Hird who is overseeing the archiving of the Association's historical records.  
 Alexandra Bradley for assistance in managing our archives.

Thanks also to the following volunteers:  
 Melissa Dahabieh, Scott Somers, Dave Eby,  
 and Bessie Ho.

## **2005 REG ROBSON CIVIL LIBERTIES AWARD / JOE ARVAY, Q.C.**

Each year, the BC Civil Liberties Association Board of Directors honours a Canadian who has demonstrated a substantial and long-lasting contribution to the cause of civil liberties in B.C. and Canada. This award is named after long-time BCCLA President and civil liberties activist Reg Robson.



The BCCLA is pleased to announce that the 2005 Reg Robson Civil Liberties Award goes to Joe Arvay, Q.C.

Mr. Arvay has been counsel to the BCCLA and Little Sisters for over 15 years in our ongoing battle with Canada Customs. He has appeared *pro bono* for the BCCLA in numerous interventions before the Supreme Court of Canada on a variety of issues including the constitutionality of obscenity laws, marijuana possession prohibitions and Cabinet confidence privilege. He is currently counsel for the BCCLA in the Arar Inquiry.

In nominating Mr. Arvay for the Canadian Bar Association's Equality and Diversity Award in 2004, which he won, BCCLA Past President John Dixon wrote:

"In my role as Senior Advisor to Mr. John Tait, when he was the Deputy Minister of Justice and Attorney General for Canada (1990 to 1992), and in the management of cases for the BCCLA, I have had working contact with many of the leading members of the Canadian legal culture. I can think of very few of these women and men who, while not themselves a member of an equality-seeking group, has worked more ably, tenaciously, and selflessly for the equality and diversity rights of Canadians than has Joseph Arvay."



Protecting the  
**freedom**  
of **Canadians**  
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.



BC Gaming Policy and Enforcement  
Branch of the Ministry of Public  
Safety and Solicitor General



VANCOUVER  
FOUNDATION



[www.bccla.org](http://www.bccla.org)