

## Civil Rights Protection Act 1981

The B.C. Civil Liberties Association is in complete sympathy with the objective of encouraging and supporting minority groups in the face of racist propaganda. So we understand well why the B.C. Government's *Civil Rights Protection Act* (Bill 32) was so widely applauded by the press and the public. However, we have serious reservations both about this Act and, more generally, about attempts to combat racism by striking at racist propaganda.

In the first place, this Act is likely to be ineffective in dealing with propaganda. Hate literature *per se* is not outlawed by the Act. Rather, "*conduct or communication*" is outlawed if its *purpose* is "*interference with the civil rights*" of someone by "*promoting* (a) *hatred or contempt...* or (b) the *superiority or inferiority* of a person or class of persons... on the basis of colour, race, religion, ethnic origin or place of origin" (emphasis ours).

It is not clear exactly what this means. The key terms, emphasized above, are not defined and some of them are open to widely varying interpretations. This vagueness and ambiguity will make it extremely difficult to prove that hate literature has been issued with the prohibited purpose. Such vagueness may even invalidate the statute as a whole. We expect, therefore, that few, if any, cases will be successfully prosecuted under this Act.

While it is unlikely, because of well established policies of judicial interpretation, that the courts will correct the draftsmanship and close the holes in the legislation, such judicial action remains a possibility. Even if this occurred, however, racist propaganda could not be halted by means of the Act, for the propagandists would merely go underground, issuing their contemptible material anonymously. At the same time, judicial (or further legislative) action to make the Act less ambiguous and therefore a more successful prosecutorial tool, could quite conceivably open the way for dangerous interference with legitimate activities and the undermining of freedom of expression.

Here are some examples of cases in which freedom of expression could be infringed:

- It is common for religious groups to preach the superiority of themselves as compared with other groups. If the courts interpret the legislation in a way that makes successful actions more likely, groups like this might find themselves contravening the Act.
- Again, militant native groups have argued in the past that whites, and members of other non-aboriginal groups, should leave North America. Groups like this might also find themselves contravening the Act.

In light of these possibilities, it might prove ironic that the Act is named the *Civil Rights Protection Act*.

The BCCLA believes that racism must be combatted. It is our position that racism cannot effectively be combatted, however, by poorly drafted and vague legislation, nor by legislation that limits comment in a free and democratic society. Such legislation will not eliminate racism,

and the propaganda will continue to line the gutters. Nevertheless, there are measures that can be taken, and that *must* be taken to eliminate the problems that allow racism to take root, and to help create a situation where racist propaganda has no chance to survive. These measures require determination, commitment of financial resources, and a sustained effort over the years by persons and groups of all racial, ethnic and religious backgrounds.

1. First, police departments can step up the enforcement of laws that already exist to protect people against harassment, vandalism, and so on, and they can pay special attention to protecting minority groups whose members have been victimized.
2. Second, the government can begin a sustained effort in the schools, and in the community, to educate people about race, and about the advantages of a multi-racial society.
3. Third, the government can attempt in a serious way to ensure that police forces and the civil service are made multi-racial and multi-ethnic.
4. Finally, the government can encourage, and give financial aid to, multi-racial and neighbourhood groups established to support and encourage minority group members in the face of racist propaganda, harassment and vandalism.

These are programs the government and private groups must embark upon if racism is to be eliminated as a serious and threatening problem in our society. We support such programs wholeheartedly, and are working to expand our own efforts in these areas. We ask citizens everywhere in B.C. to work actively in their own communities with those groups who support such measures. In addition, we hope that those who applauded the enactment of the *Civil Rights Protection Act* will consider whether the threat to freedom of expression is justified in light of its likely ineffectiveness to deal with the problem of racist propaganda.