

## AN EXERCISE IN FUTILITY?

### *Regionalism, State Funding, and Ideology as Obstacles to the Formation of a National Social Movement Organization in Canada*<sup>1</sup>

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DOMINIQUE CLÉMENT

That the Central Canada Civil Liberties Association chose to style itself the Canadian Civil Liberties Association is a completely natural expression of a whole bunch of historical and political facts about our country. The naturalness, if not the inevitability, of self-absorbed and self-serving central Canadians acting as though the politically relevant nation ended at Georgian Bay is part of the established pathos of Canadian life.<sup>2</sup>

**T**his complaint, voiced by John Dixon, president of the British Columbia Civil Liberties Association (BCCLA), to Alan Borovoy, general counsel of the Canadian Civil Liberties Association (CCLA), in 1987, reflects his frustration at the arrogance displayed by the Toronto association, which claimed to be a national organization. As far as Dixon was concerned, only groups located in British Columbia were the appropriate advocates for local rights issues. Dixon was expressing the same frustrations articulated by several presidents of the BCCLA. For the past twenty years leaders of the BCCLA have challenged the CCLA's claim to national status. Tensions between the two organizations played a critical role in preventing the formation of a unified national organization for civil liberties and human rights groups in Canada.

The following paper traces the history of civil liberties and human rights groups in the 1960s and 1970s in Canada and, in particular, in British Columbia. In part, this is an attempt to investigate one aspect of

<sup>1</sup> To follow up on this paper and learn more about the history of the rights movement in Canada, visit: <[www.historyofrights.com](http://www.historyofrights.com)>. I would like to extend special thanks to Christopher English at Memorial University in Newfoundland for his comments on this paper, to the anonymous readers, and to Robert McDonald, editor of *BC Studies*, who provided extensive and invaluable feedback on the final draft.

<sup>2</sup> John Dixon to Alan Borovoy, 23 June 1987; vol. 3, file 31, Archives Canada (AC), Canadian Civil Liberties Association Papers (CCLA), R9833.

the virtually undocumented expansion of social movement organizations in British Columbia in the 1960s and 1970s. I define “social movement” as “a set of opinions and beliefs in a population representing preferences for changing some elements of the social structure or reward distribution, or both, of a society ... A *social movement organization* is a complex, or formal, organization that identifies its goals with the preferences of a social movement ... and attempts to implement these goals.”<sup>3</sup>

This paper posits that a “rights movement” emerged in Canada in the twentieth century. Unlike more expansive social movements, such as the women’s movement, the rights movement is primarily state-oriented. The central pillar of the rights movement is the belief that the state should not be permitted to violate certain basic freedoms and, especially since the 1960s, that the state should actively promote equality in both the public and private realms. Adherents to the rights movement are also identified by their focus on promoting universal rights and freedoms as opposed to those associated with a specific constituency (e.g., children or prisoners). The following paper, however, traces only one aspect of the history of the rights movement: social movement organizations. In this context a “rights association” is a self-identified “human rights” or “civil liberties” association, such as the Newfoundland-Labrador Human Rights Association or the British Columbia Civil Liberties Association. Laurie S. Wiseberg offers a way of distinguishing rights associations from other social movement organizations employing human rights discourse:

[A rights association is] a voluntary organization which is independent of both government and all groups which seek direct political power, and that does not itself seek such power ... monitors government behavior and tries to hold the government accountable to human rights standards ... embodied in either international instruments or national legislation ... What distinguishes a [rights association] from other political actors is that the latter, typically, seek to protect the rights of their members or constituents only; a [rights association] seeks to secure the rights for all members of society ... On the whole, [rights associations] are not mass-based organizations.<sup>4</sup>

Historians have only recently begun to probe the evolution of the rights paradigm in Canada, particularly through the eyes of social activists. Ross Lambertson (*Repression and Resistance*, 2005) and

<sup>3</sup> Mayer N. Zald and John D. McCarthy, *Social Movements in an Organizational Society* (New Brunswick: Transaction Publishers, 1987), 20.

<sup>4</sup> A second category of human rights organizations includes groups that support human rights struggles but that have broader mandates. For instance, trade unions; churches; women’s

Christopher MacLennan (*Toward the Charter*, 2003) have explored the early history of the rights movement. Similar work by Carmela Patrias, Ruth Frager, and James Walker on Jewish activists; George Egerton on the impact of religious doctrine on human rights discourse; and William Schabas on the Universal Declaration of Human Rights are evidence of increasing interest among historians and others in this field of study. With the exception of Lucie Laurin's 1985 history of the *Ligue des droits et libertés* in Montreal, however, this literature fails to address the development of rights associations since the 1960s.<sup>5</sup>

In addition to charting the early history of several advocacy groups in Canada, the core objective of this paper is to explore a central theme in the history of the rights movement: the failure of rights associations to work together to form an inclusive national organization. With the first generation of organizations (emerging in the 1930s) defunct by the late 1950s, a new and vigorous collection of civil liberties and human rights groups emerged in the 1960s, beginning with the BCCLA in 1962. The Vancouver association soon rose to become one of the leading rights associations in the country and was central to the creation, in 1972, of a national rights association – the Canadian Federation of Civil Liberties and Human Rights Associations. Thus, rights associations divided in 1972 as the federation and the CCLA both claimed to be Canada's national rights association. Whereas ideology had created insurmountable obstacles to forming a national rights association in the 1940s, a combination of ideological divisions, regional sentiments,

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groups; professional associations; ethnic associations; indigenous groups; groups concerned with the handicapped, poor, children, consumers, and a host of other constituents. Laurie S. Wiseberg, "Human Rights Nongovernmental Organizations," in *Human Rights in the World Community: Issues and Action*, 2nd ed., ed. Richard Pierre Claude and Burns H. Weston (Philadelphia: University of Pennsylvania Press, 1992), 372-3.

<sup>5</sup> Laurin's work does not deal with the *Ligue* exclusively, does not go beyond 1975, and fails to consider the activities of the *Ligue* within a national context. For further information on this topic, see Dominique Clément, "Searching for Rights in the Age of Activism: The Newfoundland-Labrador Human Rights Association, 1968-1982" *Newfoundland Studies* 19, 2 (2003): 347-72; Clément, "Spies, Lies and a Commission," *Left History*, (Vol. 7, No. 2, 2001): 53-79; George Egerton, "Entering the Age of Human Rights: Religion, Politics, and Canadian Liberalism, 1945-50," *Canadian Historical Review* 85, 3 (2004): 451-79; Ruth A. Frager and Carmela Patrias, "'This Is Our Country, These Are Our Rights': Minorities and the Origins of Ontario's Human Rights Campaigns," *Canadian Historical Review* 82, 1 (2001): 1-35; Ross Lambertson, *Repression and Resistance: Canadian Human Rights Activists, 1930-1960* (Toronto: University of Toronto Press, 2004); Lucie Laurin, *Des Luttes et des droits: Antécédents et histoire de la Ligue des Droits de l'Homme de 1936-1975* (Montréal: Éditions du Méridien, 1985); Christopher MacLennan, *Toward the Charter: Canadians and the Demand for a National Bill of Rights, 1929-1960* (Montreal: McGill-Queen's University Press, 2003); William A. Schabas, "Canada and the Adoption of the Universal Declaration of Human Rights," *McGill Law Journal* 43 (1998): 403-41; James Walker, "The 'Jewish Phase' in the Movement for Racial Equality in Canada," *Canadian Ethnic Studies* 34, 1 (2002): 1-23.

and concerns over state funding has divided rights associations since the 1960s.

#### CANADA'S FIRST GENERATION RIGHTS ASSOCIATIONS: 1930S TO 1950S

Civil liberties organizations have been active in Canada since at least the 1930s. In reaction to the passing in 1937 of Quebec's Padlock Act, a repressive piece of legislation designed to stamp out communism in the province, rights associations appeared in Toronto, Ottawa, Montreal, and Vancouver. These associations referred to themselves as branches of the Canadian Civil Liberties Union (CCLU), and, although national in name, they were autonomous organizations with few links to each other. Members of the CCLU were not the first civil liberties activists in Canada; however, as in the case of the Canadian Labour Defence League formed in the 1920s, previous civil liberties organizations had partisan affiliations. The Canadian Labour Defence League was affiliated with the Communist Party of Canada and was exclusively concerned with the defence of the rights of the working class.<sup>6</sup> The 1930s generation of rights organizations was dedicated solely to the preservation of rights irrespective of class, beliefs, or background. Rights associations during this period were fervently non-partisan and were solely concerned with the defence of traditional British liberties against state abuse. Following the federal government's decision in 1945 to deport Japanese Canadians and the hearings of the Taschereau-Kellock royal commission on espionage, in which several individuals were incarcerated and deprived of basic due process rights, several more civil liberties groups were formed. By 1946 six rights associations were active in Canada.<sup>7</sup>

The CCLU and the civil liberties groups that emerged in 1946 were the first social movement organizations of an expanding social movement. The rights movement represented a direct challenge to the existing social structure and to the distribution of rewards in Canadian society. In a period when governments actively discriminated against individuals with certain political beliefs, and when employers openly practised discriminatory hiring practices, the rights movement called on the state to protect

<sup>6</sup> For more information on the Canadian Labour Defence League, see: Jaroslav Petryshyn, "A.E. Smith and the Canadian Labour Defence League" (PhD diss., University of Western Ontario, 1977).

<sup>7</sup> For more information on the organized rights movement in the 1930s to the 1950s, see Clément, "Spies, Lies and a Commission"; Lambertson, *Repression and Resistance*.

individuals from discrimination in the public and private realm. Rights discourse constrains legislative discretion by placing limits or obligations on the state; for instance, states are perceived as violating human rights if they require citizens to adhere to a particular religious faith or if they refuse to punish individuals who, in their hiring practices, openly discriminate against minorities. Most adherents to the rights movement sought to counter legislative supremacy with judicial review (most notably in calling for a bill of rights) and, in doing so, to initiate an important shift in power away from elected officials.<sup>8</sup> As Miriam Smith points out, “rights talk assumes that changing or strengthening the law is in itself a means to [achieving] social change and that legal changes are thus the proper goal of political struggle and organizing. Rights talk thus defines social and political change as legal change.”<sup>9</sup> Various postwar developments were crucial in solidifying support for the rights movement, most notably the deportation of Japanese Canadians, the espionage commission, and the passage of the Universal Declaration of Human Rights in 1948. The organization of rights activists into civil liberties groups that included all people irrespective of such factors as race, religion, or gender was a uniquely twentieth-century phenomenon and, as the rights movement evolved, would lead these and other groups to popularize demands for a more active state role in promoting liberty and equality.

Attempts to form a national rights association in the 1940s were frustrated by the divisions between communists and social democrats. In 1941 the Montreal branch of the CCLU attempted to create a national rights association with strong links among individual groups, only to be rebuffed by those who refused to work with communists.<sup>10</sup> A second attempt in Ottawa to form a national civil liberties association in 1946 failed and has been characterized by Frank Clarke as a “rancorous affair.”<sup>11</sup> C.S. Jackson of the communist-led Civil Rights Union in Toronto called for a broad-based organization to include organized labour, while J.P. Erichsen-Brown of the Ottawa Civil Liberties Association

<sup>8</sup> The first recorded attempt to pass some form of bill of rights at the federal level occurred in 1945 when Alistair Stewart, a member of Parliament with the Co-Operative Commonwealth Federation, introduced a motion in the House of Commons calling for a bill of rights (which he later withdrew).

<sup>9</sup> Miriam Smith, *Lesbian and Gay Rights in Canada: Social Movements and Equality-Seeking, 1971-1995* (Toronto: University of Toronto Press, 1999), 75.

<sup>10</sup> Ross Lambertson, “Activists in the Age of Rights: The Struggle for Human Rights in Canada, 1945-60” (PhD diss., University of Victoria, 1998), 40-1.

<sup>11</sup> Frank K. Clarke, “Debilitating Divisions: The Civil Liberties Movement in Early Cold War Canada, 1946-8,” in *Whose National Security? Surveillance and the Creation of Enemies in Canada*, ed. Gary Kinsman (Toronto: Between the Lines, 2000), 177.

rejected the idea of a communist being a legitimate civil libertarian. The conference broke down and no consensus was reached.

By the 1950s most of the rights associations that had emerged in the 1930s and 1940s were largely inactive or defunct. Rights activists in Toronto had formed two separate national organizations, including the Association for Civil Liberties and the League for Democratic Rights. Although the latter could boast of chapters in more than a dozen cities across the country, neither organization lasted very long. Both groups were also centred in Toronto, and the inability of the two to work cooperatively highlighted the ideological divisions of the period. Members of the Association for Civil Liberties were predominantly left-leaning liberals and social democrats, including B.K. Sandwell (editor of *Saturday Night*) and Charles Millard (United Steelworkers of America). In contrast, the League for Democratic Rights was led by such figures as C.S. Jackson of the communist-led United Electric Workers and C.B. Macpherson, a Marxist professor at the University of Toronto. By the end of the 1950s both groups were inactive.

#### BRITISH COLUMBIA'S RIGHTS ASSOCIATIONS: SECOND GENERATION

British Columbians have been organizing rights associations since the formation of the Vancouver branch of the CCLU under the leadership of a well-known English professor at the University of British Columbia, Garnett G. Sedgewick. However, the Vancouver CCLU did not actively attempt to unite civil liberties groups in the 1940s. That drama took place elsewhere, in Ottawa and Toronto. By the end of the 1950s the Vancouver CCLU, the Association for Civil Liberties, and the League for Democratic Rights were defunct, and the first group to emerge from this vacuum was the British Columbia Civil Liberties Association in 1962. The provincial government had charged the Sons of Freedom (a Doukhobour sect accused of terrorist activities) in 1962 with conspiracy to intimidate the legislature. A group of activists, who considered the charges excessive and unwarranted, formed the BCCLA after taking part in a successful campaign to have the charges dropped.<sup>12</sup> The BCCLA's first president was a Vancouver Anglican minister, Philip Hewett, who was later replaced by James Foulks, the founding head of the Department of Pharmacology at the University of British Columbia.

<sup>12</sup> Simma Holt, *Terror in the Name of God: The Story of the Doukhobours* (Toronto: McClelland and Stewart, 1964), 269-70.

Over the next twenty years the BCCLA proved to be one of the most dynamic rights associations in the country. Between 1968 and 1973 the association fought a string of battles against censorship in Vancouver, including attempts by the city licensing inspector to shut down various local theatre productions and attacks on the *Georgia Straight* (a popular alternative paper founded in 1967) for obscenity. It successfully lobbied Vancouver City Council to limit the licensing inspector's powers and, in several *Georgia Straight* obscenity cases, provided legal counsel and experts to testify on the literary merit of the paper's work.<sup>13</sup> In 1971, when police on horseback caused a riot by storming a crowd of youths in Gastown who were protesting drug laws, the BCCLA took centre stage in defending the rights of the protestors against police abuse.<sup>14</sup> Years later, in 1979, the association succeeded in convincing a provincial Supreme Court judge to strike down the provincial Heroin Treatment Act, which was designed to forcibly detain drug addicts and to compel them to seek treatment.<sup>15</sup> The court decision provided an important moral victory for civil libertarians opposed to the state's forcing individuals to be treated for addiction. Although the decision was overturned in the Supreme Court of Canada, the case reflected the rising prominence of the BCCLA and its ability to mobilize sufficient resources for a court case of national importance.<sup>16</sup>

As with most rights associations since the 1960s, the BCCLA was predominantly middle class and was led by professionals, notably lawyers and academics. Most of its leaders were Caucasian males, and there were few minorities on the board of directors despite the fact that the association operated in one of the most culturally diverse cities in the country. While members, whose numbers rose from sixty-two in 1964 to over 500 in 1975, supported the association financially, it has always depended heavily on provincial and federal grants.<sup>17</sup>

<sup>13</sup> Law Society of British Columbia Archives (LSBCA), British Columbia Civil Liberties Association Papers (BCCLA), vol. 3, file 16, minutes of the Annual General Meeting, 1970; vol. 2, file 19, publicity policy/press releases, 1972-74; vol. 2, file 1, activities and function of the BCCLA, 1973-75; vol. 19, file 8, BCCLA press release, 1971. See also Mark M. Krotter, "The Censorship of Obscenity in British Columbia: Opinion and Practice" *University of British Columbia Law Review* 5, 1 (1970): 127-8.

<sup>14</sup> British Columbia, *Report on the Gastown Riot* (the Dohm inquiry) (Victoria: Government of British Columbia, 1971).

<sup>15</sup> *Schneider v. R.*, 37 British Columbia Law Reports (BCLR) (British Columbia High Court 1980).

<sup>16</sup> *Schneider v. R.*, 22 BCLR (British Columbia Appeals Court 1981); *Schneider v. The Queen*, Supreme Court Reports 112 (Supreme Court of Canada 1982).

<sup>17</sup> LSBCA, BCCLA, vol. 4, file 1-21, Financial Committee Reports and Statements, 1971-82; *Rights and Freedoms*, no. 21, March 1976, and no. 25, March 1977.

Adherents to the rights movement before the 1950s often defined rights in terms of civil liberties, but ideas about “human rights” eventually led to the formation of self-styled human rights groups. The difference between civil liberties and human rights organizations and their conception of rights was (and continues to be) comparable to the distinction between negative and positive rights. Civil libertarians defined rights as negative rights: limiting government activity and ensuring that the state treated all individuals equally. As a result, civil libertarians primarily defined rights in terms of civil and political rights, such as free speech and freedom of religion, as these rights required little positive action on behalf of the state. In addition, by the 1950s most civil liberties activists also opposed discrimination in the public and private realm.

In contrast, human rights activists, who promoted positive rights, shared the same ideas about the need to protect individuals from unequal treatment but adopted a broader conception of rights. Human rights advocates wanted the state to promote equality through the provision and protection of economic, social, and cultural rights, such as by ensuring adequate medical care for the elderly or a higher living standard for welfare recipients. Pornography, for instance, divided civil libertarians from human rights activists. The BCCLA opposed censorship and adopted a free speech stand on pornography, whereas human rights associations supported censorship on the grounds that pornography portrayed women as sexual objects.<sup>18</sup> In Montreal the *Ligue des droits et libertés*, believing that prisons by nature treated inmates unjustly and that they were premised upon the destruction of the individual, sought not only to improve the quality of life for prisoners but also, eventually, to abolish all prisons.<sup>19</sup> In dealing with quality-of-life issues within a rights framework, the *Ligue* offered a much broader conception of rights than that envisioned by civil liberties groups such as the BCCLA.

A host of new rights associations appeared throughout the province following the formation of the BCCLA. Two human rights committees were already active in Vancouver in the early 1960s, including the British Columbia Federation of Labour’s Human Rights Committee

<sup>18</sup> John Dixon, “The Porn Wars,” *Liberties*, ed. John Russell, 26 (Vancouver: New Star Books, 1989); Jerry Vink (executive director, Newfoundland Labrador Human Rights Association), interview conducted by Dominique Clément, 11 March 2002.

<sup>19</sup> The mandate of the Montreal group’s prisoners committee was expressed as follows: “L’objectif du [prisoners committee] est l’abolition des prisons. L’emprisonnement est fondée sur la discrimination et la destruction de la personne incarcérée. A court terme, le [prisoners committee] prône des changements qui non seulement améliorent les conditions de vie des personnes détenues mais qui vont dans le sens de l’abolition.” See *Face à la justice* 1, 2 (1978).



and the Vancouver Labour Committee for Human Rights.<sup>20</sup> In 1968 the British Columbia Human Rights Council materialized in the wake of celebrations surrounding the International Year for Human Rights.<sup>21</sup> The Council was a collection of associations, not individuals, and it complemented the provincial human rights commission by conducting educational work and bringing human rights violations to the attention of the commission. All three organizations focused most of their efforts on promoting non-discrimination and tolerance.<sup>22</sup>

Several rights associations emerged outside Vancouver in the late 1970s. An attempt to form a rights association in Victoria in 1969 failed, but another group emerged in 1979 and continues to operate today as a discussion group.<sup>23</sup> Other groups appeared in Powell River, Kamloops, Penticton, Quesnel, Prince George, Comox-Strathcona-Courtenay, Kelowna, Williams Lake, and the North-Central and South Okanagan regions. Some of the associations had been organized by the Human Rights Council but most of them had been created by BCCLA field workers. The BCCLA's Community Information Project, funded by the province in 1973 and later by a federal grant, aimed to send field workers around the province to provide legal counselling services, to promote good relations between the police and citizens, and to encourage the formation of independent rights associations.<sup>24</sup> Once they had been formed, the BCCLA had little interaction with these organizations outside

<sup>20</sup> The Vancouver Labour Committee for Human Rights (VLCHR) was set up in the 1950s by the Jewish Labour Committee, a national anti-discrimination organization headquartered in Montreal. Although in theory the Vancouver and District Labour Council had its own human rights committee, in practice it simply provided funding to the VLCHR and received reports on the labour committee's activities.

<sup>21</sup> William Giesbrecht to R.C. Haynes, 15 April 1970, vol. 37, file 17, University of British Columbia, Rare Books and Special Collections, British Columbia Federation of Labour Papers. The council's chair was a well-known academic from the Faculty of Education of the University of British Columbia, Joseph Katz. Katz was known across Canada for his human rights work in British Columbia; the council was one of the few rights associations to receive a large grant from the Secretary of State in 1970, and, in the following year, Katz and a group of rights activists were invited to Ottawa to advise the Secretary of State on its human rights program. Canada, *Report of the Department of the Secretary of State of Canada*, 31 March 1970.

<sup>22</sup> As Katz noted in a meeting of the Undersecretary of State's Advisory Committee on Human Rights, the "Council has some concern about the stance that civil liberties takes that strike the public, in many cases individuals as sort of a negative or regressive stance which tends to try to show the negative side in order to elicit the positive. On the other hand human rights is concerned with cultivating and developing a positive relationship." Université du Québec à Montréal (UQAM), Service des archives et de gestion des documents (SAGD), Fond de la Ligue des droits et libertés (LDL), 24P2b/14, Under-Secretary of State's Advisory Committee-Human Rights, 25 January 1971.

<sup>23</sup> Ross Lambertson (member, Victoria Civil Liberties Association), interview conducted by Dominique Clément, 26 August 2003.

<sup>24</sup> Robson to field workers, June 1974, vol. 2, file 4, LSBCA, BCCLA.

of the Community Information Project. None had representation on the BCCLA board of directors, and the only financial relationship involved the salaries provided to the field workers. Unfortunately, the core weakness of each group was a dependence on the field worker, and many of them became defunct once the field worker departed.

Among the more viable groups created by the BCCLA were those in Williams Lake, Quesnel, Kamloops, and South Okanagan. By 1974 each group was handling approximately 100 inquiries per month, mainly dealing with complaints between landlords and tenants. All four rights associations provided local citizens with information on their legal rights as tenants and advice on how to challenge high rent increases or evictions. They offered paralegal services as part of a court workers program, informed people about legal aid and alternative avenues for redress, helped secure counsel, and contacted relatives for bail.<sup>25</sup> Membership in these associations ranged from twenty-six to sixty people each. The Williams Lake Civil Liberties Association spent most of the 1970s providing free legal services and educating people about their legal rights after the field worker departed. The Law Foundation of British Columbia provided the association with most of its funding: approximately \$25,000 annually.<sup>26</sup>

Rights associations in Kamloops, Quesnel, and the South Okanagan offered similar services. The Kamloops Civil Liberties Society conducted paralegal work after receiving a grant from the Law Foundation to train law counsellors, and in the late 1970s it focused on complaints surrounding unemployment insurance.<sup>27</sup> South Okanagan's Civil Liberties Association received its funding from BC Consumer Services and the Legal Services Commission to sponsor a Penticton community law office that would provide individuals with information on court procedures and on how to gain access to community services; would assist people in acquiring legal aid; would settle landlord-tenant disputes; and would investigate cases of employment discrimination.<sup>28</sup> Within a couple of years the association had turned to Native issues. It supported the Nazko and Klusky First Nations in their fight against logging on their lands and recognized Aboriginal land claims.<sup>29</sup> In

<sup>25</sup> LSBCA, BCCLA, vol. 16, file 17, Application to the Department of Manpower and Immigration for a Local Initiatives Programme Grant, 1974.

<sup>26</sup> Law Foundation of British Columbia, *Annual Report*, 1975.

<sup>27</sup> Between October 1976 and March 1977 the Kamloops Civil Liberties Society dealt with sixty-four cases of unemployment insurance complaints and helped applicants wade their way through the complex maze of procedures. See *Rights and Freedoms*, no. 27, July-August 1977.

<sup>28</sup> *Rights and Freedoms*, no. 17, March 1975.

<sup>29</sup> *Ibid.*, no. 24, January-February 1977.

Quesnel, the Human Rights and Civil Liberties Association joined with the South Okanagan group to add its support to First Nations claims. The Quesnel group also discovered that local Royal Canadian Mounted Police (RCMP) officers were asking contractors who had been hired to repair household appliances to search for stolen material in the homes of their clients. The association accused the RCMP of circumventing search warrants, and the practice was soon discontinued.<sup>30</sup> By the 1980s both the Kamloops and Williams Lake organizations were defunct, whereas the South Okanagan and Quesnel groups continue to be active today.

The explosion of rights associations in British Columbia in the 1960s and 1970s paralleled a rise in social movement activism throughout the province. Canada's first gay advocacy group emerged in Vancouver in 1964 (Association for Social Knowledge) and was soon followed by several other gay and lesbian organizations, including (also in Vancouver) the Gay Alliance Towards Equality, possibly the most active gay rights association in the country.<sup>31</sup> Women's groups flourished as well. In 1969 there were only two women's groups in the province; by 1974 feminists could boast more than 100 active organizations.<sup>32</sup> Several new Aboriginal groups emerged nationally between 1960 and 1973 (thirteen national organizations, more than had emerged over the previous sixty years), and in British Columbia eleven new Aboriginal advocacy groups appeared during the same period, more than in any other province except Ontario, which had thirteen new groups.<sup>33</sup> Greenpeace was also founded in Vancouver in 1971.<sup>34</sup> No other period in BC history has witnessed such an impressive rise of social movement activism.

The formation of multiple rights associations in British Columbia should therefore be considered within the broader history of social movement activity in the province during this period. In the 1970s the rights movement in British Columbia could draw on civil liberties and human rights associations in twelve different cities, in addition to the

<sup>30</sup> Ibid.

<sup>31</sup> Tom Warner documents the rise of the gay rights movement in his *Never Going Back: A History of Queer Activism in Canada* (Toronto: University of Toronto Press, 2002).

<sup>32</sup> For more information on the rise of the women's movement, see Nancy Adamson, Linda Briskin, and Margaret McPhail, *Feminists Organizing for Change: The Contemporary Women's Movement in Canada* (Toronto: University of Toronto Press, 1988).

<sup>33</sup> Don Whiteside, *Historical Development of Aboriginal Political Associations in Canada*, report prepared for the Secretary of State, August 1973.

<sup>34</sup> For recent work on Greenpeace, see John-Henry Harter, "Environmental Justice for Whom? Class, New Social Movements, and the Environment: A Case Study of Greenpeace Canada, 1971-2000," *Labour/Le Travail* 54 (Fall 2004): 83-120; Frank Zelco, "Making Greenpeace: The Development of Direct Action Environmentalism in British Columbia," *BC Studies* 142-3 Summer/Fall 2004: 197-239.

Human Rights Council and two labour committees for human rights. No other province, including Ontario (which has a substantially larger population than does British Columbia), had developed such an expansive collection of rights associations.<sup>35</sup> What explains the proliferation of rights associations in British Columbia? Much of this was due to the BCCLA's efforts to stimulate the creation of independent groups. The Law Association of British Columbia provided funding for many of these isolated associations and continues to fund rights groups today.<sup>36</sup> The Community Information Project, which netted the BCCLA more than \$35,000 in 1974, coincided with the brief NDP interlude under Dave Barrett between 1972 and 1975. Several future Cabinet members, including Alex McDonald (attorney general) and Norman Levi (municipal affairs), had sat on the BCCLA board of directors. During the NDP's brief period in power the BCCLA's government funding increased dramatically, and the association had easier access to policy makers through its former board members.<sup>37</sup> The government's support for rights associations reflected its desire to buttress the province's human rights program. Under the NDP the Human Rights Code was revised, and a full-time Human Rights Commission was established, with branches in various cities across the province.<sup>38</sup> The age of rights was in full swing in British Columbia.

#### THE CANADIAN CIVIL LIBERTIES ASSOCIATION

In 1964 the Progressive Conservative government of Ontario introduced one of the most controversial pieces of legislation in the province's history. In response to concerns raised by the Police Commission about the level of organized crime in Ontario, Attorney General Frank Cass sought to provide it with special powers to detain and interrogate suspected members of criminal associations. If enacted, Bill 99 would have allowed the provincial Police Commission to arrest and detain

<sup>35</sup> Eleven rights associations emerged in Ontario between 1964 and 1982, alongside labour committees in Toronto and Windsor. Some of these organizations were affiliates of the CCLA but most were independent.

<sup>36</sup> Law Foundation of British Columbia, *Annual Report, 1973-2002*.

<sup>37</sup> Norman Levi (former director of the BCCLA), interview conducted by Dominique Clément, 25 June 2002; Alex Macdonald (former director of the BCCLA), interview conducted by Dominique Clément, 18 June 2002.

<sup>38</sup> Legislative Library of British Columbia, Department of Labour files, *Annual Report- BC Department of Labour, Human Rights (Industrial Relations Division), 1972-78*; William Black, (former director of the BCCLA), interview conducted by Dominique Clément, 20 June 2002; British Columbia, *Human Rights Code of British Columbia Act*, Revised Statutes of British Columbia, 1973, c.119.

individuals without notifying their next of kin, to refuse them access to legal counsel, and to jail them for eight days if they refused to testify before the commission. Bail and the right to appeal would be withheld. Should witnesses continue to frustrate the commission they could be held in jail almost indefinitely for eight-day periods, and they would also be subject to a \$2,000 fine and a year in jail if they revealed information presented before the commission.<sup>39</sup> Liberal opposition leader Farquhar Oliver wanted the government to retract the bill or call an immediate election. In Ottawa, J.W. Pickersgill suggested that the bill made Quebec's Padlock Act look like the Bill of Rights.<sup>40</sup> Soon thereafter the bill was retracted, the attorney general was replaced, and a royal commission on civil rights was enacted.

Ontario's Bill 99 was the birth mother of the Canadian Civil Liberties Association (CCLA), which was incorporated in 1964. Initially, the CCLA was a national association in name only. Its precursor was the Association for Civil Liberties, which was led by Irving Himel, a Jewish lawyer. Himel had envisioned the Association for Civil Liberties as a national rights association, although the organization spent most of its time working to secure anti-discrimination legislation in Ontario. In the wake of Bill 99 Himel called together a group of well-known Toronto personalities to form a rejuvenated rights association. Among the leadership of the new association were writers Pierre Berton and June Callwood as well as lawyers and law professors Bora Laskin, Mark MacGuigan, and Harry Arthurs.<sup>41</sup> Its honorary president was former lieutenant-governor Keiller Mackay, at one time a Supreme Court of Ontario judge famous for having struck down restrictive covenants in *Re Drummond Wren* in 1945.<sup>42</sup>

As with the BCCLA, the CCLA was led primarily by white male professionals, with only minor representation from minorities and women. Both civil liberties associations occupied a particular niche among the expanding number of social movement organizations of the 1960s and 1970s. Instead of advocating on behalf of disempowered peoples who were already mobilizing themselves, both civil liberties

<sup>39</sup> According to the editor of the *Toronto Daily Star*, Bill 99 was "the most offensive and dangerous legislation ever introduced in Ontario. It was brought in like a thief in the night – slipped through the Conservative caucus when only 12 members were present, and introduced to the Legislature under the pretense that it was concerned only with police pensions and other routine matters. Now that its real nature is known, the Legislature should lose no time in rejecting it." *Toronto Daily Star*, 20 March 1964.

<sup>40</sup> *Toronto Daily Star*, 20 March 1964.

<sup>41</sup> *Globe and Mail*, 8 January 1965.

<sup>42</sup> *Re Drummond Wren*, Ontario Reports 778 (Ontario High Court 1945).

associations focused their advocacy on traditional freedoms (notably free speech) and due process. The CCLA also shared the BCCLA's preference for forwarding discrimination cases to other organizations or the human rights commission.<sup>43</sup> The CCLA and the BCCLA were thus ideologically civil libertarian, and both the ideology and demography of the two groups remained consistent over the next forty years.

As was the case with the BCCLA, the CCLA established itself as one of the most active rights associations in Canada. In 1968 it secured a major grant from the Ford Foundation to study due process in lower courts across the country, and the resulting report, which guided the CCLA's national advocacy program for years, highlighted such problems as the lack of legal counsel available to people under arrest and long trial delays.<sup>44</sup> Two years later the CCLA distinguished itself, as did the BCCLA, as one of the few groups in English Canada to criticize the invocation of the War Measures Act in October 1970, and months later the CCLA successfully lobbied the federal government not to implement peacetime emergency legislation.<sup>45</sup>

In 1977 the federal government created a royal commission to investigate allegations that the RCMP had raided the offices of the Parti Québécois in order to copy membership lists and were illegally opening mail at the offices of Canada Post. During the commission's investigation the CCLA was one of the most vocal non-governmental organizations calling on the government to prosecute offending officers.<sup>46</sup> Perhaps the CCLA's most enduring effect within the rights movement came with the hearings of the Special Joint Committee on the Constitution in 1980-81. When the minister of justice, Jean Chrétien, introduced his revisions to

<sup>43</sup> Harry Arthurs (past president, CCLA), interview conducted by Dominique Clément, 13 March 2004; Alan Borovoy (general counsel, CCLA), interview conducted by Dominique Clément, 12 March 2004; Russell interview.

<sup>44</sup> AC, June Callwood Papers, MG31 K24, vol. 18, file 16, Joint Submission of the Canadian Civil Liberties Association and the Canadian Civil Liberties Education Trust to the Ford Foundation for a Grant-in-Aid of an Ongoing Program in the Field of Civil Liberties and for Special Assistance for "Due Process in Canadian Criminal Law: A Program for Reform," ca. 1968; AC, Canadian Labour Congress Papers, MG28 I103, vol. 662, file 12, submission to the Honourable Otto Lang, Minister of Justice and Attorney General of Canada, re the Right to Counsel, 30 May 1972.

<sup>45</sup> *Le Devoir*, 3 April 1971; AC, June Callwood Papers, MG31 K24, vol. 19, file 1, submission to the Government of Canada re the War Measures Act, 19 October 1970; Borovoy interview.

<sup>46</sup> To pressure the government to act quickly, the association published a letter to the prime minister as a full-page advertisement in the *Globe and Mail* in 1979 and organized a petition garnering more than 15,000 names and \$17,000. Trudeau responded to the CCLA's letter with his own open letter, in which he refused to support any of the association's demands. See *Globe and Mail*, 19 November 1977; AC, CCLA, R9833, vol. 107, file 17, RCMP Wrongdoing Petition Campaign - Progress Report, 4 January 1979.

the government's proposal for a charter of rights and freedoms in 1981, the CCLA received extensive credit for having influenced most of the revisions. In fact, with the exception of the Canadian Bar Association, the CCLA's recommendations received more attention in Chrétien's report than did those of any other organization.<sup>47</sup>

Before it secured the Ford grant the CCLA had been a purely Toronto-based organization concerned with local issues. The grant allowed it to expand outside of Toronto. The CCLA provided financial support for rights groups in Vancouver (BCCLA), Winnipeg, and Halifax, and, for a brief period, these groups were affiliated with the CCLA. By the early 1970s the CCLA had expanded its membership base to several thousand paying members (easily the largest rights association in Canada), and, to establish itself as Canada's national rights association, it formed chapters across the country. Many of these chapters, however, either had a short lifespan or chose to disaffiliate from the CCLA. Between 1968 and 1982 the CCLA had managed to form chapters in twelve cities across Canada. Yet its leadership remained based in Toronto.

When the CCLA attempted to recruit Mark MacGuigan, one of the association's founding members and future minister of justice and of external affairs, back into the fold in 1970, he informed them that he "would like to belong to a national civil liberties association, but I am reluctant to join the Toronto one."<sup>48</sup> MacGuigan refused to join the CCLA because the association's board of directors was predominantly from Toronto. Although the CCLA claimed to have eight chapters in 1982 (Saint John, Timmins, Fredericton, Halifax, Hamilton, Winnipeg, Regina, and Calgary), most of them were inactive.<sup>49</sup> The only affiliate on the rise by the 1980s was the Manitoba Association for Rights and Liberties (MARL), which had emerged in 1978. MARL was the sole affiliate with a full-time staff member and, thus, the only group with any kind

<sup>47</sup> The new proposal introduced in Parliament included the CCLA's recommendations on Section 1 (limitation clause), Section 8 (search and seizure), Section 11 (trial by jury), and Section 24 (remedies). It also eliminated a section on the law of evidence. See Canada, 1981, *Special Joint Committee on the Constitution*, 36:9-36:21.

<sup>48</sup> Mark MacGuigan to Sidney Midanik, 6 August 1970, vol. 181, file 2, AC, CCLA, R9833.

<sup>49</sup> In Halifax, for instance, Walter Thompson, a young lawyer and president of the Nova Scotia Civil Liberties Association in the 1970s, continued to correspond with the CCLA's head office in the 1980s, but the Nova Scotia chapter had, for all intents and purposes, become defunct years earlier. Walter Thompson (former president of the Nova Scotia Civil Liberties Association), interview conducted by Dominique Clément, 1 June 2003. The CCLA had established a sound financial relationship with only one rights association in Canada, the Hamilton Civil Liberties Association, which provided 20 percent of its membership dues to the head office (the Hamilton group became defunct sometime in the early 1980s). See AC, CCLA, R9833, vol. 2, file 22, minutes of the Executive Committee, 13 April 1978.

of stability. The group is still active today, but it is only marginally involved in the CCLA's activities.<sup>50</sup>

By the 1980s the CCLA had failed to create a network of rights associations across Canada and, thus, to be a truly national rights association. It had done little more than stimulate discussion among rights associations, as a result of which they occasionally established common positions on certain national issues. Such was the case with the Calgary Civil Liberties Association. Although still active today as an affiliate of the CCLA, the Calgary association does little more than exchange literature with it. The relationship between the Calgary group and the CCLA remains casual, with little formal cooperation between them.<sup>51</sup> The CCLA's centralized model of a national association never materialized.<sup>52</sup>

#### TOUCHING BASE: THE EARLY BCCLA-CCLA RELATIONSHIP

Between 1964 (when the CCLA was born) and 1968 (when the CCLA secured the Ford Foundation grant) there was little interaction between the CCLA and the BCCLA. In 1967 the BCCLA's letterhead indicated that it was an affiliate of the CCLA, although this was most likely because the BCCLA anticipated receiving funding from the latter through its Ford grant.<sup>53</sup> Affiliation, even if it existed in practice, was quickly dismissed by the membership and the BCCLA executive in 1968, and it was never again reconsidered. The board of directors decided that the CCLA was "primarily an Ontario Association [and] there would be some reluctance on the part of the BC Association to regard it as an appropriate Federal organization of which they would become an affiliate."<sup>54</sup> Nonetheless, the BCCLA accepted funding from the CCLA to conduct a survey on due process in British Columbia. The report produced by the BCCLA in

<sup>50</sup> AC, CCLA, vol. 4, file 21 and vol. 5, files 2 to 6, correspondence and newsletters from the Manitoba Association for Rights and Liberties, 1978 to 1982; Borovoy interview.

<sup>51</sup> Janet Keeping (former president of the Calgary Civil Liberties Association), interview conducted by Dominique Clément, 19 March 2004.

<sup>52</sup> The CCLA only organized two national campaigns, one on due process (funded by the Ford Foundation) and another on the rights of welfare recipients (funded by the Laidlaw Foundation).

<sup>53</sup> In addition, Reg Robson, the executive secretary of the BCCLA in 1968, wrote to the executive secretary of the CCLA (Nicholas Pawley) asking if the BCCLA was still affiliated with the CCLA and asking them when membership fees were due to be submitted. This is further evidence that, for a very short period of time, the two associations were affiliated. Reg Robson to Nicholas Pawley, 24 April 1968, vol. 4, file 1, AC, CCLA, R9833.

<sup>54</sup> LSBCA, BCCLA, vol. 3, file 19, Annual Reports, 1968.



1970 was the only project upon which the associations worked together towards a common goal.<sup>55</sup>

Despite the lack of interaction, some members of the BCCLA and other activists within rights associations expressed interest in forming a national organization. As early as 1968 Reg Robson (BCCLA) and Don Whiteside (Civil Liberties Association, National Capital Region) called on the CCLA to organize a meeting of rights associations across Canada. Unable to fund such a large gathering, the CCLA refused. But both Whiteside (who was employed by the Department of the Secretary of State to develop the federal government's human rights program) and Reg Robson (a sociology professor at the University of British Columbia and the leading spokesperson for the BCCLA) were determined to find a way to form a national organization. Robson also rejected attempts by Alan Borovoy, who had been appointed general counsel for the CCLA in 1968, to create an informal network of rights associations coordinated by the CCLA. Robson believed that Borovoy's proposal would have created a paper organization dominated by the Toronto group. Whiteside and Robson were interested in creating a more concrete and independent association.<sup>56</sup>

Robson decided to take matters into his own hands. Working with Don Whiteside, he prepared to submit a request to the federal government for funds to organize a meeting of rights associations. Borovoy and the CCLA's president, Eamon Park of the United Steelworkers of America, vigorously opposed this initiative. Although the CCLA had applied for federal government funding in 1966, the association had since become financially independent and virulently rejected any form of government funding.<sup>57</sup> Such funding, Borovoy asserted, could undermine an advocacy group's autonomy and allow the state to co-opt it. Borovoy entreated the BCCLA to avoid government funding and offered once again to form a national organization headquartered in Toronto. But Robson remained opposed to a paper organization dominated by a Toronto group and refused Borovoy's advances.<sup>58</sup> In August 1970 Robson sent

<sup>55</sup> The only exception was a few interventions before the Supreme Court of Canada in the 1980s and 1990s on charter cases; otherwise, the two organizations have not cooperated on joint ventures. Russell interview.

<sup>56</sup> Reg Robson to Alan Borovoy, 7 August 1970, vol. 4, file 2, AC, CCLA, R9833.

<sup>57</sup> The letter is not dated, but another source, a report written for the Department of the Secretary of State in 1972, states that the request was made in 1966. Judy LaMarsh to Sidney B. Linden, n.d., vol. 661, file 2-4-7, AC, Secretary of State Papers, RG6; AC, CCLA, vol. 4, file 3, Civil Liberties and Human Rights Associations - Report on Voluntary Organizations by Gilles Thériault and Michel Swinwood, 10 March 1972.

<sup>58</sup> Reg Robson to Alan Borovoy, 3 July 1970, vol. 4, file 2, AC, CCLA, R9833.

his request for funding to Robert Stanbury, minister without portfolio responsible for the Department of Citizenship.<sup>59</sup>

While Robson awaited an answer to his funding request, rights associations soon found themselves confronted with one of the greatest attacks on individual rights in Canadian history. Following the kidnapping of James Cross and Pierre Laporte by the Front de libération du Québec, the federal government enacted the War Measures Act on 16 October 1970. As a result, the civil liberties of all Canadians were temporarily suspended. On the same day, six rights associations, including the BCCLA and the CCLA, issued a press release calling for the revocation of emergency powers.<sup>60</sup> Apart from the CCLA's Ford research, this was the first instance of cooperation among multiple rights associations in Canada, and it planted the seeds of a national association. By the end of October an information network had been formed under the name Union of Human Rights and Civil Liberties Associations, with Whiteside as the coordinator. With the support of rights groups in Vancouver, Montreal, Halifax, Fredericton, Ottawa, Edmonton, and Windsor, the union published and distributed a newsletter with regular updates on each group's activities. At this stage the union was not an advocacy group but, rather, an association facilitating the exchange of ideas, communication, and development of national positions on various issues.<sup>61</sup>

Perhaps because of the controversy surrounding the implementation of the War Measures Act, the BCCLA, in the midst of the crisis, received its grant to hold a meeting of rights associations.<sup>62</sup> Robson and Whiteside began corresponding with other rights associations to prepare for the meeting but soon found themselves at odds with the leadership of the CCLA. In a letter to Whiteside, Park counselled against using state funds to organize a meeting of rights associations:

If any civil liberties group even requests Government money for its operating expenses, it will appear in the eyes of the public ... to be less than independent of the very authority it must challenge. Consider, for example, the situation that might arise if such an organization

<sup>59</sup> Reg Robson to Robert Stanbury, 13 August 1970, vol. 4, file 2, AC, CCLA, R9833.

<sup>60</sup> AC, CCLA, R9833, vol. 7, file 2, summary of official protests, 31 May 1971.

<sup>61</sup> Nicholas Pawley to members of the Union of Human Rights and Civil Liberties Associations, 30 October 1970, 24P2b/12, UQAM, SAGD, LDL.

<sup>62</sup> In 1971 a committee created by the Department of the Secretary of State to consult with human rights advocates across Canada recommended to the federal government that it support voluntary groups in this sector. See UQAM, SAGD, LDL, 24P2b/14, minutes of the Undersecretary of State's Advisory Committee on Human Rights, 25 January 1971.

requested money and then failed to oppose some subsequent Government policy. Even though the civil liberties group might decline to oppose a particular policy on perfectly legitimate grounds it would appear to the public that its decision was based on somewhat less laudable considerations.<sup>63</sup>

Whiteside and Robson rejected Park's argument, opening a rift that lasted for decades. Whiteside suggested that it was unfair "to argue that an association without financial resources should never seek out financial support from the government."<sup>64</sup> He sent copies of his letter to every rights association in Canada, engendering an angry retort from Park. Park accused Whiteside of basing his argument on "what I regard as a mistaken assumption, namely, that the only alternative to insolvency is Government funding for general operations."<sup>65</sup> Park proposed a close-knit relationship among rights associations working together to solicit funds from private sources.

A week later, on 4 December 1970, the CCLA held a meeting in Toronto of rights associations in order to conclude its research project on due process. The meeting was dominated by the CCLA's delegates, who hoped to create a national organization headquartered in Toronto. The CCLA general counsel would serve as executive director, and the organization would draw funds from individual associations.<sup>66</sup> In essence, this proposal was an attempt to turn independent civil liberties and human rights groups into chapters or affiliates of the CCLA. A representative from the Civil Liberties Association-National Capital Region proposed the creation of a national coordinating committee, staffed by members of the Toronto group, with a two-year mandate to consider the infrastructure of a national organization. Representatives from British Columbia and Alberta rejected the initiative, ostensibly out of concern that the CCLA would dominate the committee.<sup>67</sup>

This was the last time the CCLA itself initiated an attempt to create a national association with the BCCLA. Each time the CCLA forwarded a proposal, the BCCLA, in order to avoid centralizing the movement in

<sup>63</sup> Eamon Park had also served as the chair of the Toronto and District Labour Council Human Rights Committee in the early to mid-1960s. Eamon Park to Don Whiteside, 18 November 1970, 24P2b/9, UQAM, SAGD, LDL.

<sup>64</sup> Translated from French by the author. Don Whiteside to Eamon Park, n.d., 24P2b/9, SAGD, UQAM, LDL.

<sup>65</sup> Eamon Park to Don Whiteside, 30 November 1970, 24P2b/9, SAGD, UQAM, LDL.

<sup>66</sup> LSBCA, BCCLA, vol. 19, file 6, Democratic Commitment, 1971.

<sup>67</sup> AC, Canadian Labour Congress Papers, MG28, I103, vol. 662, file 16, CLA NCR executive committee report, 4 January 1971.

Toronto, rejected it. Despite having successfully worked together to study due process issues, the BCCLA and the CCLA could not reconcile their contrasting visions of a national rights association. Divisions between the CCLA and the BCCLA would soon be firmly entrenched with the creation of the Canadian Federation of Civil Liberties and Human Rights Association.

#### THE CANADIAN FEDERATION OF CIVIL LIBERTIES AND HUMAN RIGHTS ASSOCIATIONS

By 1970 more than twenty rights associations were active in Canada. A key catalyst in the formation of new rights associations was the designation by the United Nations of the year 1968, the twentieth anniversary of the Universal Declaration of Human Rights (UDHR), as International Year for Human Rights. The Canadian Commission, funded by the federal Department of the Secretary of State, helped to promote the creation of human rights groups in several provinces in order to celebrate the anniversary.<sup>68</sup> Although many of these groups became defunct, several thrived. Compared to the immediate postwar years, when there was only a handful of rights associations thinly spread across the country, by 1970 a dynamic collection of organizations was operating in Canada.<sup>69</sup> The emergence of a large number of human rights organizations would also profoundly influence the creation of a new national rights association in the 1970s.

Following the formation of the Union in October 1970, various rights groups cooperated once again in February 1971 to publish a joint statement on the effects of the War Measures Act. In this case, a joint

<sup>68</sup> AC, Kalmen Kaplansky Papers, MG30, A53, vol. 7, file 3, A Brief Historical Analysis of the Development of Human Rights and Civil Liberties Associations in Canada, 6 June 1972. The commission was highly active in 1968 and enjoyed the cooperation of 147 non-governmental organizations across the country. It assisted in the formation of ten provincial human rights committees, one in each province, by sending letters to the provincial premiers to encourage them to support the committees and to provide funding. See Canadian Commission, *International Year for Human Rights 1968 in Canada: Report of the Proceedings, National Conference on Human Rights and Activities of the Canadian Commission* (1969).

<sup>69</sup> In the 1940s and 1950s organized labour had also created a series of human rights committees in Vancouver, Winnipeg, Windsor, Toronto, and Montreal. These committees were consolidated under the leadership of the Jewish Labour Committee (JLC) in the 1950s, and, until the demise of the JLC and the local committees in the 1970s, this network represented the most coordinated human rights program in the country. However, it had little interaction with the BCCLA or other rights associations, and the JLC network only expanded once, in the 1960s, with the creation of a Halifax committee following the demise of the Windsor committee. The JLC thus pales in comparison to the much larger federation.

statement released by twelve rights associations (including the CCLA and BCCLA) called on Quebec's minister of justice to provide compensation for those individuals arrested under the emergency legislation but never charged.<sup>70</sup> This cooperation, however, disguised continuing divisions among rights associations. In June 1971 Whiteside secured a federal grant (through his position in the Department of the Secretary of State) to bring together Ontario rights associations to discuss issues of mutual concern. Once again, Whiteside and the CCLA leadership bitterly disagreed on whether or not advocacy groups should accept government funding. Borovoy would only countenance government funding for special projects, while Whiteside wanted to use federal grants to form a national organization.<sup>71</sup> Nothing concrete emerged from the encounter.

Meanwhile, tensions between the BCCLA and the CCLA continued to heat up as the former prepared for its government-sponsored meeting of rights associations in Winnipeg. In July 1971 the first rumblings within the BCCLA had begun. In the BCCLA's newsletter, *Democratic Commitment*, several contributors expressed frustration with the CCLA's practice of "poaching" BCCLA members in British Columbia. By refusing to explicitly acknowledge in its solicitation campaigns that it was not affiliated with the BCCLA, the CCLA was signing up members who believed they were joining the Vancouver association.<sup>72</sup> In effect, the CCLA was stealing members from the BCCLA. Robson and others on the BCCLA board of directors also accused the CCLA of falsely laying claim to national status when, in reality, it was nothing more than an Ontario organization with a scattering of members outside the province. Hugh Keenleyside, a former ambassador and University of British Columbia professor with a reputation for advocating western interests in federalist circles, relinquished his membership in the CCLA because of poor geographic representation on the board of directors (out of a total of thirty-two, twenty-two were from Toronto and five were from elsewhere in Ontario). According to Keenleyside, "even for Canada this is a pitiful record for an association that claims national status ... I shall ... confine myself to working with the British Columbia Civil Liberties Association which makes no pretense to a status it cannot justify."<sup>73</sup>

<sup>70</sup> AC, CCLA, R9833, vol. 7, file 2, summary of official protests, 31 May 1971.

<sup>71</sup> SAGD, UQAM, LDL, 24P2b/10, minutes of a meeting of Ontario civil liberties groups in Toronto, 2 June 1971.

<sup>72</sup> LSBCA, BCCLA, vol. 19, file 4-6, *Democratic Commitment*, no. 18, July 1971.

<sup>73</sup> Hugh Keenleyside to Eleanor Meslin, 25 May 1973, vol. 1, file 25, LSBCA, BCCLA.

The CCLA's solicitation campaigns in British Columbia would continue to be a source of tension between the two associations for the next forty years and would underlie their tumultuous relationship. Keenleyside's resignation and the BCCLA's accusations of poaching also reveal an important theme in the BCCLA-CCLA relationship: regionalism. The BCCLA identified itself as a provincial organization that was in a better position than its Toronto counterpart to defend the interests of British Columbians, and Keenleyside believed that the CCLA required regional representatives in order to be a legitimate national association.

With tensions running high in November 1971, the Winnipeg meeting promised to be turbulent. The event's sponsor, the BCCLA, appointed Robson to chair the meeting and Whiteside attended as a representative of the Department of the Secretary of State. Whiteside made it clear that the federal government would welcome requests for operational funding. Naturally, the CCLA was against the creation of a national rights association funded by the federal government. In addition, the delegates debated how a national association would be structured. The CCLA, by far the largest rights association in the country at more than 2,000 members (the next largest was the BCCLA at 500), refused to join a national association unless the CCLA was given voting rights equal to the size of its membership. In the end, a consensus proved unreachable and everyone agreed to meet again in Montreal in the following year. In the meantime, the BCCLA would negotiate with the CCLA to draft a constitution in the hopes of finding a middle ground.

On 27 June 1972 the Canadian Federation of Civil Liberties and Human Rights Associations ("the Federation") was formed in Montreal, the first truly national rights association in Canadian history, with representation from every province. It also included the only French-Canadian rights association in Canada, the *Ligue des droits et libertés*, which was a symbolic victory for a social movement organization claiming national status (the CCLA has never had a strong francophone presence on its board).<sup>74</sup> The Federation reflected the BCCLA's vision of a national rights association. Member associations would each pay twenty-five dollars irrespective of their size (thus requiring the organization to

<sup>74</sup> In 1972 the *Ligue des droits et libertés* (at the time it was called the *Ligue des droits de l'homme*) adopted an egalitarian approach to rights advocacy after a group of French-Canadian nationalists concerned with collective rights gained control over the organization. Surprisingly, whereas most provinces (most notably Ontario and British Columbia) could boast several active rights associations throughout the 1970s, except for a few abortive attempts to form groups outside Montreal the *Ligue* dominated rights advocacy in Quebec. Two francophone rights associations were formed in New Brunswick in the early 1970s, but they attracted very few members and lasted only a handful of years.

seek outside sources of funding) and would receive equal voting on the board of directors; this would ensure representation by *region* as opposed to membership. In contrast, the CCLA's Harry Arthurs had proposed a ban on state funding and called for voting based on membership numbers.<sup>75</sup>

Contrasting visions of a national social movement organization also divided the BCCLA and the CCLA. The constitution, drafted by Robson, exemplified this distinction. The Federation's constitution stated that each member retained "complete integrity and independence in regard to its existing Constitutional arrangements, policy statements, programme priorities, finances and membership."<sup>76</sup> In contrast, while the CCLA's affiliates enjoyed a great deal of independence, any position taken on a national issue such as abortion had to be approved by the CCLA board of directors. The two visions effectively differed over the question of centralization versus local control. When no compromise could be reached, the majority of rights associations attending the meeting in Montreal chose to form a national federation based on the BCCLA's model. The central aim of the Federation was to network between rights associations and to develop positions on national issues.<sup>77</sup> The CCLA, with its desire to ignore regional distinctions and to speak through a single national voice, would not accept such an arrangement and boycotted the new federation.<sup>78</sup> Also spurning the Federation were the CCLA's affiliates, including groups from Regina, Sudbury, London, and Hamilton.

The creation of the Federation coincided with a surge of new rights associations. More civil liberties and human rights organizations were active in the 1970s than at any other time in Canadian history. In 1973 twenty-three associations were active in Canada, fourteen of them affiliated with the Federation. Five of the groups were affiliated with the CCLA.<sup>79</sup> By 1975 the number of active groups had risen to twenty-five, sixteen of which were affiliated with the Federation.<sup>80</sup> Five years later its membership totalled twenty-one in a community of thirty rights

<sup>75</sup> Arthurs wanted each association to pay a one-dollar membership fee, a constitutional clause banning the Federation from soliciting state funding, and a head office in Toronto (with the CCLA's general counsel as the committee's executive director). See AC, CCLA, R9833, vol. 6, file 14, Arthurs proposal, 1971.

<sup>76</sup> *National Bulletin*, vol. 1, no. 2, August 1972.

<sup>77</sup> *Ibid.*

<sup>78</sup> LSBCA, BCCLA, Democratic Commitment, no. 17, April 1971; no. 21, July 1972; no. 22, August 1972.

<sup>79</sup> *National Bulletin*, vol. 2, no. 4, August-September 1973.

<sup>80</sup> *Rights and Freedoms*, no. 20, December 1975.

associations.<sup>81</sup> Between 1972 and 1982 fifteen new associations emerged across Canada, while thirteen organizations became inactive.

A young organization with a broad mandate and limited funding, the Federation accomplished little in its eighteen-year history. Most of its work was restricted to conducting research projects funded through government grants, although it continued to be effective in its primary mandate to link rights associations by holding annual meetings and publishing a newsletter, *Rights and Freedoms*. The Federation's greatest success as an advocacy group occurred in 1980-81, when it successfully lobbied for changes to the proposed Charter of Rights and Freedoms. Among the organization's recommendations before the Special Joint Committee on the Constitution were revisions to Section 10 (legal rights upon arrest) to close any loopholes that might threaten judicial supremacy. The minister of justice adopted the Federation's suggestions verbatim in his recommendations to the government for amending the proposed charter.<sup>82</sup>

The Federation's experience before the joint committee, however, demonstrated its inability to achieve a public profile comparable to that of the CCLA. The CCLA's brief received the most attention in the constitutional committee's draft report, and Jean Chrétien focused on the CCLA's contribution in his speech on amendments to the proposed charter.<sup>83</sup> Even Whiteside acknowledged that the CCLA was consistently recognized in the national media while the Federation lacked coverage.<sup>84</sup>

While the CCLA remains active today, the Federation folded in 1990-91 after Whiteside died from cancer and several associations (including the BCCLA) had stopped attending meetings because financial support from the federal government to do so had run out. The fall of the Federation could be attributed to a host of factors. In an era with no electronic

<sup>81</sup> *Ibid.*, nos. 37-8, 1980.

<sup>82</sup> Section 7 originally read: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the procedures established by law." As it stood, the section would allow any Canadian government to legislate limitations on basic freedoms since all legislation could be characterized as being *in accordance with the procedures established by law*. Instead, as was accepted in the final draft of the charter, the Federation brief recommended that the section be modified to read "except in accordance with the principles of fundamental justice." Ed Webking (former president of the Federation), interview conducted by Dominique Clément, 26 August 2003; Canada, *Proceedings of the Special Joint Committee on the Constitution of Canada (1980-81)*, RG 14, D4, Acc. 90-91/119, box 62, wallet 10, brief of the Canadian Federation of Civil Liberties and Human Rights Associations.

<sup>83</sup> AC, Special Joint Committee on the Constitution 1980-81 Papers, RG 14, D4, Acc. 90-91/119, box 5, wallet 1, Draft First Report.

<sup>84</sup> UQAM, SAGD, LDL, 24Pb/9, Don Whiteside's presidential report, 1976



mail and costly long-distance telephone service in a geographically vast country, it was extremely challenging to maintain a national organization. The Federation's shoe-string budget made it impossible to hire a permanent national director, and the Federation depended on part-time labour and volunteers. The situation was exacerbated by having the head office in Ottawa while the executive was scattered across the country. Ross Lambertson, one of the Federation's last presidents, found it "virtually impossible" to manage the organization from his home base in Victoria.<sup>85</sup>

Ideology, regionalism, and state funding also contributed to the demise of the Federation. It had always been a shaky coalition. Within it human rights advocates were sometimes frustrated with their civil libertarian counterparts, particularly on free speech issues such as pornography. In fact, the BCCLA had a history of conflict with egalitarians from various movements, notably feminists. As Dixon once quipped, "it was very soon the case that we got to be called unconscious exploiters only on our luckiest days."<sup>86</sup> Regional priorities further divided the Federation: members in Montreal or Vancouver continually questioned the value of belonging to a national federation when their priorities were provincial.<sup>87</sup>

Finally, and perhaps most telling, by the late 1980s the Federation lost its main source of revenue when the Department of the Secretary of State refused to continue to provide core funding.<sup>88</sup> The founders of the Federation had never intended the organization to be fully funded by membership fees. It began as a product of state funding, and, in the end, the Federation became a victim of government cutbacks.

#### A FAILED NATIONAL RIGHTS ASSOCIATION

By the 1980s the CCLA had clearly failed to create a viable network of affiliates and chapters; as a result, when the Federation ceased to function after eighteen years of relative obscurity, the vision of a national rights organization died with it. Instead of a unified national rights organization, the history of rights associations in Canada has

<sup>85</sup> Lambertson interview.

<sup>86</sup> Dixon, "The Porn Wars," 26.

<sup>87</sup> According to James Dybikowski (BCCLA board of directors, 1970-75, and president, 1977-79) and John Russell (BCCLA executive director, 1980-88), the Federation was never a priority for the BCCLA. Dybikowski interview; Riggs interview; Russell interview; Vink interview; Webking interview.

<sup>88</sup> Webking interview; Vink interview; Norville Getty (past president of the Federation), interview conducted by Dominique Clément, 14 October 2003.

been characterized by rivalry and, after 1990, by a Toronto organization claiming national status, to the consternation of groups such as the BCCLA. What explains this lack of unity?

Each of the CCLA's designs for a national association would have ensured the Toronto group's domination. According to the minutes of the Winnipeg and Montreal conferences, representatives of the CCLA objected to the Federation for two key reasons: voting and state funding. Voting based on membership numbers would have allowed the CCLA to dominate the national organization since the CCLA was four times larger than the next largest association. It would also have solidified civil libertarian control of the association since the three largest rights associations at the time (the CCLA, the BCCLA, and the Ligue des droits et libertés) were all civil libertarian (the Ligue adopted a human rights platform only after 1972).

Borovoy, Arthurs, and Park were also against forming a national organization dependent on government funding, although several of the CCLA affiliates, including the Nova Scotia Civil Liberties Association and the Manitoba Association for Rights and Liberties, received funding from the Department of the Secretary of State.<sup>89</sup> Clearly, the CCLA had no problem working alongside state-funded organizations, but it drew the line at joining a Federation dependent on government grants. None of the affiliates could claim to speak on behalf of the CCLA. However, if the CCLA joined the Federation, the latter could conceivably have deferred to the government out of fear of losing support while claiming to speak on behalf of the CCLA. This new state-funded federation challenged the CCLA's vision of what defined an effective national social movement organization.

Vancouver activists, of course, had directed this challenge. Robson secured funding to organize meetings in Winnipeg and Montreal, initiated the first cooperative actions during the October crisis, corresponded (along with Whiteside) with rights associations, chaired the meetings, wrote the constitution, and provided leadership on the Federation's board of directors. The Federation, in contrast to the CCLA's centralized model, sought to be sensitive to regional interests. Behind the debates about state funding and underlying concerns over voting privileges was the more fundamental issue of regionalism. In 1972, for instance, J.S. Midanik, a Toronto lawyer and president of the CCLA, explicitly rejected the idea of a national rights association organized

<sup>89</sup> Thompson interview; Public Archives of Nova Scotia, Nova Scotia Civil Liberties Association Papers, MG20, vol. 625, minutes of the board of directors, 15 November 1972; "In Defence of Human Rights and Civil Liberties," *MARL newsletter*, no. 2, 1 November 1978.

along regional lines.<sup>90</sup> The BCCLA and the CCLA embraced contrasting visions of a national social movement organization, with one vision asserting local interests and autonomy, and the other emphasizing centralization.

Regionalism has always underlined the BCCLA's relationship with the CCLA. As president of the BCCLA in 1986, John Dixon was critical of the CCLA, a "Central Canadian" organization, for claiming national status (see opening quotation). Dixon echoed the sentiments of his predecessors, whose correspondence with the CCLA was consistently sprinkled with references to regional identification. Robson was often critical of the CCLA's claim to national status and, in a letter to Midanik in 1972, could not resist pointing out how the CCLA offered no services outside of Ontario and did not operate in British Columbia:

It is quite clear after years of such meetings, that the Toronto Association does not intend to do anything other than what it is now doing, but rather to attempt to increase its power over other Associations in this country and to battle against any attempt which in any way may be seen to interfere with the national aspirations of the Toronto Association, irrespective of what other Associations desire.<sup>91</sup>

Even leaders within the CCLA recognized how regionalism was affecting their relationship with the BCCLA. Walter Tarnopolsky, a leading constitutional expert in Canada and president of the CCLA from 1977 to 1982, expressed the BCCLA's concerns about poaching when, in 1979, he stated: "As a 'Westerner' by origin, and still in spirit, I know how you feel about Toronto organizations referring to themselves as 'Canadian.' However, the fact is that we do have members in all provinces of Canada (obviously far fewer outside of Ontario than in Ontario) and we do have a responsibility and presence at the national level."<sup>92</sup>

The issues separating Canada's two largest rights associations in the early 1970s continue to affect their relationship. After a lull, recriminations between the two associations arose again in the late 1980s. In 1987 Dixon and Borovoy distributed a series of letters to their respective memberships about the relationship between the two groups. Dixon characterized the CCLA as a Toronto association that falsely claimed national status, while Borovoy accused the BCCLA of

<sup>90</sup> J.S. Midanik to membership of the CCLA, 16 May 1972; J.S. Midanik to Reg Robson, 23 May 1972, AC, CCLA Papers, R9833, vol. 4, file 3.

<sup>91</sup> Reg Robson to J.S. Midanik, 26 March 1972, vol. 4, file 3, AC, CCLA, R9833.

<sup>92</sup> Walter Tarnopolsky to Herschel Hardin, 10 October 1979, vol. 6, file 13, AC, Walter Tarnopolsky Papers, MG31 E55.

being dependent on government funding and, thus, of having limited independence.<sup>93</sup> Even today, almost twenty years later, these issues persist. The BCCLA has posted the following notice on the home page of its Web site:

The BCCLA, Canada's oldest civil liberties organization, is an autonomous, non-partisan association. Though we strive to work cooperatively with other groups on common causes, we are unaffiliated with any other organization or political group including the Toronto-based Canadian Civil Liberties Association. Our independence has been one of the BCCLA's enduring strengths over 40 years.<sup>94</sup>

## CONCLUSION

Was a national social movement organization a viable possibility for the rights movement in the 1970s? Without a doubt, the CCLA was partially responsible for creating obstacles to forming a single national rights association by refusing to compromise on issues such as state funding and voting rights. However, even had it done so, it is unlikely, given the divisive impact of ideology and regional priorities combined with a dependence on state funding, that the Federation would have survived anyway. Regionalism, although never the dominant factor, fomented tensions between two of the largest rights associations in the country. Refusing to accept a national organization headquartered in Toronto, the BCCLA sought to construct a decentralized national institution to reflect regional priorities. Even though the BCCLA had more in common with the CCLA ideologically as a civil libertarian association, the BCCLA chose to form an alliance with egalitarians rather than to ally itself with the CCLA.

A national rights association would undoubtedly be to the advantage of all Canadians and would allow for a stronger voice in Ottawa. Yet many factors remain unchanged. The BCCLA, the Newfoundland-Labrador Human Rights Association, and the Ligue des droits et libertés continue to receive state funding, while the CCLA is privately funded;

<sup>93</sup> John Dixon to Alan Borovoy, 23 June 1987, vol. 3, file 31, AC, CCLA, R9833.

<sup>94</sup> British Columbia Civil Liberties Association Web site: <[www.bccla.org](http://www.bccla.org)>. Even academic writers conducting research on the history of rights activism continue to confuse the two groups, despite the BCCLA's attempts to remind people that it is not an appendage of the CCLA. Rainer Knopff and F. L. Morton, for instance, often mistakenly refer to the BCCLA as a chapter of the CCLA. See Rainer Knopff and F. L. Morton, *Charter Politics* (Scarborough: Nelson Canada, 1992); Rainer Knopff and F. L. Morton, *The Charter Revolution and the Court Party* (Peterborough: Broadview Press, 2000).

the Newfoundland group and the Ligue remain egalitarians, while the BCCLA and CCLA are staunchly civil libertarian; and, as evinced by the 2004 election and resulting minority government, regionalism remains a strong force in Canada. Even if forming a national organization remains an impossibility, there exists a great deal of potential for greater cooperation among rights associations in Canada. Finding common ground between the CCLA and the BCCLA would require, at the very least, a resolution to the CCLA's poaching in British Columbia, something easily solved by having the CCLA differentiate itself from the BCCLA in its solicitation campaigns. In addition, several members of the BCCLA question the possibility of working with their rivals in Toronto when a key figure who led the CCLA to reject the Federation, Alan Borovoy, remains the CCLA's general counsel. A new generation of activists with no history of acrimony has begun to take a leadership role in the BCCLA, and the old guard is slowly being replaced in the CCLA as well. The next decade thus offers the first real opportunity to resolve decades-old divisions between the BCCLA and the CCLA.