



2011

Annual Report

Freedom's Defence Team **2011** Year in Review



This statue of Justice stands outside of the Supreme Court of Canada in Ottawa. The clock tower of the Centre Block of Parliament can be seen in the background.

The **Canadian Constitution Foundation** is Canada's foremost charitable organization litigating in defence of freedom and justice in Canada. Our programs focus on providing pro-bono legal assistance to individuals whose freedoms have been violated by government—whether at the federal, provincial or municipal level. We also educate the public about their constitutional rights and freedoms through our education and awareness programs.


We are "**Freedom's Defence Team.**"

2011: A bold year for Freedom's Defence Team

2011 marks the first full calendar year that CCF Executive Director Chris Schafer was at the helm. As you read through this report you will find that under Chris' leadership in 2011 our presence in the media has grown, the number of cases we are involved in has grown, and the number of events the CCF hosts through its university campus clubs continues to grow.

We had an appearance before the Supreme Court of Canada in defence of free speech and some of our longest running cases were finally at trial. We achieved a victory for private property rights and freedom of association with the Jaworski Family (see pg. 9). What's more, we managed to do all of this while reducing expenditures to ensure the donations of our donors go that extra mile defending the freedoms of Canadians.

We are very proud of our results in 2011, and we're eager to see where 2012 takes us.



Chris Schafer, Executive Director



Mark Mitchell, Chairman

About the

Canadian Constitution Foundation

Our

Mission

The Canadian Constitution Foundation protects the constitutional freedoms of Canadians through education, communication and litigation.

Our

Vision

We at the Canadian Constitution Foundation strive towards a Canada where:

- Every Canadian is considered equal before the law, and all are treated equally by Canada's governments;
- There is freedom from fear and oppression;
- Canadians have the knowledge and motivation to recognize, protect and preserve their constitutional rights and freedoms;
- Individuals control their own destiny as free and responsible members of society;
- Governments are held accountable to Canada's Constitution in making and applying laws, regulations and policies.

Our **Priorities**

The primary focus of our education and litigation programs is to support:

Individual Freedom – the “fundamental freedoms” in section 2 of the Canadian Charter of Rights and Freedoms:

- freedom of association;
- freedom of peaceful assembly;
- freedom of conscience and religion;
- freedoms of thought, belief, opinion and expression.

Economic Liberty – Section 7 of the Charter guarantees the right to earn a living and to own and enjoy property.

Equality before the law – Section 15 of the Charter provides equal freedom and equal opportunities for all Canadians; special advantages or privileges for none.



Our

Board of Directors

Andy Crooks, Lawyer and Businessman, Calgary

Dr. Glenn Fox, Professor, University of Guelph

Claus Jensen, Retired Businessman, West Vancouver

Will Johnston, MD, Family Physician, Vancouver

Lisa La Horey, Partner, McCague Borlack LLP

Mark Mitchell (Chairman), President, Reliant Capital Limited

Christopher Schafer, Executive Director, Canadian Constitution Foundation

Dr. Michael Walker, Senior Fellow, Fraser Institute

Our

Advisory Board

Avril Allen, Associate, Boghosian + Associates Professional Corporation

Dr. Thomas Bateman, Professor, St. Thomas University

Dr. Ehor Boyanowsky, Professor, Simon Fraser University

Russel Brown, Professor, University of Alberta

Andrew Coyne, Columnist, National Post

Michel Kelly-Gagnon, President, Montréal Economic Institute

Dr. Rainer Knopff, Professor, University of Calgary

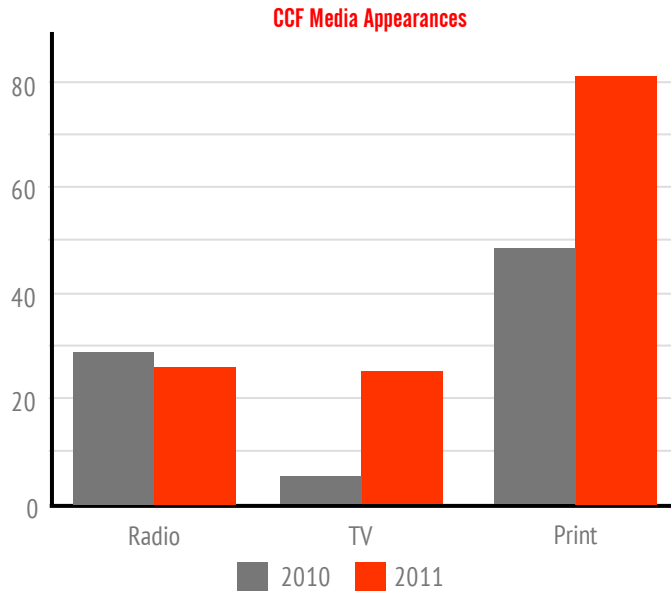
Bruce Pardy, Professor, Queen's University

Financial summary for our fiscal year ending March 31, 2012

<u>Revenues</u>	<u>Amount (\$)</u>	<u>(%) of Total</u>
Charitable Donations	\$511,035	98%
Other	\$10,486	2%
Total	\$521,521	100%
Expenses		
Staff Salaries	\$277,588	53%
Charitable Work	\$238,726	46%
Administration	\$38,862	7%
Charitable Projects*	\$151,491	29%
Litigation Projects*	\$114,481	22%
Education Projects*	\$37,009	7%
Administration*	\$52,905	10%
Contingency Fund	\$39,537	8%
(*excluding staff salaries)		
Total	\$521,521	100%

Promoting **Justice** in the court of public opinion

The CCF seeks to promote a deeper respect for constitutional freedom in Canadian public life. Armed with the information we provide, individual Canadians will know better when their rights and freedoms are being encroached upon by government. We engage public opinion through the media, as well as through our education initiatives (see [next page](#)).



CCF Executive Director, Chris Schafer speaking to the CBC about our intervention in the Whatcott Supreme Court of Canada case.

Speaking Events

In 2010, the CCF began hosting a series of small events in numerous locales. Instead of having law students come to the CCF, we started bringing the CCF to law students.

A sample of our speaking events in 2011:

- CCF Litigation Director, Karen Selick spoke at our University of Ottawa Chapter on freedom of expression in March.
- CCF Executive Director, Chris Schafer spoke at Civitas on aboriginal self government in April.
- Karen Selick spoke at the annual educational conference for the lawyers of the Attorney General of Ontario in July.
- Chris Schafer spoke on the decline of liberty at Liberty Summer Seminar in August.
- In September, author and TV host Ezra Levant spoke at a CCF University of Toronto student chapter event on his dealings with Alberta's Human Rights Tribunal.
- Chris Schafer spoke at three Fraser Institute events in October with topics ranging from the decline of liberty to freedom of expression.



Ezra Levant speaking at a CCF University of Toronto Student Chapter event.



Chris Schafer participating in a panel discussion on aboriginal self government at the 2011 Civitas Conference.



From left to right: CCF client Michael Schmidt, Litigation Director Karen Selick and Executive Director Chris Schafer at the Institute for Liberal Studies' Liberty Summer Seminar. Both Chris and Michael spoke at the event.

Defending **Freedom** in Canada's courtrooms

Litigating for freedom is the main front-line work of the CCF. Our lawyers are constantly working to represent our clients and intervene in important constitutional cases. By litigating in defence of individual freedom, liberty and equality before the law, we hope to influence the law towards a much greater respect for our fundamental freedoms. Here is a brief summary of the litigation work that took place in 2011.

Jaworski v. Municipality of Clarington

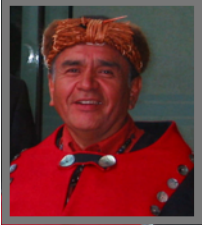
Marta and Lech Jaworski were charged under a zoning by-law for holding pro-liberty events on their property. They faced up to \$50,000 in fines if they didn't immediately stop hosting the events. The CCF stepped in to help and in late 2010 filed a Notice of Constitutional Question detailing how the Jaworskis' freedom of assembly was being violated by the by-law. In early 2011, the municipality responded by dropping all of the charges laid against Marta and Lech. A victory for freedom!

Whatcott v. Saskatchewan Human Rights Tribunal

In October, lawyer Mark Gelowitz (right) of Osler, Hoskin & Harcourt LLP was at the Supreme Court of Canada (SCC) arguing in defence of free speech on behalf of the CCF. The Human Rights Tribunal had ordered William Whatcott to pay \$17,500 to four people who were offended by the content of some flyers he had distributed around Regina. We await the decision of the court.



Chief Mountain v. Canada



2011 was a big year for James Robinson, known as Chief Mountain (left). After a substantial wait, he finally had his day in court. The court rejected his arguments that the Nisga'a Final Agreement creates an unconstitutional "third order" of government. However, we are hopeful that on appeal to the BC Court of Appeal, his arguments will have a better chance of success.

Irvin Leroux v. CRA

Irvin Leroux was left financially ruined after the CRA audited his business and then 'accidentally' destroyed the documents he would have needed to absolve himself from the heavy taxes and penalties they said he owed. Irvin is suing the CRA in an attempt to recover at least a small part of his lost livelihood. Recently, Irvin defeated a motion by the CRA to have his case thrown out. The CRA appealed this decision and Irvin won again on appeal. With these roadblocks out of the way, Irvin Leroux will get his day in court to fight for Canadian taxpayers rights.

Galganov v. Township of Russell

In this case, which pitted local business against an overly restrictive language law, the CCF intervened to defend freedom of expression, and an individual's right to communicate in the language of their own choosing. Chris Schafer (right) was in court to present our arguments. A decision is expected in 2012.



Cambie v. Medical Services Commission of BC et al.

In November 2011, we announced our support for Dr. Brian Day's constitutional challenge against BC's Medicare Protection Act. Dr. Day is arguing that the Act violates Sections 7 and 15 of the Charter. This case, much like the McCreith & Holmes challenge, seeks to expand the SCC *Chaoulli* decision to BC (and ultimately the rest of Canada). In the *Chaoulli* decision, the Supreme Court ruled that access to a waiting list is not access to health care, so that laws in Quebec that prevented the sale of private health insurance violated the Quebec Charter.

R. v. Michael Schmidt

Ontario dairy farmer Michael Schmidt (right) faced a setback in 2011 when Justice Tetley of the Ontario Court of Justice reversed his previous acquittal from 2010. Michael was charged under the laws that ban the sale of raw (unpasteurized) milk after he set-up a "cow share" arrangement at the request of his customers. Michael was fined \$11,095 as a result of the reversal. Michael is seeking leave to appeal this decision to the Ontario Court of Appeal. A hearing is scheduled for summer 2012.



McCreith & Holmes v. Ontario

We continue our work on the McCreith-Holmes court challenge to Ontario's health care laws that make it illegal for Ontarians to spend their own after-tax dollars on private health insurance for essential medical services. We have finalized a number of expert witness affidavits as we gear up for trial to fight for the health care rights of Ontarians, and ultimately, all Canadians.

Thank You to all the members of Freedom's Defence Team!

We at the Canadian Constitution Foundation would like to thank all of our donors for their generous contributions in 2011. Your support helps us defend the freedom of Canadians in the courtroom, the classroom, and the court of public opinion. On behalf of the CCF, our staff, our directors, our advisory board, and most importantly, our clients, thank you very much for your generosity, motivation and support.

The following individuals and organizations made a significant contribution to the work of the CCF in 2011 by donating \$1,000 or more. We wish to recognize their support for Freedom's Defence Team.

Donner Canadian Foundation The W. Garfield Weston Foundation The Weston A. Price Foundation

Lotte & John Hecht Memorial Foundation David and Joanne McDonald Dr. Moin A. Yahya

Andy Crooks Will Johnston Karen Selick Joel Hughes Howard and Bonnie Black

Dr. Kenneth H.W. Hilborn Mark Mitchell Michael Freiesleben Claus Jensen Dr. Michael Walker

and **20** anonymous donors



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