



NEWS RELEASE

British Columbia Civil Liberties Association
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For immediate release

Supreme Court of Canada Upholds Property Seizure Law

The Supreme Court of Canada released its judgment today in *Chatterjee v. Attorney General of Ontario*, upholding the constitutionality Ontario's *Civil Remedies Act*, a law which allows the province to seize property believed to be the proceeds of crime and other unlawful activity. The ruling found the civil forfeiture law to be constitutional because it deals with an area of provincial jurisdiction. A number of provinces, including British Columbia, have similar legislation.

The BCCLA intervened in the case to address its concern that the law re-characterizes what are essentially criminal proceedings as civil matters, resulting in a lower level of procedural protections. Defendants must establish they did not gain the asset from unlawful activity, and cases are decided on the civil standard of proof rather than the more onerous criminal standard.

David Butcher, lawyer for the BCCLA: "While the Supreme Court has found the legislation to be within the Provinces' domain, it has also sounded a clear warning to the Provinces that they should not use this very powerful legislation improperly. Mr Justice Binnie has clearly suggested that efforts to seek forfeiture under this legislation after a criminal court decision in the same case may trigger a defence of abuse of process. The BCCLA urges the BC Director of Civil Forfeiture to take this direction to heart."

Grace Pastine: "We are very disappointed in the result of this decision. We have always had real concerns not only with the constitutionality of forfeiture legislation, but also with how it has been implemented by provinces. There continues to be a real risk that the legislation will be inappropriately used to by-step *Charter* protections that are available to individuals in criminal proceedings."

David Butcher of Wilson, Buck, Butcher & Sears and Anthony D. Price of Farris, Vaughan, Wills & Murphy LLP represented the BCCLA.

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