



## NEWS RELEASE

British Columbia Civil Liberties Association  
February 9, 2009

For immediate release

### **BCCLA calls for charges to be dropped in polygamy cases**

**Vancouver** – The BC Civil Liberties Association today calls for charges to be dropped in the recently laid polygamy cases in Bountiful.

Early in January, charges were laid against Winston Blackmore and James Oler, leaders of the Bountiful religious community outside Creston BC, changing them both with offenses against section 293 of the Criminal Code of Canada, a provision of the code passed in 1892.

The BCCLA, Canada's oldest civil liberties watchdog group, has long been concerned about allegations of child abuse and sexual interference sometimes said to be associated with the practice of polygamy. We strongly urge law enforcement bodies to continue to be alert for evidence that such crimes are being committed anywhere in Canada, in any circumstance, and, if such evidence emerges, to lay appropriate charges.

However, it is our view that the use of the 19th century anti-polygamy law to address these concerns is extremely ill advised. In 2004, then BCCLA president John Russell warned that such a prosecution in Bountiful would be "a terrible and, potentially tragic, error in judgment." This continues to be the view of the Association, and we urge that the section 293 charges against Mr. Blackmore and Mr. Oler be dropped immediately.

Further, we urge that the constitutionality of the anti-polygamy legislation be tested by a reference to the Supreme Court of Canada, a *Charter* test we respectfully suggest the archaic and over-vague legislation would fail. By dropping what can be seen as a selective use of flawed legislation to persecute a religious minority and subjecting the law in question to a proper *Charter* test, government can make real progress in clarifying the law and avoiding the perception of religious bias. The criminal code provides adequate provisions for protecting vulnerable women and children without invoking section 293.

The 19th century law being invoked here has a long and sordid history, having been introduced as an explicitly anti-Mormon initiative in Victorian times and having been used since then primarily against Aboriginal people, Mormons and other marginalized communities. Strictly applied, section 293 could be used to prosecute many mainstream Canadians who, for example, have left a civil marriage and are now living common law with a second partner, or who left a religiously celebrated marriage and then married

under civil law. Literally thousands of Canadians might be captured by a strict enforcement approach to polygamy law. This, of course, is unlikely to happen. We should not, however, stand by quietly while the anti-polygamy law is used in a selective fashion to intrude on religious freedom and/or on responsible adults who make relationship choices that alarm or puzzle other Canadians.

The polygamy law, if enforced uniformly, would lead to ridiculous consequences. If enforced selectively, as appears to be the case in the Bountiful matter, it is vulnerable to a Charter challenge that would likely strike it down. Absent a Supreme Court clarification about whether the anti-polygamy law could withstand a Charter challenge, it is doubtful whether the current prosecutions would do anything useful to protect the vulnerable women and children of Bountiful, in whose name they have been promoted. Successful prosecution under this antiquated law could arguably lead to the state tearing apart polygamous families, or, in the worst case, a repeat of the Waco tragedy.

Far better, we say, for the RCMP and other law enforcement agencies to continue to vigorously investigate any reports of sexual interference and/or sexual exploitation, both in Bountiful and across the country. These are real crimes that need to be addressed directly, not by a detour through the religious prejudices of a vanished era and the fatally flawed legislation that derive from those prejudices.

*MEDIA CONTACTS*

Tom Sandborn, BCCLA Board Member, 604-224-1182

Robert Holmes, BCCLA President, 604-681-1310