



Canadian
Environmental Law
Association
and the
Canadian
Environmental Law
Research
Foundation

Report of Activities from January 1, 1972 to September 30, 1973

Financial Statements January 1, 1973 to September 30, 1973

Can we survive? Challenge to action or commitment to despair?

A group of eminent British scientists recently published *A Blueprint for Survival* which predicted the breakdown of society and the irreversible disruption of life-support systems on this planet if present trends are allowed to persist. To underline the gravity of the situation the Club of Rome, whose members include prominent industrialists from around the world—individuals who can hardly be described as alarmist—released a computer study, *Limits to Growth*, commissioned from the Massachusetts Institute of Technology. It predicted a total collapse of our life system early in the next century (within the lifetimes of our children) if we fail to develop policies to deal with waste and environmental damage.

What can Canadians do?

Many Canadians believe that the problem is not as serious in affluent Canada, that the real focus for concern should be the overpopulated countries. Not so! Canadians, with their emphasis on consumption, waste significantly more than 90 percent of the world's population. In fact, our environment is being degraded at a faster rate than the environments in many under-developed countries. Unfortunately, the problem is increasing in scope.

The Law as a tool

Realizing the urgency for action and knowing that environmental law can be one of the most useful tools for fighting environmental degradation, a group of citizens formed the Canadian Environmental Law Association (CELA) and the Canadian Environmental Law Research Foundation (CELRF) in late 1970. By sharing expenses and cooperating on projects CELA and CELRF have spearheaded the legal attack on further deterioration of the Canadian environment.

CELA/CELRF

CELA and CELRF are coalitions of lawyers, law professors, scientists, conservationists, politicians, and housewives. We know that some legal tools exist to prevent and control environmental damage and we are determined to use them. We are aware, however, that existing Canadian environmental laws are inadequate in many respects. Consequently, CELA and CELRF, through their head office in Toronto and their branches and affiliates in Halifax, Montreal, Sudbury, Vancouver, Windsor, and Winnipeg, will continue to press for the critically-needed legal reform that will allow citizens to achieve a healthy, attractive environment.

Publications

Environment on Trial: A citizen's guide to Ontario Environmental Law, 409 pages, 2.95 January 1974

Canadian Environmental Law News, bimonthly. Students \$4; individuals \$10; groups \$15.

Environmental Bill of Rights poster \$1

Briefs and Submissions

1 Critique on proposed Ontario Environmental Protection Act (Bill 94) July 1971	\$6.00
2 The need for public participation in Ontario's environmental planning, November 1971	3.00
3 Submissions concerning Bill 168, an act to amend Ontario's Environmental Protection Act, June 1972	3.50
4 Village Lake Louise—public trust and the legality of the development, February 1972	1.00
5 Yukon Territory Water Board—procedure for meaningful public hearings—Aishihik River Power Development, May 1972	2.50
6 Critique of United Nations Environmental Action Plan, May 1972	1.00
7 Legal and planning controls to minimize noise and vibration disturbance re New Toronto (Downsview) Subway, February 1972	2.50
8 Realistic laws for motorized snow and all-terrain vehicles, September 1972	2.50
9 The right of a private citizen to prosecute offences under Ontario's Environmental Protection Act, February 1972	2.00
10 Public rights and environmental planning: a preliminary statement, March 1972	free
11 The unique sandbanks of Prince Edward County—a lesson in government-industry degradation of the natural environment, September 1972	.50
12 Ontario cities can act now to control the automobile, June 1972	1.00
13 Brief re Aishihik River Power Development, presented by Vancouver C.E.L.R.F. to the Yukon Territory Water Board, January 1973	1.40
14 Needed: an Environmental Bill of Rights, April 1973	.50
15 Legal weapons for environmental quality, April 1972	1.00
16 Public participation in environmental and resources planning, February 1973	1.30
17 Private prosecutions: an important precedent for changing the Civil Court's law of standing, February 1972	.25
18 Current Ontario legislation relating to trees, March 1973	1.60
19 Tokenism and environmental protection—a critical assessment of Canadian legislative techniques for environmental control, June 1973	2.50
20 Meeting the energy and resource challenge at the expense of the environment?! A call for meaningful Ontario environmental impact procedures, August 1973	2.00
21 Principles for environmental impact assessment: a CELA white paper to the people of Ontario and to their Government on environmental impact assessment, October 1973	2.00

Financial statements

The following are the audited financial statements for the Canadian Environmental Law Research Foundation and the Canadian Environmental Law Association. These statements reflect the sources of revenue and the expenditures for the nine month period ending September 30, 1973. The major portion of the Net Assets of the Foundation, as of that date, totalling \$41,854, reflect monies held in trust for the completion of specific projects now in progress.

Don't talk—Act

Critical development for CELA and CELRF took place from January 1972 to September 1973. With the assistance of a federal Local Initiatives Program grant, CELA and CELRF took constructive action to defend the environment through:

—*public service*: we operated the Citizen's Environmental Law Advisory Office and Complaint Service. We helped more than 800 citizens with environmental problems by referring them to existing agencies where they could find help, by advising them of their environmental rights, or by referring them to legal counsel when remedies appeared available only through the courts.

—*public education*: we prepared briefs for the public and for governments constructively criticizing existing or proposed legislation, or intended private or public actions with serious environmental implications. In doing so CELA and CELRF became the focal point for serious review and evaluation of environmental law in Canada. For example, CELA members may recall that the 64 page critique of Ontario's proposed Environmental Protection Act (EPA) resulted in several favorable changes in the legislation. Some of the amendments suggested by CELA and CELRF which resulted in legislative change allow any person who believes an offence under the act has been committed to prosecute without the approval of the Minister as previously planned. The Act now allows appeals from decisions made by civil servants in the Environment Ministry with regard to certificates of approval. The Act also gives the public access to the names of industries who obtained these certificates of approval, and the opportunity to find out the terms of such approvals.

"The Need For Public Participation in Ontario's Environmental Planning" is a second example. This brief urged that public hearings should be held when effluent standards are established and also when "certificates of approval" to pollute are issued.

Despite our efforts there still remains considerable room for improvement in Ontario's environmental legislation.

Planning and legislative action

CELRF and CELA presented submissions for change to legislators and asked the public to support the reform. For example, we made representations on:

- 1 Bill 168, an Act to amend Ontario's Environmental Protection Act. CELRF pressed for citizen participation and public accountability;
- 2 The Aishihik River Power Development. CELA's representations to the Yukon Territory Water Board improved water use licencing procedures, and resulted in a more environmentally sound development;
- 3 Legal and planning controls for noise and vibration disturbance from subway construction and use;
- 4 Legal controls for snowmobiles;
- 5 Prosecution rights for private citizens under the Ontario Environmental Protection Act (i.e., how a layman can act when all else fails);
- 6 The Sandbanks of Prince Edward County. CELA's legal action embarrassed the government and forced it to reclaim the lease on these unique sand dunes, which were being destroyed by quarrying. Ontario has now promised to incorporate the dunes into Sandbanks Provincial Park.
- 7 The legal possibilities for urban areas to control the car.

A complete list of briefs appears elsewhere.

Action through public education

Environment on Trial: our biggest effort in public education began with the receipt of a Donner Canadian Foundation grant to fund the research and writing of *Environment on Trial: A Citizen's Guide to Ontario Environmental Law*. This is a practical, up-to-date guide for the layman who needs legal weapons to fight an environmental issue in Ontario.

The book covers the various forms of pollution and the government agencies responsible for their control. It also tells you how to act with minimal cost in time and expense if the governmental protection agency fails to respond. The intricacies of land-use planning, air pollution measurement, noise-emission standards and similar seemingly complex subjects are simplified to help the citizen stop bureaucratic bluffing and buck-passing.

This handbook will make the Citizen's Environmental Law Advisory Office more effective because it will instruct complainants in self-help measures. *Environment on Trial*, with an initial press run of 5000 copies, will be released in January 1974.

Canadian Environmental Law News (six issues annually) CELA has established the only Canadian environmental law reporter. It is subscribed to by most law schools in North America as well as by many libraries, corporations, and, of course, CELA members. Personal contact with the public was maintained through speaking engagements, panel appearances and lectures by the CELA staff and directors.

Action through the courts

Environmental litigation or law suits: the Canadian Environmental Law Association presented legal arguments, backed by the threat of court action, in defense of the environment. When all else failed (i.e., the representations to elected members, presentations of briefs, etc.) CELA went to court in the public interest to set precedents for environmental law, to demonstrate the inadequacy of existing law, or to remedy an environmental problem. Some examples:

- 1 CELA's threat of court action was instrumental in stopping the Banff National Park—Village Lake Louise Development Project. This commercial venture would have damaged a park that must be protected for present and future generations;
- 2 CELA's private prosecution under the Ontario EPA forced a charcoal company to spend the amount government engineers desired on pollution abatement equipment when the Ontario government was unwilling to take action against those breaking the law.
- 3 CELA sued the Ontario government in a Supreme Court action to force the government to reclaim the lease on the Prince Edward County sand dunes adjacent to Sandbanks Provincial Park. This unique land had been let to Lake Ontario Cement at \$1.00 per year for 75 years. In seeking to prove that the government committed a breach of public trust by allowing quarrying here, CELA demonstrated that environmental legislation does not protect Ontario's provincial parks.

Although we at CELA know that we don't have to win every time in order to make our point, we are pleased nevertheless to know that we've won our share.

Increasing the pressure for action now

Scientists and ordinary citizens around the world have recognized the scope of the environmental crisis. In spite of this many people in decision-making positions have yet to come to grips with their own responsibility for society's environmental planning. Government and industry are not yet doing an adequate job of acting on the concerns of the ordinary citizen. The decision-making process at present is keyed to special interest groups and that creates problems. We intend to help citizens participate in environmental decisions and this means a change in the decision-making process.

Consistent with the objective of public participation CELA will continue to press for federal and provincial environmental "Bills of Rights." CELA will give special priority to environmental impact procedures—the process whereby citizens can influence public policy before the damaging environmental decision is taken. In addition to legislation intended to guarantee environmental impact studies which would include cost-benefit analyses for all public and private projects of significant import, environmental "Bills of Rights" would:

—declare that a citizen is entitled to a healthy, attractive environment as a right;

—give a citizen a right to defend the environment in the courts. At present a citizen does not automatically have "standing" (the right to initiate and take part in court actions). He must demonstrate that he has a special interest in the environmental degradation over and above the general interest of a concerned citizen.

—give any citizen the right of access to vital information pertaining to environmental decisions on governmental or private projects;

—give citizens the right to participate in setting standards of environmental quality (e.g., acceptable levels of pollution);

—give citizens the right to protect parks which should be held in public trust.

Meanwhile requests for help and information keep coming in; this won't change because most of the major environmental questions still remain unanswered. We plan to be involved in a big way in the search for those answers. We've done a lot with limited human and financial resources. With your support, we'll do more.

Some of those who understand the urgency

Friends who have aided us in our work and supported our activities in hundreds of different ways make up a large and enthusiastic group. Without their help our accomplishments would have been minimal. The following are only some of those to whom we owe a special thank you.

Alan Anderson, Toronto Sun;
Hon. Robert Andras, Minister of Manpower and Immigration;
Dean Harry Arthurs, Osgoode Hall Law School;
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Municipality of Metropolitan Toronto
Opportunities for Youth Program
Pollution Control Show
Sir Joseph Flavell Foundation
White Owl Conservation Award

And, of course, a hearty thank you to all of our many individual contributors, too numerous to mention, whose support is absolutely critical to our operation.

We have been fortunate to have so many supporters. We trust that we have not missed any. We apologize sincerely for any

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Canadian Environmental Law Research Foundation (Incorporated without share capital under the laws of Ontario)
and
Canadian Environmental Law Association
Statements of Financial Position September 30, 1973

(Notes 1 and 2)

	Foundation	Association
Current assets:		
Cash	\$ 3,581	\$3,695
Bank term deposits	34,500	
Local Initiatives Grant receivable	9,801	
Due from Canadian Environmental Law Research Foundation		3,587
Total assets	<u>47,882</u>	<u>7,282</u>
Liabilities:		
Accounts payable and accrued charges	2,441	3,000
Due to Canadian Environmental Law Association	3,587	
Total liabilities	<u>6,028</u>	<u>3,000</u>
Net Assets	<u>\$41,854</u>	<u>\$4,282</u>
Represented by:		
Accumulated excess of revenue over expenditures—		
Balance, January 1, 1973	\$31,026	\$3,279
Add excess of revenue over expenditures for the period	10,828	1,003
Balance, September 30, 1973	<u>\$41,854</u>	<u>\$4,282</u>

Statements of Revenue and Expenditures for the Nine Months Ended September 30, 1973

(Notes 1 and 2)

	Foundation	Association
Revenue:		
Local Initiatives Program Grant	\$59,802	
Municipality of Metropolitan Toronto Grant for Citizens' Environmental Law Advisory Office	10,000	
Department of Justice Grant for the planning and design of a Citizen's Guide to Environmental Law in Canada	4,250	
Sir Joseph Flavelle Foundation Grant to assist in the publishing of <i>Environment on Trial: A Citizen's Guide to Ontario Environmental Law</i>	2,500	
Donations from individuals	2,166	\$ 1,341
Membership fees		2,690
Sundry	868	263
	<u>79,586</u>	<u>4,294</u>
Expenditures:		
Salaries	54,188	
Editorial costs	3,443	
Litigation costs		3,000
Office expenses	3,532	185
Photocopies	1,997	
Printing and publishing	1,290	
Insurance		106
Telephone	1,069	
Travel	951	
Postage	664	
Canada Pension Plan	878	
Unemployment insurance	746	
	<u>68,758</u>	<u>3,291</u>
Excess of revenue over expenditures for the period	<u>\$10,828</u>	<u>\$ 1,003</u>

Notes to Financial Statements September 30, 1973

1. The Canadian Environmental Law Research Foundation enters into joint projects with and underwrites many of the expenses of The Canadian Environmental Law Association. The Foundation and The Association jointly provide an environmental law citizen advisory service, sponsor public education and environmental law research and promote legal reform.

2. Effective January 1, 1973 both the Foundation and the Association changed from a cash basis to an accrual basis of accounting under which revenues are recorded when due and expenses are recognized as incurred. In the transition from a cash basis to an accrual basis of accounting, any amounts receivable and amounts payable at January 1, 1973 have been included in the respective statements of revenue and expenditures for the nine month period ended September 30, 1973. This change did not have a material effect on the

results of operations for 1973. Because this change in accounting principles was not made on a retroactive basis, the prior year's figures are not comparable with those of the current year and accordingly 1972 figures have been omitted.

3. During the year both the Foundation and the Association changed their fiscal year-ends from December 31 to September 30.

Auditors' report

To the Directors of the
Canadian Environmental Law Research Foundation, and
To the National Executive Committee of the
Canadian Environmental Law Association:

counting procedures and such tests of accounting records and other supporting evidence as we considered necessary in the circumstances. As is the case with many non-profit organizations, the nature of the Foundation's and the Association's revenues is such that they are

panying financial statements present fairly the financial positions of the Foundation and the Association as at September 30, 1973 and the results of their operations for the nine month period then ended, in accordance with generally accepted accounting principles for non-profit organizations which, except for the change to the accrual