

From the Editor

Volume 15 opens with a long essay on the place of art in the law of charity. The author, Kevin James, won the 1998 Philanthropist Award for this contribution to the journal. This award was established in 1987 through private donations and is designed to encourage students in law and commerce to explore the legal, management and taxation issues affecting the voluntary sector. The current winner was a student in the Faculty of Law at the University of Toronto and the article was prepared as a directed project under the supervision of our Legal Editor, Professor James Phillips.

The article is remarkable for a number of reasons. Surprisingly, it is probably the only piece of writing in the Commonwealth that addresses the place of artistic endeavours in the law of charity in a systematic and comprehensive way. This is quite an ambitious undertaking when you think about it. Currently, the working legal definition of charity is the test set out in *Pemsel* which mentions only religious purposes, the relief of poverty, education and “other purposes beneficial to the public”. Courts have a hard time fitting art into this list so they have typically opted to squeeze it into “education”. This fit is poor, as this paper and several courts have noted, largely because the educational merits of art are secondary or incidental to art’s own purpose or, as the saying goes, “art for art’s sake”. The article explores the English and Canadian decisional law on art, placing some emphasis on the discomfort courts have felt in attempting to fit art under the education rubric. It then surveys the philosophical writing on aesthetics, attempting to draw out what the law should be. It ends with a concrete proposal for a legal test. All in all, a powerful contribution to a hitherto avoided topic. We hope it will be of interest to all of our readers but it should be of special interest to the arts community.

Also new to Canadian, if not Commonwealth, scholarship is the second article on issues arising from the amalgamation of charitable entities by Louise Greig and Elena Hofstein. It sets out the main considerations, from a legal point of view, involved in bringing two charitable entities together. Each of three organizational forms – the trust, the unincorporated association, and the corporation – presents interesting and difficult problems. The article is timely as merger activity in the sector is becoming more prevalent. Not since the days of the Nathan Commission in England has there been so much organizational change in the charity sector. The existing corporate law in many Canadian provinces as well as the federal statutes may not be up to the challenge.

Our third article was developed from a speech delivered in April, 1999 by the Honourable Pierre Pettigrew (then Minister of Human Resources Development, Canada), at the Annual Conference of the Canadian Centre for Philanthropy. The article sets out the Minister’s vision for Canadian social development in

the face of the challenges of globalization and the collapse of communist regimes. He describes a “third way” based on trust and social solidarity and articulates a distinctive view of the relationship between the charitable and nonprofit sector and government.

Finally, our Editorial Co-Ordinator, Rose van Rotterdam has prepared a list of web sites that should be of particular interest to all those working in, or for, the charitable sector.

A handwritten signature in black ink that reads "David Stevens". The script is fluid and cursive, with a long horizontal stroke at the end of the name.

DAVID STEVENS
Editor