



West Coast LEAF and Coalition Partners Present Argument in *R v Demers*

On December 10th, the case entitled *Demers v. R* will be heard by the B.C. Court of Appeal. At issue is whether or not the *Access to Abortion Services Act*, (the 'Act') is contrary to the *Charter of Rights and Freedoms*. Mr. Demers is claiming that the Act infringes on the Section 7 security of the person rights of unborn children and the Section 2 freedom of expression rights of Mr. Demers himself. If the Court finds the Act has infringed on either right, it will then have to decide if that infringement is justified under Section 1 of the *Charter*.

It was six years ago to the day - December 11th, 1996 - that Mr. Demers was charged with sidewalk interference and protesting outside the Everywoman's Health Clinic under the Act. The purpose of the Act is to ensure that women have safe and secure access to facilities offering abortion services. To do this, the legislation sets out specified zones around facilities providing abortion services and disallows protest or interference within those zones.

Mr. Demers was convicted of the offense and appealed it to the Supreme Court of B.C. That Court rejected his argument and upheld the conviction.

West Coast LEAF is working with a coalition of service providers - the Elizabeth Bagshaw Clinic, Everywoman's Health Clinic, the Pro-Choice Coalition and the B.C. Women's C.A.R.E. Program - on the intervention.

Nitya Iyer, counsel for the Coalition, filed our factum (legal argument) on October 24th. The argument we present is that:



(a) the section 7 rights of the foetus argument is moot because the Act isn't about fetuses, rather the safety of women and health professionals.

(b) LEAF takes no position on whether or not the Act infringes Mr. Demers' Section 2 rights; and,

(c) If the court finds the Act infringes the appellant's Section 2 rights, it is justified under Section 1 of the *Charter*.

The following quote is taken directly from the factum:

It is submitted that a confrontation with a woman seeking abortion services at the threshold of an abortion facility is not an ap-

propriate forum to pursue a larger quest for truth in relation to the issues surrounding abortion. Neither does this location possess any specific virtue as a marketplace for ideas or as a democratic forum. While the Respondent's individual self-fulfilment may be enhanced by engaging in anti-abortion activity within the access zones, it is accomplished at the expense of the listener's self-fulfilment, as the location effectively strips her of the opportunity to exercise her right not to hear this particular message.

The issue in this appeal is not the value of the Appellant's expression generally, but whether a restriction on this expression at this place interferes with core freedom of expression values. The Act only restricts individuals from expressing anti-abortion views in certain narrowly defined geographic locations; at all other locations, such views may lawfully be expressed. The Act is in no way a total prohibition on the expression of the message itself. The legislative prohibition is limited to the locations where the expression is most likely to cause significant harm to others.