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COMMON-LAW TESTS OF CAPACITY PROJECT

Media Release

BCLI Calls for Reforms to Law of Mental Capacity

for immediate release

Vancouver, 24 September 2013—In its just-published *Report on Common-Law Tests of Capacity* the British Columbia Law Institute is recommending several reforms to how the law determines whether a person has the mental capacity to carry out a given transaction and to some of the consequences that flow from a finding that a person lacks this mental capacity.

“The common law generally does a good job of providing tools to assess mental capacity,” said committee chair Andrew MacKay, “but there are some areas that can be improved.”

The report recommends that the BC legislature enact legislation to make a series of improvements to the law. It calls for the creation of a procedure that would allow a judge to assist a person who lacks testamentary capacity to make a valid will. It proposes the enactment of statutory tests of capacity to determine when a person can make a valid gift and a valid nomination of committee. It also recommends amending several statutes to enhance access to justice for a person whose mental capacity is at issue in a proceeding.

The report and two backgrounders summarizing its contents are available at www.bcli.org.

The Common-Law Tests of Capacity Project has been made possible by grants from the Law Foundation of British Columbia and the Notary Foundation of British Columbia.

The British Columbia Law Institute strives to be a leader in law reform by carrying out the best in scholarly law-reform research and writing and the best in outreach relating to law reform.

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