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Law Reform Commission
of Canada

Commission de réforme du droit
du Canada

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*16th
Annual
Report*

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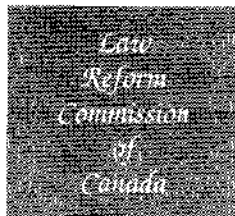
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SIXTEENTH
ANNUAL
REPORT



Ottawa
July, 1987

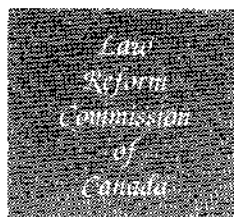
The Honourable Ray Hnatyshyn,
P.C., M.P.,
Minister of Justice,
Ottawa, Canada.

Dear Mr. Minister:

In accordance with section 17 of the *Law Reform Commission Act*, I submit herewith the Sixteenth Annual Report of the Law Reform Commission of Canada for the period June 1, 1986 to May 31, 1987.

Yours respectfully,

Allen M. Linden
President
Law Reform Commission of Canada



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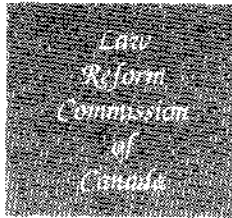


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The positive response to the tabling of Report 30 was a confirmation that Canada is not only in need of but is ready for a new and distinctively Canadian Criminal Code. Our present *Code* was enacted in 1892 — the fulfilment of Sir John A. MacDonal'd's dream that the new fledgling nation should have a uniform set of criminal laws. At the time of its enactment Canada was in the vanguard of criminal law reform. The ravages of time, however, have taken their toll, and Canada is no longer in the vanguard.

The present *Code*, which has served us well over the past ninety-five years, is no longer adequate to our needs. Even though it has been amended many times, including a major revision in 1955, it remains much the same in structure, style and content as it was in 1892. It is poorly organized. It contains archaic language. It is hard to understand. There are many gaps, some of which have had to be filled by the judiciary. It contains obsolete provisions. It overextends the proper scope of the criminal law and it fails to address some serious current problems. Moreover, parts of the present *Code* may offend the *Canadian Charter of Rights and Freedoms* (hereinafter *Charter*) in various respects.

The new Criminal Code that is being proposed by the Commission is the result of a "deep philosophical probe" which began in 1971. With the strong urgings of the legal community and with the help of some of our country's most outstanding jurists, the Commission embarked on a fundamental re-thinking of the criminal law of Canada. Employing a "theoretical-practical" approach to a number of criminal law issues, several Study Papers and Working Papers were produced. These papers laid the groundwork and became the basis for the Commission's comprehensive policy on criminal law outlined in our 1976 Report to Parliament, *Our Criminal Law*. The substance of this Report was later adopted by the Federal



Government as the criminal justice policy for Canada (See *The Criminal Law in Canadian Society* (1982)).

Guided by the policy laid out in *Our Criminal Law* the Commission produced nearly two dozen Working Papers on various aspects of substantive criminal law. The recommendations were first gathered, further analyzed and integrated into our proposed new Criminal Code for Canada.

In carrying out our work we have profited enormously from the practical advice of our consultations with eminent judges from across Canada; prominent criminal lawyers; distinguished law teachers; representatives of provincial and federal governments; police chiefs and the general public. We have also benefitted from the flowering of judicial creativity, particularly in the Supreme Court of Canada, and from criminal law scholarship over the past few years.

In modernizing and codifying its criminal law Canada joins a number of nations around the world who are also engaged in the codification of their criminal law. They include: Great Britain, the United States, France, Germany, Australia, Japan and the People's Republic of China. In July, 1987, Report 30 will be discussed at the international conference on the reform of the criminal law at the Inns of Court in London, England. This significant conference will bring together leading experts in criminal law reform to exchange views about the movement for reform which has recently emerged, independently, in a number of countries around the world.

In offering this proposed new Code, we are not advocating change for its own sake: we believe the changes we propose are changes for the better and that they are needed to improve the criminal law. We are not urging that we fix something that is not broken; we believe that there are many aspects of our criminal law that are broken and in urgent need of major reform.

Our proposed Code is evolutionary not revolutionary. It seeks to reflect our Canadian values in the twentieth century and the principles of the *Charter*. It seeks to express the criminal law in modern and simple language so that ordinary people will be able to understand it and know what they can and cannot do. It endeavours to be just, logical, clear, comprehensive, restrained where possible, and strong where necessary.

The road leading to the production of this new Criminal Code has not been an easy one; it has been long and arduous. It has taken a tremendous amount of hard work and dedication in the face of many difficult obstacles.

Having expended this enormous effort in the production of a new proposed Code, having received accolades for it from all levels of our society, the Commission believes that Parliament will be convinced to take up the challenge. Over the next few years Parliament should undertake an in-depth review of our proposals, and then revise, amend, improve and finally bring forward legislation that will provide Canadians with a new Criminal Code. We are pleased that the first steps in this process have been taken by the federal-provincial ministers responsible for criminal justice who have begun to consult on and review Report 30. It is our hope that Report 30, built on a sound philosophical base, expounding rational and just principles, will be the catalyst for the enactment of a new Canadian Criminal Code by 1992, the hundredth anniversary of our present *Code*. If we are successful, Canada will once again be in the vanguard.



WHO ARE WE AND WHAT DO WE DO?

Our Mandate

The Law Reform Commission of Canada was created in 1971 as a permanent and independent body with a broad mandate to review and reform the federal laws of Canada. According to the *Law Reform Commission Act*, the Commission is mandated to review on a continuing basis all the federal laws of Canada and to make recommendations for their improvement, modernization and reform; to develop new approaches to the law that are in keeping with, and responsive to, the changing needs of modern Canadian society; and to reflect in its recommendations the distinctive concepts and institutions of the common law and civil law legal systems in Canada.

Our Accomplishments

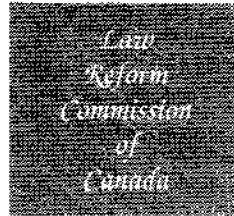
Sixteen years after the creation of the Commission, we are very proud of our achievements and successes. We have produced 30 Reports to Parliament, 56 Working Papers, 71 published Study Papers, over 150 unpublished Study Papers and we have contributed to the private publication of more than 100 books and articles. Approximately 1.4 million copies of our publications have been distributed.

Over the years, the Commission has tried to blend pragmatism with idealism, because we feel that sensible law reform must be both practical and theoretically sound. The goal of the Commission is to promote laws which are modern, principled, rational, comprehensive, egalitarian, and readily

intelligible to ordinary citizens as well as lawyers and judges. Where possible, we try to employ empirical research. We seek to develop laws which, in conformity with the rule of law, are codified, and therefore, will be more certain and accessible to the public.

Although a lot of energy has been focussed on producing a modern Criminal Code for Canada, the Commission has also been in the forefront in exploring modern-day social issues affecting our federal laws. To this end we have engaged in in-depth study and recommendations on evidence, family law, administrative law, environmental law and medico-legal issues such as the legal determination of death, euthanasia, sterilization, behaviour alteration and most recently the issues relating to the legal status of the foetus.

Over the years the Commission has succeeded in changing a fair number of laws, in altering administrative and legal attitudes and practices, in assisting the judiciary in their decision making, in stimulating research and educating the public on matters of legal importance. Nevertheless, there is still much more to do. To this end the Commission is developing a practical and relevant new programme of research which focusses on the key legal concerns of our society today. Based on an extensive consultation process which the Commission undertook last year (see *Law Reform Commission of Canada, 15th Annual Report 1985-86* at p. 24) this new research programme is presently being finalized for consideration by the Minister of Justice.

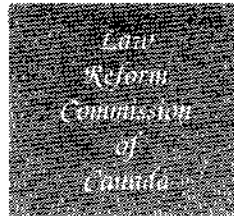


The Current Team

Joining President Linden and Vice-President Létourneau in carrying out the duties of the Commission are two distinguished Commissioners: Mr. Joseph Maingot, Q.C., former Parliamentary Counsel and Law Clerk of the House of Commons, is the Commissioner, along with the Vice-President, in charge of the Criminal Procedure Project; and Mr. John Frecker, a barrister and solicitor from St. John's, Newfoundland, is the Commissioner in charge of the Administrative Law Project. The Commission is awaiting the appointment of a third Commissioner to fill the position held by Ms. Louise Lemelin, Q.C., whose term ended in August. Ms. Lemelin, a barrister and solicitor from Victoriaville, Québec, was in charge of the Protection of Life Project. During her term she demonstrated courageous leadership in tackling many controversial issues in the areas of health and environmental law. The Commission is very grateful for her dedicated service to Canada.

The Commissioners are supported in their work by four Project Co-ordinators. They are Dr. Edward W. Keyserlingk, Protection of Life; Mr. François Handfield, Substantive Criminal Law; Mr. Stanley A. Cohen, Criminal Procedure; and Dr. Patrick Robardet, Administrative Law. Ms. Joyce Miller, a member of the Ontario Bar, is the Special Assistant to the President.

On July 2, 1986, Mr. François Handfield was appointed Secretary of the Commission. A member of the Québec Bar, Mr. Handfield has been the Substantive Criminal Law Project Co-ordinator since 1983 and played a key role in helping to bring to fruition the first draft of the new Criminal Code for Canada. He is also a part-time professor at the Faculty of Law at the University of Ottawa. He brings with him to this new position not only energy, commitment and a vast knowledge of the criminal law, but, as a former Chief Crown Prosecutor for the Hull, Pontiac-Labelle region, he also brings outstanding organizational experience. Mr. Handfield replaces Mr. Jean Côté who served with great dedication as Commission Secretary from 1971 to 1985.



INFLUENCE ON LAW REFORM

The influence of a law reform commission is multi-faceted. Through its in-depth research and the publication of its findings a law reform commission advances legal scholarship; educates the public on the legal system and justice; influences the opinion of lawyers who assist the courts in moving the law along new paths; changes attitudes; affects conduct and promotes legislative reform.

Legal Research

The key to our Commission's work is its research. In order to make recommendations to Parliament we must first research the history and purpose of the present law, identify and analyze its defects, and then, determine ways in which the law can be changed for the better.

The Commission publishes most of its research and recommendations in Reports to Parliament, Working Papers and Study Papers (see Appendices A, B, C). An important consequence of the publication and dissemination of this legal research is that it acts as a catalyst, engaging Canadian legal scholars in further research and writings on important areas in need of reform. It also subjects the Commission's work to an objective critical analysis. Many articles have been written about the Commission, its history, function, philosophy and recommendations (see Appendix F). All of this scholarly activity stimulates thinking about law reform, creates a deeper understanding of the issues involved and helps promote action by formal or informal implementation of the Commission's recommendations.

The excellent quality of the Commission's research is universally recognized. Its reputation for excellence is firmly established not only in Canada — in 1984, the Commission received the Archambault-Fauteux Award for its contribution

to legal research — but abroad as well. Indeed, requests for our publications come from all over the world. As well some of our work has been translated into Spanish. Legal scholars from many different countries have relied on our work, praised it, and criticized it in the legal journals of their countries. In this way the Commission has acted as an important link in disseminating Canadian legal scholarship to other countries.

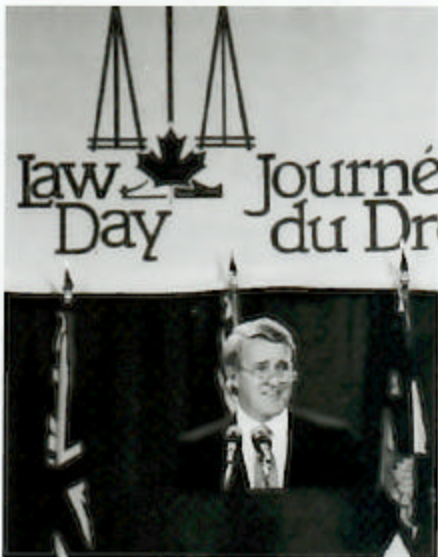
As well as stimulating scholarly research, the Commission provides excellent training for young legal scholars who have just completed their formal schooling. In return for their training, these young scholars have provided us with their energy, enthusiasm, hard work and solid legal scholarship. After leaving us, many Commission researchers have continued their interest in scholarship by becoming law professors, government policy makers or active practitioners working at the frontiers of law reform. We believe that through its legal research, the Commission has helped to foster, build and disseminate, nationally and internationally, a uniquely Canadian perspective on legal scholarship.

Educating the Public

The Commission's policy from its inception has been to carry out a dialogue with the public about our present laws, the way they work and the means that can and should be used to modify them. The first Chairman of the Law Reform Commission, the Honourable Mr. Justice Hartt, stressed this duty to dialogue with members of the public when he stated: "The process of law reform is too important to be left to lawyers alone. Law touches the lives of everyone; it is therefore the business of everyone." To further the participation of the public in law reform the Commission has established a wide distribution network for all our publications. As noted earlier, more

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than 1.4 million copies have been distributed. This year the Commission has received over 48,000 requests for publications. As well, through our participation in Law Day and with the support of the National Law Day Committee of the Canadian Bar Association, over 8,000 information sheets, catalogues and pamphlets were distributed to the Law Day organizers throughout Canada in an attempt to inform the public about law reform.



The Right Honourable Brian Mulroney,
Prime Minister of Canada

As part of the Commission's policy to encourage the process of education and communication, most of our publications are written in a simple and straightforward style. To encourage dialogue we invite the public to read our Working Papers and to comment on our recommendations. Over the past sixteen years many members of the lay public have read our papers, learned from them and offered thoughtful comments and suggestions, which have helped us in making our final recommendations to Parliament.

As well as educating the general public, the Commission's publications are used in high schools, universities and law schools as a means of educating young

Canadians about our legal system. Police colleges which train future peace officers and give refresher courses also use our material, especially our papers on police powers.

The Commission reaches out to the public at various conferences, by setting up information kiosks to inform them about the work of the Commission. Also, in collaboration with various organizations, we have arranged for the insertion of information sheets, pamphlets and catalogues in delegate kits at conferences held in various cities. This year at these functions the Commission distributed an additional 18,000 items of information highlighting our work.

Five years ago, the Canadian Bar Association decided to designate April 17 as "Law Day" to make Canadians more aware of the law and inform them about our justice system and law reform. To this end, as part of the Law Day events, the Law Reform Commission of Canada, in co-operation with the Canadian Bar Association, organizes an annual Law

Day dinner for the general public to come and meet and dialogue with members of the legal profession. This year over 540 members of the public from the Ottawa and Hull area attended the dinner which was held at the Congress Center.

Special guests included the Right Honourable Brian Mulroney, Prime Minister, who delivered the keynote address, and the Chief Justice of the Supreme Court of Canada, the Right Honourable Brian Dickson. One of the highlights of the evening was the announcement by the Minister of Justice, the Honourable Ray Hnatyshyn of the recipients of the second annual Scales of Justice Award. This competition which is co-sponsored by the Law Reform Commission of Canada and the Canadian Bar Association, is open to all Canadian newspapers, magazines, television and radio stations, wire services, news syndicates and their reporters. The objective of the competition is to accord national recognition to media reports that foster greater public understanding of the inherent values of the Canadian legal and judicial system.



Stephen Bindman, legal reporter for the *Ottawa Citizen*, accepting congratulations from Prime Minister Brian Mulroney.

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The Minister of Justice, the Honourable Ray Hnatyshyn, presenting the Scales of Justice Award to Jim Reed from CTV.

The submissions were evaluated by a five-member jury which included: Dean G. Adam Stuart, Director of the Carleton School of Journalism; Mr. L. Yves Fortier, c.r., past President of the Canadian Bar Association; The Honourable Justice Allen M. Linden, President of the Law Reform Commission; Ms. Margaret Ross, President of the County of Carleton Law Association; and Judge David McWilliam of the District Court of Ontario. The jury had the task of choosing the winners in three categories: newsprint, radio and television. The criteria for judging submissions were: informational value, originality, insight, critical analysis and impact.

This year, the Scales of Justice (print category) was awarded to Greg Weston, National Bureau Chief of the *Ottawa Citizen* for his series of articles on divorce and family law. According to the judges, this series of articles was not only timely (appearing shortly before the new federal *Divorce Act* and the *Ontario*

Family Law Act), it was well researched, highly informative and provided a wide perspective on a very complex issue. A certificate of merit (print category) was presented to Stephen Bindman, reporter for the *Ottawa Citizen*, for his series on the *Charter* which the jury felt clearly analysed the effects of the *Charter* on our lives. It offered a thorough examination of the first four years of the *Charter* and a thoughtful insight into the future. François Huot, an independent journalist from Montréal, also received a certificate of merit for his series of legal articles, including one on a victim assistance programme which appeared in *Châtelaine* magazine.

The Scales of Justice Award (television category) went to a major television documentary on the *Charter* and the role of the Supreme Court. The programme was CTV's "W5: The *Charter* Special." W5's Jim Reed reported on the functions of the Supreme Court and how its decisions on *Charter* cases affect our daily lives. Landmark cases were examined showing the effect of each case on Canadian law. In addition, the pro-

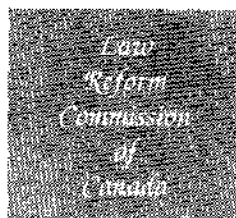
gramme included unprecedented interviews with six of our Supreme Court of Canada justices, giving Canadians a rare glimpse into the justices' personal lives and thoughts.

"Maritime Magazine," a CBC Radio programme out of Halifax was awarded the Scales of Justice Award (radio category) for its broadcast entitled, "Politics and Justice: Examining the Attorney General's Department in Nova Scotia." The programme explored the ways in which the administration of justice is vulnerable to political interference in Nova Scotia — raising some very controversial issues, and dealing squarely with the basic requirement for integrity and propriety in our system. The judges found the programme to be bold, topical, and timely. The programme was conceived and prepared for CBC "Maritime Magazine" by free-lance journalist George Emerson and produced by CBC's Sheila Jones.

The *Ottawa Citizen* received special recognition for its legal reporting. The jury was very impressed with the calibre and scope of the legal coverage in the *Ottawa Citizen*. The newspaper's reprint service for legal articles demonstrates a commitment to serve the public. Mr. Keith Spicer, Editor-in-Chief, accepted the honour on behalf of the *Ottawa Citizen*.

Judicial Decisions

Assisting the judiciary in their decision making and influencing the courts to advance the law along new paths has been one of the important consequences of the publication of the Law Reform Commission's research and recommendations. Indeed, a distinguished judge has recently noted that Law Reform Commission reports are considered among those materials of an inherently reliable character such as international conventions and scientific research that are admissible in a court of law as extrinsic evidence (*R. v. Squires (No. 1)* (1986), 25 C.C.C. (3d) 32).



The Commission is pleased to report that to date, at least 133 reported judgements have cited our publications including 17 decisions of the Supreme Court of Canada (see Appendix G). This year our publications were cited in 13 reported cases including one decision of the Supreme Court of Canada: *Eve v. Mrs. E.*, [1986] 2 S.C.R. 388.

In the year that we celebrate the tabling of our new draft Criminal Code, it is useful to review some of the cases which, over the years, were influenced by our studies, Working Papers and Reports in substantive criminal law. The Supreme Court of Canada has frequently relied on our work. For example, in *R. v. Sault Ste. Marie*, [1978] 2 S.C.R. 1299, the Supreme Court of Canada referred to Working Paper 2, *The Meaning of Guilt: Strict Liability* (1974), in deciding that an accused person should not normally be convicted of a public welfare offence if due diligence was established. In *Perka v. R.*, [1984] 2 S.C.R. 232, our Working Paper 29, *The General Part: Liability and Defences* (1982), was used by the court in its analysis of the two principles (utilitarian and humanitarian) of the defence of necessity. In *Libman v. The Queen*, [1985] 2 S.C.R. 178, the court adopted the approach of Working Paper 37, *Extraterritorial Jurisdiction* (1984), in deciding that "all that is necessary to make an offence subject to the jurisdiction of our courts is that a significant portion of the activities constituting that offence took place in Canada (at 212-3)." Mr. Justice Chouinard, in his concurring reasons in *Germain v. R.*, [1985] 2 S.C.R. 241, a case which dealt with the obscenity issue, cited our Working Paper 10, *Limits of Criminal Law: Obscenity: A Test Case* (1975).

In other Canadian courts, several distinguished judges referred to Report 3, *Our Criminal Law* (1976), including Mr. Justice La Forest (as he then was) who, in *R. v. Chiasson* (1982), 39 N.B.R. (2d) 631 (C.A.), reiterated the Commission's philosophy outlined in Report 3

that the basic purpose of the criminal law is to "underline fundamental values by prohibiting conduct infringing on those values." In *R. v. Wasylshyn* (1983), 48 A.R. 246 (N.W.T.S.C.), Mr. Justice Marshall decided that intent or recklessness is required for conviction of a crime and based his decision in part on Working Paper 29, *The General Part: Liability and Defences* (1982). The Nova Scotia Court of Appeal used Working Paper 35, *Defamatory Libel* (1984), as a source for the history of the law of defamation in *Canadian Broadcasting Corp. v. MacIntyre* (1985), 23 D.L.R. (4th) 235. In *R. v. Bank of Nova Scotia* (1985), 66 N.S.R. (2d) 222 (C.A.), Mr. Justice MacDonald in a dissenting opinion quoted from Working Paper 19, *Theft and Fraud: Offences* (1977), regarding the mental element of a fraud offence created by section 338 of the Code. The mental element of an arson offence was the subject of *R. v. Buttar* (1986), 28 C.C.C. (3d) 84 (B.C.C.A.), and our Working Paper 36, *Damage to Property: Arson* (1984), was considered in both the majority and dissenting opinions. In Québec, the Superior Court in *Attorney General of Québec v. Laurendeau* (1983), 3 C.C.C. (3d) 250, denied a request of the respondent for a jury trial in a contempt case based on a recommendation in Report 17, *Contempt of Court* (1982), that there should be no option for a jury in such cases.

The Commission is pleased that our publications, which have culminated in a new draft Criminal Code, have already played an important role in assisting the judiciary in interpreting the existing criminal law of Canada and in moving it forward where it was felt necessary.

Changing Conduct

Over the years the Commission's in-depth analyses, practical studies and sound recommendations have had the effect of influencing needed reforms and changes in the day-to-day practices and procedures in various areas of criminal

law, family law and administrative law, without Parliamentary intervention. As we have noted in our *Fourteenth Annual Report 1984-1985*, our Working Paper 4 on *Discovery* (1974) has helped to alter significantly pretrial disclosure practices by the Crown. Our Report 6 on *Family Law* (1976) has influenced the creation of unified family courts in some jurisdictions across Canada. In the area of administrative law, through a series of in-depth studies of government institutions, the Commission has helped to influence some changes in the practices and procedures. As well, various agencies have requested our assistance in altering their rules of practice in light of the recommendations made in Working Paper 25 (1980) and Report 26 on *Independent Administrative Agencies* (1985).

This practical, informal influence of law reform on conduct is very well illustrated in the recent implementation of recommendations from the Commission's Working Paper 32 and Report 23 on *Questioning Suspects* by the Halton Regional Police Force "Taping of Police Interviews Procedures" (Project TIP) which began in July, 1985.

Working Paper 32 on *Questioning Suspects* (1984) recommends the videotaping of accused persons being questioned, in order to reduce allegations of police misconduct, shorten the time needed for *voir dire* to determine whether statements were made voluntarily, and generally expedite the administration of justice. In order to test this concept, Project TIP was undertaken by the Halton Regional Police Force with the assistance of the Commission and the technical co-operation of the Sony Corporation of Canada. The object was to provide a full electronic record of police interviews with suspects and to test the various propositions which have been advanced for and against the process.



An evaluation report was prepared by Professor Alan Grant of Osgoode Hall Law School, York University. His findings have shown that less than five per cent of the suspects/accused refused to be taped and seventy per cent of those who agreed to be videotaped made admissions or confessions. It was also shown that when cases did get to court, the videotaping process saved court time because defence counsel agreed to waive the *voir dire* after viewing the tape.

Defence counsel practising in the Halton Region are very positive about the videotaping project. They are satisfied that videotaping provides a more accurate account of an interview than do traditional police note-taking practices. As well, in their view, videotaping provided better enforcement of suspects being told of their right to counsel, thus having some impact on reducing the number of *voir dire*s that would have to be held.

From the perspective of the police officers, although there was an initial hesitation about the project, once it was begun they were very enthusiastic about using the videotaping technology. As well, Crown counsel indicated that there had been no problems in having the tapes introduced into evidence in the few cases that actually reached court.

Although it is still too early to make long-term predictions, the Commission is optimistic that the results of Project TIP will show that the implementation of the Commission's recommendations by police forces will not only save valuable time and court costs, but will fairly and justly expedite the administration of justice.

The Ottawa and Montréal police forces have now launched similar experiments using audiotape interviews, which we expect will prove helpful as well.

Legislation

As the Commission noted earlier law reform can be influenced by stimulating research, educating the public on matters of legal importance, assisting the judiciary in their decision making, and altering administrative and legal attitudes and practices. A fifth way in which law reform can be influenced is through the enactment of legislation. Although this is not the only measure of our success, we are pleased to report that twelve out of thirty of our Reports have been enacted — at least in part — by Parliament. (See Appendix A)

In 1985 the *Criminal Law Amendment Act, 1985* contained seven items dealt with in our publications, extending back more than a decade. Commission recommendations included in the *Act* were: (1) the abolition of writs of assistance; (2) the introduction of telewarrants; (3) the authorization of pretrial conferences and motions; (4) the taking of blood samples; (5) some matters of search and seizure; (6) changes to the jury system; and (7) issues of jurisdiction.

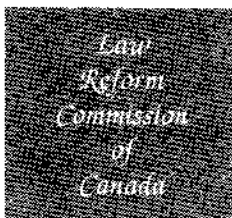
The Commission assisted in the work of the House of Commons Justice and Legal Affairs Committee which studied the amendments by offering evidence based on our Reports and Working Papers. We were pleased that some of the testimony presented was relied on by the Committee to improve some of the proposed amendments. For example, in the mandatory blood testing scheme, the Committee adopted the Commission's recommendation for safeguards to protect the medical profession from liability.

Another recent piece of legislation that has completed its journey through Parliament is the *Divorce Act, 1985*, which was inspired in part by our Report 6 on *Family Law*. To a large extent the *Act* incorporates the Commission's recommendations on no-fault divorce, encouraging mediation to settle disputes, and the equitable distribution of property aimed at

overcoming economic hardship arising from the breakdown of the marriage. Since the publication of our recommendations in Report 6 on *Family Law* (1976), the practice of private mediation and arbitration has played an increasingly important role in the resolution of family disputes or marriage breakdown and divorce. In enacting the new *Divorce Act, 1985* Parliament recognized in legislative form the Commission's practical proposals for reform.

The Commission was also pleased to see that the proposed amendments to the *Code* on mental disorder incorporated the policy and the substance of the recommendations in our 1976 Report 5 to Parliament on *Mental Disorder in the Criminal Process*. This Report recommended that the rights of the accused should be set out in a complete and principled manner so as to guarantee procedural fairness and to ensure that the criminal law should be used so as to involve the minimum possible interference with the liberty of the individual consistent with public safety. Although our principled approach taken in 1976 predates the *Charter*, we are pleased to see how relevant it has proven to be in this post-*Charter* era.

Technically, although no response is expected from Parliament following the publication of a Working Paper, a number of our Working Papers have helped to produce legislative initiatives. For example, the Federal Commission of Inquiry on War Criminals (the Deschênes Commission), and Bill C-104, the "Canadian Laws Offshore Application Act" (first reading, April 11, 1986) dealt with subjects specified as problems in Working Paper 37, *Extraterritorial Jurisdiction* (1984). Further, recommendations in this Working Paper and Working Paper 39, *Post-Seizure Procedures* (1985) were reflected in the *Criminal Law Amendment Act, 1985*.



PUBLICATIONS

The Commission this year has been most productive publishing three Reports to Parliament, seven Working Papers, one Study Paper and one Consultation Paper.

One of the main objects of the Commission is to stimulate public interest in the process of law reform. It is essential in a democratic society that the public is kept aware and is encouraged to become involved in the formulation of the laws that govern them. We are happy to report that the wide coverage of our publications by the press has helped us in our efforts to carry on a dialogue on law reform with the Canadian public. We therefore include in our summaries some of the comments made by the press about our recommendations.

Reports to Parliament

Commission Reports present the final views of the Commissioners on a given area of the law. Once a Report has been tabled in Parliament, the advisory role of the Commission is completed in respect of this particular topic. It then becomes a matter for the Government and Parliament to act upon, if and when they choose to do so.

Report 28

Some Aspects of Medical Treatment and Criminal Law

The Report brings together various recommendations that the Commission has published over the past five years in a series of Study Papers, Working Papers and Reports to Parliament. The object of the Report is to present a systematic and organized presentation of recommendations to which the drafters of the new Criminal Code can refer. The Report's recommendations deal with medico-legal issues that have been challenged by the

development of new technologies, and focuses primarily on the protection of the integrity of the person.

The proposals for reform present both legislative amendments and recommendations on general legal policy. They are grouped under three main principles: (1) maintaining the principle of protection of life and health; (2) maintaining the principle of the autonomy of the person; and (3) maintaining the principle of the person's right to self-determination. The three principles include and deal with issues such as: the protection of psychological integrity; general standards of criminal law; palliative care; the role of consent; the protection of incompetent persons; cessation of treatment; active euthanasia; and aiding suicide.

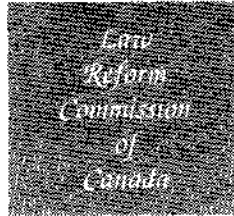
Report 29

Arrest

This Report contains detailed recommendations for the reform of the law of arrest in Canada. The reforms which are based on the principles of the "rule of law" and restraint have as their objective the simplification, clarification and codification of this fundamental aspect of criminal procedure.

The central theme in the Commission's proposals is the belief that citizens should not be deprived of their liberty unless reasonable grounds exist for believing they are involved in a particular crime. This is consistent not only with the Commission's belief that restraint should be an operative principle governing recourse to the criminal law, but also with the *Charter* guarantee that "[e]veryone has the right not to be arbitrarily detained or imprisoned."

The Report contains thirteen detailed recommendations. Some of the key areas where reforms are proposed are the following: the affirmation of *the*



sanctity of the home; the authorization of a *citizen's arrest* power; the requirement that the *reasons for arrest be provided*; and the use of *telewarrants* to authorize arrest. This last recommendation allows for the innovative use of modern technology to assist police officers in "exigent circumstances" to arrest a suspect by means of a "telewarrant."

Report 30

Recodifying Criminal Law, Vol I.

This Report is the first of two volumes of a proposed new Criminal Code for Canada. It includes The General Part, Title I, which contains the General Principles, and The Special Part which includes Title II, Crimes against the Person and Title III, Crimes against Property.

The General Part of the New Code strives for completeness by incorporating rules on criminal liability and all general defences. Along with defining all defences, the new Code changes the law with regard to some of the defences. For example, under the present *Code*, physical force may be used for disciplinary purposes by masters of ships, school teachers and parents. Under the proposed Code, all reference to masters of ships and school teachers is omitted. Only parents and those acting with their consent may inflict corporal punishment — but only in a reasonable way.

Under the existing law, drunkenness may be used to excuse someone from guilt for certain crimes because he lacks the necessary mental element. Under the proposed Code, such an accused would be dealt with more severely and be convicted of "committing a crime while intoxicated."

With the accent on clarity, certainty and comprehensiveness, offences in the Special Part have been regrouped and restated in a simple straightforward manner. For example, theft and fraud are at present found in fifty different sections, it is proposed that be restated in three sec-

tions; it is also proposed that the existing confusing law of homicide be reduced from thirty-five sections to six; our proposals for the law of property damage is stated in two sections — one on vandalism and one on arson.

To bring the law more into line with present-day values the Report proposes the creation of several new crimes. It recommends creating a crime called "endangering," committed by anyone who purposely, recklessly or negligently causes risk of death or serious harm to another person. This will allow the police to intervene to prevent harm before its occurrence. The new crime of "failure to rescue" would apply to anyone who perceives another person to be in danger of death or serious harm, but who fails to take reasonable steps to assist that person. It would be no crime, however, if the rescuer refused to assist someone because it would place the rescuer at risk. In addition, the provisions on terrorism have been strengthened. (For comments on the public reaction to Report 30, see Appendix H.)

Working Papers

Working Papers are statements of the Commission's law reform positions at the time of publication and contain tentative recommendations for reform in a particular area. Such recommendations are not final and the primary purpose of the Working Paper is to elicit comment and provide a vehicle for consultation.

Working Paper 50

Hate Propaganda

This Working Paper deals with offences relating to attacks on certain groups in society. The paper includes an examination of the history of hate propaganda crimes in England and Canada, a description of hate propaganda legislation in certain foreign jurisdictions and an account of international measures to eliminate racial discrimination. Recommendations for the Code include modifications to the

crimes of advocating genocide and promoting hatred and the abolition of the offence of publishing false news.

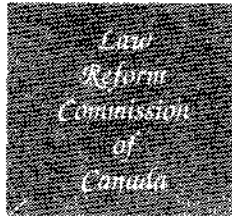
In order to be consistent with the *Charter*, the Commission recommends that the definition of "identifiable groups" include the same groups listed in the *Charter*. Thus, hatred directed at people on the basis of their race, national or ethnic origin, colour, religion, sex, age or mental or physical disability, would be forbidden. This definition should also be placed into a separate definition section which would apply to *all* hate propaganda crimes.

Twenty-one articles including seven editorials were written commenting on the paper. On August 22, 1986, the editorial in the *London Free Press* stated: "Justice Minister Ray Hnatyshyn should heed the commission's advice to scrap the law [on false news]. Its broad and vague character holds too much potential for abuse." The *Province* in its editorial on August 15, 1986, commented: "[T]he commission is right: the 'spreading false' news section of the Criminal Code should not be there."

Working Paper 51

Policy Implementation, Compliance and Administrative Law

This Working Paper describes the various ways in which government implements public policy. It is implemented not only by the prosecution of regulatory offences but through persuasion, incentives and a range of other relationships which exist among government institutions and private parties. At the present time the government's everyday decisions in policy implementation are made by public servants. The government is now coming under increasing social and economic pressures to justify the means by which it implements public policy. The paper points out that to ensure fair and efficient implementation of policy, the government ought to provide a sound legal basis for administrative action. The



aim of the Working Paper is to provide a better understanding of the relationships between policy implementation, compliance and law with a view to improving the design and application of public policy and the use of legal instruments as vehicles for policy implementation.

There were nine articles including four editorials commenting on this paper. On September 14, 1986, the *Calgary Sun* stated: "We've suspected it for years, of course, but it's still reassuring to get confirmation from so august a body as the Law Reform Commission of Canada.... The only purpose served by much of all this neglected law is its employment as a negotiating tool by the governments concerned. But when years go by, and there has never been a court case resulting from the so-called law, the Commission rightly wonders if a lot of legislative time isn't being wasted. The environment and telecommunication fields are held up as particular examples, but there are many more. Surely this all adds up to a compelling case for less government busy-work in the field of legislation, and for the inclusion of laws that are passed of a sunset clause that would cause them to automatically self-erase a few years down the road."

In Red Deer, Alberta, the *Advocate* on September 17, 1986, commented: "Why spend millions writing laws and regulations you're never going to enforce? That's the marvellously basic question posed by the Law Reform Commission of Canada last week.... What are the answers? First, fewer rules and regulations.... Second, a more adversarial relationship between the enforcers and those subject to the rules.... Third, clarity. No one can obey, or enforce, rules they can't understand. The prescription is simple: fewer rules, that make sense."

Working Paper 52 *Private Prosecutions*

This Working Paper examines the role, both actual and potential, of the private prosecutor in Canada and the competing policies which affect the shape of potential reform in this area. It devotes attention to the present law governing private prosecutions in Canada. The paper concludes that the private prosecution has a practical, responsible and real role to play in our criminal legal process — a role which should be overtly recognized and whose formal aspects ought to be directly incorporated into the rules of criminal procedure in the *Code*.

The paper further recommends that as nearly as possible, the private prosecutor ought to enjoy the same rights as the public prosecutor in carrying his case forward. This proposition is not limited to the trial process, but extends to the appeal stage as well. One exception that the paper recommends is that the right of the Attorney General to prefer an indictment directly in the event of a discharge following a preliminary inquiry, or in the absence of a preliminary inquiry, ought to remain a prerogative enjoyed exclusively by the Attorney General and should not be available to a private prosecutor.

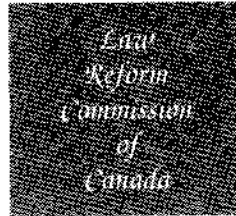
An editorial in the *Toronto Star* on October 12, 1986, commented: "If private citizens or environmental or religious groups are denied the satisfaction of prosecution by the state, will they be driven to illegal forms of protest? It is a question worth considering.... But if the commission's recommendations are accepted by the government, justices of the peace will have to remain on guard, as they should be now, against improperly motivated prosecutions."

Working Paper 53 *Workplace Pollution*

This Working Paper is concerned with the ways in which laws protecting Canadians from the effects of physical and chemical agents in the work environment can and should be improved. Following an exploration of several aspects of the complexity of workplace pollution problems, a review of several sets of policy responses to the problem of protecting employment and a discussion of compliance and enforcement mechanisms, the paper puts forward arguments of principle for treating some kinds of acts and omissions as criminal and presents a number of proposals for law reform outside the area of criminal law.

One option proposed by the Working Paper is to expand workers' own ability to use the law in defending themselves against occupational hazards, where through legislation they would be allowed to initiate regulatory action by way of appeal to a labour board, or to a tribunal with analogous powers created specifically to deal with occupational health and safety issues. The paper also calls for a general public review of legal standards which set allowable levels of workplace pollution. And under some conditions, regulators should be able to levy automatic financial penalties on an employer who fails to live up to a commitment to reduce risks on the job. Other proposed reforms include widening workers' legal right to refuse unsafe work, and providing a legal guarantee of access to all information regarding potential hazards of workplace pollution.

There were eighteen articles including nine editorials commenting on this paper. The *Kitchener-Waterloo Record* on January 28, 1987, commented: "As a legal body, the commission did not stop at describing workplace safety. It made several suggestions that are worthy of support. The report suggests, for example, that prosecutions should be easier



and that workers should have the right to know all the facts about potential pollution hazards.... This is one report that must not sit on a shelf." The *Star Phoenix* of Saskatoon on January 26, 1987, commented: "[t]he law reform commission raises valid concerns. It would be unfortunate if the government's preoccupation with fighting political brush fires caused it to ignore the need for legislative reform and better enforcement in these areas."

Working Paper 54 *Classification of Offences*

This Working Paper proposes a revised system of classification of offences for the *Code* which is logical and simple to understand. This system is intended to form the framework of the Commission's new Code of Criminal Procedure presently being developed, but could be implemented within the present *Code*.

Under the proposed scheme of classification, all federal offences would be classed either as "crimes" or "infractions." Of these two classes only crimes would merit punishment by a term of imprisonment and would be included in the proposed Criminal Code.

The paper divides crimes into two categories. The first category includes those offences punishable by more than two years imprisonment. These crimes encompass the most serious forms of prohibited conduct. The second category contains less serious crimes and provides for a shorter period of imprisonment. These crimes carry a maximum of two years imprisonment. The present labels of "summary conviction" and "indictable offences" would disappear under the proposed scheme. The paper further recommends that all crimes enacted by Parliament should fall into one or the other category and that no crime should be designated as a Crown option, dual procedure or hybrid crime.

Instead of the present system of requiring trial by jury for some indictable offences, while excluding it entirely for others and giving the accused an election as to whether or not to be tried by jury for others still, the Commission recommends that an accused have a right to elect or opt for trial by jury for *all* crimes falling into the more serious category. There would be no right to trial by jury for crimes punishable by two years or less imprisonment.

An editorial in the *Sault Star* on March 23, 1987, commented on the abolition of hybrid offences: "The present system gives the Crown attorney more power than perhaps he should have to decide on ... punishment.... The federal government should examine this situation and give serious thought to revising the law as recommended by the commission. Whether or not the present situation is constitutional should not be of primary concern. It does seem to be a circumstance that is improper and therefore it warrants changing, with or without any challenge on constitutional grounds."

Working Paper 55 *The Charge Document in Criminal Cases*

This paper proposes a variety of recommendations to remove the complexities and technicalities of the present rules governing the drafting of criminal charges. The paper attempts to balance simplicity and clarity against the need to maintain fairness in the administration of justice.

The central proposal in the paper results in the virtual eradication of the so-called "doctrine of nullity." Rather than allowing charges to be quashed, the paper proposes that broad powers of amendment be employed coupled with a court power to order other necessary relief to an affected party such as the granting of an adjournment, etc. Other recommendations propose replacing the current "information" and "indictment" forms with a single "charge document," capable

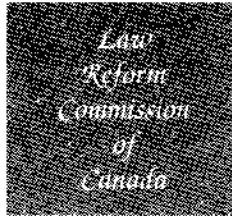
of being amended by the courts to eliminate the quashing of charges on technical grounds; allowing certain related charges to be joined with murder; and the clarification of the law concerning the ability of the court to "grant a severance" of accused or counts which are joined together.

Working Paper 56 *Public and Media Access to the Criminal Process*

This Working Paper surveys the many limitations contained in the present law on the freedom of the public and the media to attend criminal proceedings, examine court documents and communicate what they have learned to others. It concludes that in many cases the present law is vague and excessively restrictive.

The underlying policy position taken in the paper is that the presumption of openness should govern the criminal process. To this end the paper recommends that: (1) automatic publication bans should be abolished; (2) no exclusion orders or publication bans based on "public morals" should exist; (3) search warrant documents should be accessible to the public after a search has been conducted; (4) publication bans and exclusion orders should only be allowed in carefully limited circumstances; and (5) a national experiment with electronic media coverage of court proceedings should be conducted.

Twenty-six articles including seven editorials were written commenting on the paper. On June 9, 1987, the editorial in the *Globe and Mail* stated: "Another window on the court process is recommended — the admission of television cameras to appear in criminal cases.... It seems perfectly reasonable — as indeed does the general thrust of the commission's recommendations. Only a public with good access to the courts can tell whether its laws are good or bad." The *Vancouver Sun* in its editorial on June 8, 1987, commented: "The LRC's working



paper makes convincing arguments for the proposed changes. May the federal government jump on the bandwagon. The light of publicity inhibits injustice."

Study Papers

Often before a Working Paper is published, background information, in the form of a Study Paper, is accumulated through research and empirical studies. Many of these studies are not published but are catalogued in our library. However, a select number of these papers which convey valuable, original, topical material, are published by the Commission. It should be noted however, that the views expressed in these papers remain those of the author and not of the Commission.

Immunity from Execution

This Study Paper by Daniel Mockle of the Administrative Law Project is a detailed analysis of the government privilege of immunity from execution. In the paper the author proposes reforms to limit the scope of the present immunity to reflect the social and economic realities of our time. The modern state engages in highly diversified activities in which immunity is not always necessary or desirable. When the government engages in industry or commerce it should be subject to the same laws as any merchant in the private sector. On the other hand, the privilege should be maintained, when the government is pursuing public policy.

Other Publications

Towards a Modern Federal Administrative Law

This is a consultation document which presents for comment the basic issues which should underlie any effort to modernize Canadian administrative law. The prevailing approach to administrative law emphasizes the role of law as a means for controlling and correcting administrative error. The Commission proposes to adopt a wider approach, emphasizing a close examination of the administration at work, with a view to formulating rules and standards to promote correct administrative action. It is proposed that future study be organized around four unifying themes, namely: the legal status of the administration; processes, procedures and instruments of administrative action; administrative structures and organization; and internal and external controls. A detailed plan to structure future studies is presented with topics scheduled for short-, medium- and long-term research.

The Future of Law Reform

This is an edited transcript of the proceedings of the Seminar on the Future of Law Reform which was held in Ottawa on May 22 and 23, 1986, on the occasion of the Commission's fifteenth anniversary. The book contains the transcript of the keynote speech by the then Minister of Justice, the Honourable John C. Crosbie as well as four panel discussions on the origins, the aims, the successes and the problems of the law reform movement and future trends in law reform. The panellists who participated in the Seminar represented various different perspectives and they included law reformers, judges, politicians, lawyers, law professors and a journalist.

The Supreme Court of Canada: Proceedings of the October 1985 Conference (Gérald-A. Beaudoin, ed.)

This book is a collection of the essays and speeches by the participants of a Conference on the Supreme Court of Canada which was held in Ottawa at the Conference Center on October 2, 3 and 4, 1985. Six major topics were discussed: (1) The Supreme Court and the divisions of powers; (2) The Supreme Court: Common Law or Civil Law; (3) The Supreme Court and criminal law; (4) Structures and modernization of the Supreme Court; (5) The Supreme Court and the *Canadian Charter of Rights and Freedoms*; and (6) The Role of Courts of Last Resort. The Commission contributed financially to this Conference, as well, the President, Mr. Justice Allen M. Linden, presented a paper: "The Supreme Court of Canada and Canadian Tort Law (1970-1985)," co-authored with Wendy Jill Linden.

CURRENT RESEARCH

Substantive Criminal Law Project

The Substantive Criminal Law Project is under the direction of the President of the Commission, Mr. Justice Allen M. Linden. He is assisted by Mr. François Handfield, the Co-ordinator of the Project, and Professor Patrick J. Fitzgerald, a Special Adviser to the Commission.



Mr. François Handfield
Co-ordinator
Substantive Criminal Law
Project

The highlight of the Project's work this year was the tabling in Parliament on December 3, 1986, of Report 30, *Recodifying Criminal Law, Vol. I* (see pages 1, 12, 41). The response to Volume I has been overwhelmingly positive. The general tenor of the comments from judges, lawyers, scholars, police chiefs, the public and the media has been a strong affirmation that Canada is not only ready but is in need of a new Criminal Code.

Report 31, *Recodifying Criminal Law — A Revised and Enlarged Edition of Report 30*, which is expected to be tabled in Parliament in the fall, completes the Special Part of the Code. This volume includes: Crimes against the Natural Order (including crimes against the environment and against animals); Crimes against the Social Order, (including crimes against the social harmony, e.g. hate propaganda, and crimes against the public order, e.g. riots, public nuisance); Crimes Against the Governmental Order (includ-

ing crimes of corrupting, misleading and obstructing public administration, treason, sabotage and terrorism).

Report 31 will not include specific international crimes. Instead, international crimes will be dealt with under the offences in the Special Part in conjunction with the rules on extraterritoriality as they are enunciated in the revised General Part. Also, not included in Report 31 are sex offences, prostitution, pornography and abortion, which may be dealt with separately.

With the completion of the major work on the new Code, the Substantive Criminal Law Project has been reduced in size. Except for one research consultant, Ms. Marie Tremblay, who stayed on on a part-time basis to help complete Report 31, our dedicated and hard-working researchers have all gone on to do other interesting and challenging work. Within the next year, the Substantive Criminal Law Project is expected to merge with the Criminal Procedure Project.

Criminal Procedure Project

The Criminal Procedure Project is under the direction of the Vice-President, Mr. Gilles Létourneau and Commissioner Mr. Joseph Maingot, Q.C. Mr. Stanley A. Cohen is the Project Co-ordinator. The ultimate objective of the Project is the preparation of a Code of Criminal Procedure that will comprehensively address all major areas of criminal procedure, including police and investigative powers, and pretrial, trial and appeal procedure.

The project has also developed a statement of general principles of criminal procedure. This Report, to be entitled *Our Criminal Procedure*, will set forth the guiding principles which have informed the work of the Commission in all of the procedural areas upon which it has reported in the

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Criminal Procedure Project Group. Seated: left, Joseph Maingot, Commissioner, and, right, Gilles Létourneau, Vice-President. Standing, from left to right: James O'Reilly, Kenneth Jull, Stanley Cohen, Marc Schiffer, Glen Gilmour, Susan Krongold and James Jordan.

past or will report upon in the future. Although this document is at present restricted to internal Commission use, it will be published soon. The document has served as a reference point for both the preparation of particular Working Papers as well as for those portions of the Code of Criminal Procedure which are presently in production.

Several key elements in the Project's work plan have already been completed. All of the preliminary work on the subject of police powers has been published, either in the form of Working Papers and/or Reports.

The publication of one of the cornerstones of the Commission's work on Criminal Procedure, the Working Paper 54 on *Classification of Offences*, occurred during this past year. The *Classification* paper presents a scheme for the systematic organization, by class of offence, of the powers, protections and procedures which collectively make up Criminal Procedure. A restructured Criminal Code organized around this

framework hopefully should be free of much of the unnecessarily complicated, confusing and anomalous freight which burdens the present statute. When the proposals contained in the *Classification of Offences* paper are amalgamated with the proposals concerning jurisdiction of courts they should substantially simplify this complex and cumbersome area of the law.

Work on the trial and appeal processes is proceeding apace. During the past year we published Working Papers on *The Charge Document in Criminal Cases*, *Private Prosecutions*, and *Public and Media Access to the Criminal Process*. Presently we are proceeding along two tracks in an endeavour to complete our work on the Code of Criminal Procedure in a timely fashion.

The first track concerns the development and completion of all outstanding Working Papers and Reports. Our forthcoming Working Paper on compelling appearance, interim release and pretrial detention is now complete and has been

approved for publication. In the near future, we envision approval and publication of Working Papers on remedies, appeals, the trial process, extraordinary remedies, costs, pleas and verdicts, powers of the Attorney General, and jurisdiction of courts.

The second track is that of codification. Our present endeavours are largely concentrated on the development of Volume I of the Code of Criminal Procedure pertaining to police and investigatory powers. The Commission anticipates the completion of a consultation draft for presentation to consultants in the late fall with possible publication by the new year. The remainder of the work ultimately will be gathered within an additional one or two volumes devoted to the pretrial, trial and appeal processes. In the spring of 1988 the Commission will present these subsequent draft volumes of its Code of Criminal Procedure to its regular consultation groups and will then invite greater public involvement.

Protection of Life Project

The Protection of Life Project was under the direction of Commissioner Ms. Louise Lemelin, Q.C., for the first few months of the period covered by this Report. Her appointment to the Commission ended in the summer of 1986 and the appointment of a new Commissioner will be made in the near future. Dr. Edward W. Keyserlingk returned to McGill University in September of this year, but continued as Project Coordinator on a part-time basis.



Ms Louise
Lemelin, Q.C.
Commissioner
Protection of Life
Project

*Law
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The Protection of Life Project was established in 1975. Since that time the Project has demonstrated its commitment to innovation in the development of new approaches to the law in response to the changing needs of Canadian society. The Project's published and unpublished studies, Working Papers, and Reports have stimulated fundamental and broad-based discussion on the nature of the relation between law, technology, and evolving social values.



Dr. Edward W.
Keyzerlingk
Co-ordinator
Protection of Life
Project

Initially the Project turned its attention to certain urgent problems within medical law, particularly with respect to the criminal law implications for medical practice. Issues addressed by the Project included: euthanasia and the cessation of medical treatment; sterilization and the mentally handicapped; behaviour alteration; the legal definition of death; medical treatment and the criminal law; informed consent; and the sanctity and quality of life. Recommendations and conclusions drawn from these separately published papers were collected in 1986 and presented to Parliament in Report 28, *Some Aspects of Medical Treatment and Criminal Law*.

The main research effort of the Project over the past year has been the progress of the working group on the legal status of the foetus. This intensive two-year project represents an attempt by the Commission to formulate a comprehensive legal policy concerning medical and scientific activity which can affect the human foetus. In the fall of 1986 the Commission released a Consultation

Document on *Abortion Policy Options*. This paper identified the range of possible abortion policy options and the implications of accepting them. The paper was distributed to numerous professional associations, interest groups, as well as interested members of the general public. Commentary on the document is currently being evaluated by the working group. In addition to this subject the working group has undertaken research and consultation on such varied and pertinent issues as new birth technologies, embryo and foetal experimentation, genetic screening and counselling, and what have been called the "birth offences" of the *Code*. It is expected that the working group on the legal status of the foetus, which is comprised of leading scholars drawn from various disciplines such as biology, philosophy, sociology, and law, will present its findings to the Commission in the spring of 1988. Shortly afterwards the Commission plans to formulate and publish its tentative recommendations in the form of a Working Paper in the Protection of Life Project series.

In another area within the ambit of the medico-legal branch of the Project, a Working Paper on human experimentation has been prepared and is undergoing final revisions. This paper evaluates the present legal control of both therapeutic and non-therapeutic experimental research. The paper discusses the basic values and rights involved in this field and offers general recommendations for reform as well as specific reforms designed to take account of the special interests involved in research on the terminally ill, mentally incompetent, prisoners, and children. The Commission hopes to publish this Working Paper in the winter of 1987-88.

The other main branch of the Protection of Life Project addresses issues of concern for environmental health legislation. Following the earlier publication of well-received papers on *Sentencing in Environmental Cases* (1985) and *Crimes*

Against the Environment (1986) the Commission published a major study on *Workplace Pollution*. This Working Paper examines the adequacy of existing legal and extra-legal controls applying to the workplace and presents the Commission's tentative recommendations for reform of existing occupational health and safety policy and practice. Also, a Study Paper on pesticide registration and regulation has been completed and will be published this summer (1987). A draft Study Paper on aboriginal rights and environmental law has been distributed to outside readers for commentary. The Project is evaluating views on this paper which have been received to date and soliciting contributions from other interested parties prior to presenting this work to the Commission for a decision on publication. A draft version of a Study Paper on industrial biotechnology and environmental law is being revised to take account of new developments in this fast-moving field. The Project expects to receive a completed version of this Study Paper in the summer of 1987 and will seek the views of outside readers at that time.

While work continues on the above issues, the Project is preparing an ambitious programme for future research dealing with the challenges to law posed by new technology.

Administrative Law Project

"A fresh start in administrative law"

The Commissioner responsible for the Administrative Law Project is Mr. John P. Frecker. The Project Co-ordinator is Dr. Patrick Robardet.

Last year the theme of the Commission's activities was bridging the gap between law and administration in order to promote the principles of fairness, efficiency and accountability in relationships between the federal Administration and individuals.



Mr. John P.
Frecker
Commissioner
Administrative
Law Project

Working Paper 51, *Policy Implementation, Compliance and Administrative Law*, published in September 1986, attempts to explain the situation of individuals *vis-à-vis* the various ways in which government implements public policy. This paper opened the way for relational perspective on relations between the federal Administration and individuals and a broader approach to compliance, based on the large number of measures available for this purpose, compared with criminal law. Thus a Study Paper, *Pollution Control in Canada: The Regulatory Approach in the 1980s*, dealing with environmental problems from an administrative law perspective, was distributed for consultation and might be published during 1987-88. Some preliminary work was also done on environmental mediation, as well as on measures to ensure compliance. A study on an economic approach to administrative law should be completed by the end of 1987-88. During the year under

review, preliminary studies and research protocols were prepared on statutory offences. It will be possible to use this work to support any initiatives the Department of Justice might take in this area.

Following Working Paper 51, research on inspection activities continued in 1986-87 as part of a draft working paper on inspectorates. This research has already produced a bibliography, *Inspectorates — Selected References*, which the Commission has approved for distribution. This bibliography will be useful to the numerous federal authorities concerned and to all those affected by this important administrative activity. The Administrative Law Project is planning to combine it with a document dealing with air safety inspections, to produce a Study Paper that would introduce a framework for federal inspections.

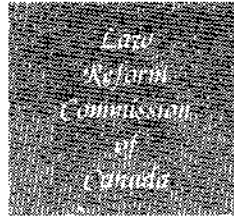
Clarification of the nature and function of federal administrative law led to a consultation document titled *Towards a Modern Federal Administrative Law*, which is to be published in June 1987. The aim of this paper is to launch a debate on the purposes of federal administrative law and the studies necessary to reform it and to make it more intelligible to the members of Canadian society. It is also aimed at expanding the often narrow conception of administrative law under the common law. This paper had a special distribution and was the topic of several consultations. Many responses to the document were received, some of which have broad implications for the Project.



Dr. Patrick
Robardet
Co-ordinator
Administrative
Law Project

In order to support external consultation on the aforementioned document the consultants prepared four studies on the following topics: aviation safety inspection: field observation and thoughts about reform of Canada's federal inspectorates, an historical perspective to current Canadian administrative law problems, individuals and public service users: introduction to the social and legal environment of a "loose" category of administrative law, and the administrative state and the evolution of administrative law. These studies were discussed at a joint workshop held by the legal and political science sections at the 55th Annual General Meeting of the Association canadienne-française pour l'avancement des sciences at the University of Ottawa in May 1987. The same exercise will be conducted by the Canadian Association of Law Teachers and the Canadian Political Science Association at the Learned Societies Conference at McMaster University in June 1987. The consultations will then be continued with the Canadian Bar Association, making it possible to develop the Commission's administrative law research programme and co-ordinate the Commission's work with that of the academic community and with the concerns of the legal community as a whole.

Over the past year work on the legal status of the federal Administration continued at an accelerated pace. In July 1985, the Commission published Working Paper 40, *The Legal Status of the Federal Administration*. A first *ad hoc* study on the federal Administration's immunity from execution is to be published in June 1987. The work on Crown liability is continuing, and the first version of a consultation document on the approach to be adopted in this area should be available in the fall of 1987. Preliminary studies and research protocols have been completed, also in connection with the legal status of the federal Administration, on the following topics: the federal-provincial aspects of Crown immunity from the application of statute law, the federal Administration's liability and the defence



of legal authority, fiscal immunity of the Crown and its agents, and procedural privileges and immunities of the Crown. The past year saw the commencement of a study on limitation periods in federal law, which will endeavour to propose a more rational system that is consistent with the status of the federal Administration and the Crown.

Administrative institutions and action continue to be a major research theme of the Administrative Law Project. In line with the current concern with desirable forms of administrative institutions, the transformation of institutions was the subject of a preliminary study leading up to a more general document dealing with the consequences of choices made among available models. For example, in respect of tax disputes we can compare an internal appeal within a department, an appeal to an administrative tribunal and an appeal to a court of law.

The studies on administrative appeal and a federal ombudsman that were announced in our *15th Annual Report* are at different stages of completion. The Commission is planning to publish three papers simultaneously in 1987-88. A Study Paper on administrative appeals is ready to be published, and we are waiting the approval of the final versions of the Study Paper on the Australian Administrative Appeals Tribunal and the Study Paper on a Federal Ombudsman. The former requires additions to elaborate on the relevance of the Australian experience in the Canadian context and the latter should be completed this year. Consultations have already taken place on the preliminary versions of these documents.

The final version of the study on the practices of the Immigration Appeal Board was delayed in part by the rapid developments in this area over the past year. However, internal reforms were made by the Board, with our assistance. As well, the Commission, in co-operation with the Public Service Commission, is preparing

a study on PSC Appeal Boards in order to clarify the legal constraints on changes to the appeal process. A preliminary version of this study was circulated for consultation at the end of the year under review.

Joint efforts between institutions can only facilitate the pursuit of efficiency and fairness desired for all activities of federal bodies. The Commission accordingly intends to pursue the recommendations and research proposals contained in Report 26, *Independent Administrative Agencies*. In this regard, work is currently being done on administrative decision making, from a general perspective common to departments and independent agencies.

Plain Language

Since our work on Plain Language began, we have examined more than 1,100 government forms, instructions and booklets. We returned them to the originators with comments and suggestions written on each.

Plain Language is just starting to be used in Canadian government forms. The governments of Australia, New Zealand and the United Kingdom have already discovered how much time and money can be saved by using clear, simple, language and by not having to answer so many questions from the public.

The advantages of Plain Language in government are simple:

- 1) ALL Canadians should be able to understand, with minimal help, ALL government forms, instructions and booklets;
- 2) there will be fewer and better forms;
- 3) the public will save money by:
 - a. no longer having to pay for professional help from accountants, lawyers and others so as to un-

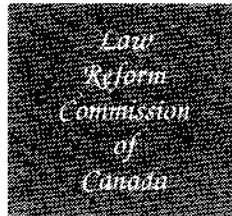
- b. understand wording which could and should be clear;
- b. not having to revise forms which they had completed incorrectly because ambiguous or incomprehensible;
- c. not having to waste time visiting government offices (and waiting) to have forms explained which could have been written plainly in the first place.

4) government money will be saved by:

- a. cancelling some forms which will no longer have to be processed;
- b. reducing the number of people required to answer questions;
- c. revealing that certain forms, etc., are duplications or are unnecessary; can be scrapped or can be completed with far less work. One British Health and Welfare form was made simpler and more understandable at a cost of \$56,000 (Can.). The government now saves the equivalent of \$2 million EVERY year in reduced staff costs.

Though aware of the need to rewrite some of their forms, our Canadian government forms managers may still hesitate to throw out, unused copies of a form for the sake of simplifying its language. So, until supplies run out, the existing stock (however bad) will probably continue to be used.

In a surprising number of cases, our informal suggestions have been accepted. But even more gratifying is the number of times forms managers have themselves originated excellent improvements. Sometimes they have simplified things further than we would have dared to suggest. This proves that Canadian government forms managers are capable and willing to practise the valuable techniques of Plain Language.



It is an unpleasant fact that 10% of the adult populations of Australia, Canada, New Zealand, the United Kingdom and the United States are completely illiterate. A sensible objective would be to ensure that the remaining 90% of Canadians who are literate will be able, with minimal help, to understand *all* forms, instructions and booklets issued to them by government. Since government forms, etc., are not competing for the Nobel Prize for Literature nor for the Prix Goncourt, short sentences and words of one syllable should be used wherever possible, as was done in the two excellent revisions of the Australian Income Tax Form 'S' which were both issued in 1986.

To be sure, this style of writing might at first be difficult for some government writers, but many words of one syllable were used by Shakespeare, and his work is still treasured after 400 years. Sir Winston Churchill, Robert Louis Stevenson and George Orwell were highly-educated people, but they all wrote simple English which could almost always be understood at first reading.

We do not have a formula for writing Plain Language. Instead, we try to follow the precept of Roger Ascham who, in the Middle Ages, quoted the words of Aristotle who lived almost 2,000 years before him: "He that will write well must speak as the common man does and think as the wise men do. So shall every man understand him."

We have been asked how many extra staff the British needed to review their numerous forms. We understand that the number of trained staff remains the same as before — around 125 — plus 2 full-time and 2 part-time co-ordinators in Prime Minister Thatcher's Office. Canada has many excellent forms managers, a number with private sector experience, who would be well able to handle any problems that Plain Language might present.

We subscribe to the slogan the British government used at the start of their Plain English Campaign: "Fewer and Better Forms." At this time, we have only a rough idea of the work that still has to be done to reduce the number of forms and improve their quality. The Law Reform Commission has not been able to find out how many forms are in circulation to the public and internally. This should be done for all departments. In 1985, we asked thirty-nine departments and agencies to let us see specimens of at least twenty of the forms they send to the public most often, which they did. However, we have still seen only a small number of the forms now being used.

On February 6, 1987, Cy Whiteley, who is in charge of the Law Reform Commission's Plain Language project, gave a talk to the Directives Management Institute: "Why Plain Language Is Essential in Forms, Instructions and Booklets Issued to the Public by Government." We have since received requests for copies of the talk from people who are just finding out about Plain Language. It is encouraging to see that the word is getting around.

CONSULTATIONS

In a democratic society the law depends upon a broad consensus to achieve an effective ordering of social relations. To reflect in our laws the aspirations of all Canadians, the Commission seeks to involve the public in our decision-making process through formal and informal consultations. We feel the more one can encourage people, whether professionals or members of the general public, to discuss ideas about law and principles of law, the greater awareness there will be of approaches to law and the greater opportunity for effective change in the way the law affects individuals on a day-to-day basis. To this end the Commission, over the years, has organized a number of public meetings to hear the public's views on issues such as physical discipline of children by parents and teachers, wife battering, vandalism, and violence in sports. We also consult on a regular basis with judges from all jurisdictions, members of police forces and the RCMP, defence lawyers, Crown prosecutors, law professors and other specialized groups and individuals. We receive very valuable advice from these groups and individuals and consider their contribution to be an essential element in the development of our recommendations.

Regular Consultations

For the past six years the Commission, as part of the Accelerated Criminal Law Review, has participated in in-depth consultations on a regular basis with five key groups. The object of these consultations has been to carry on a dialogue with, and receive advice from, the various participants. The first group to be formed for this purpose was an advisory panel of distinguished judges from different courts across Canada. During the past year the members of this group were:

The Hon. Madam Justice Claire Barrette-Joncas, Superior Court of Québec, Montréal



The Hon. Mr. Justice William A. Craig, Court of Appeal of British Columbia, Vancouver

The Hon. Mr. Justice Charles L. Dubin, Court of Appeal of Ontario, Toronto

The Hon. Mr. Justice Fred Kaufman, Court of Appeal of Québec, Montréal

The Hon. Mr. Justice G.V. La Forest, Supreme Court of Canada, Ottawa

The Hon. Mr. Justice Antonio Lamer, Supreme Court of Canada, Ottawa

The Hon. Patrick J. LeSage, Associate Chief Judge, Ontario District Court, Toronto

The Hon. Mr. Justice Angus L. MacDonald, Supreme Court of Nova Scotia, Appeal Division, Halifax

The Hon. Mr. Justice Alan B. Macfarlane, Court of Appeal of British Columbia, Vancouver

The Hon. Mr. Justice G. Arthur Martin, Court of Appeal of Ontario, Toronto

The Hon. Mr. Justice Melvin Rothman, Court of Appeal of Québec, Montréal

The Hon. Mr. Justice William A. Stevenson, Court of Appeal of Alberta, Edmonton

The Hon. Mr. Justice Calvin F. Tallis, Court of Appeal of Saskatchewan, Regina

In addition, judges from the local communities are usually added to the advisory group when it meets in various regions of the country. Those included in the past year were:

The Hon. Judge Stephen Borins, Ontario District Court

The Hon. Mr. Justice John C. Bouck, Supreme Court of British Columbia

The Hon. Madam Justice Carol M. Huddart, Supreme Court of British Columbia

The Hon. Judge Stuart M. Leggatt, Vancouver County Court

The Hon. Mr. Justice Kenneth M. Lysyk, Supreme Court of British Columbia

The Hon. A. McEachern, Chief Justice of the Supreme Court of British Columbia

The Hon. N.T. Nemetz, Chief Justice of British Columbia Court of Appeal

The Hon. Mr. Justice Wallace T. Oppal, Supreme Court of British Columbia

A second group which gives us advice is a delegation of defence lawyers, nominated by the Canadian Bar Association:

Mr. G. Greg Brodsky, Q.C., Winnipeg

Mr. Edward L. Greenspan, Q.C., Toronto

Mr. Mark Krasnick, Victoria and Vancouver

Mr. Peter Leask, Vancouver

Mr. Morris Manning, Q.C., Toronto

Mr. Serge Ménard, Bâtonnier du Québec

Mr. Joel E. Pink, Q.C., Halifax

Mr. Michel Proulx, Montréal

Mr. Marc Rosenberg, Toronto

Mr. D.J. Soroohan, Vancouver

A third group that we meet with comprises police chiefs or their representatives, nominated by the Canadian Association of Chiefs of Police. This group gives us the important perspective of those who are engaged in law enforcement across Canada. This year the participants included:

Chief Greg Cohoon, Moncton Police Force

Deputy Chief Thomas G. Flanagan, Ottawa Police Force

Chief Robert Hamilton, Wentworth-Hamilton Regional Police

Mr. Guy Lafrance, Montréal Urban Community

Chief Herbert Stephen, Winnipeg Police Department

A fourth group is made up of legal scholars working in the field of criminal law and procedure, selected by the Canadian Association of Law Teachers. Included this year have been the following:

Professor Bruce Archibald, Dalhousie University

Professor Jerome Atrens, University of British Columbia

Professor Carl Baar, Brock University

Professor Eric Colvin, University of Saskatchewan

Professor Ron Delisle, Queen's University

Professor Emeritus John Edwards, University of Toronto

Professor Gerard Ferguson, University of Victoria

Professor Winifred Holland, University of Western Ontario

Professor Keith Jobson, University of Victoria

Professor Peter MacKinnon, University of Saskatchewan

Professor Alan Mewett, University of Toronto

Professor Jim Robb, University of Alberta

Professor Anne Stalker, University of Calgary

Professor Donald R. Stuart, Queen's University

A fifth group consists of representatives of the federal and provincial governments, who give us the Crown counsel's point of view as well as the vital perspective of those charged with the administration of justice on a day-to-day basis.

During the last year, the Commission consulted on three occasions in Vancouver, Toronto and Ottawa with the government group, the judicial advisory panel, the law professors, the defence lawyers and the chiefs of police.



Minutes of all these private discussions are recorded in detail so that they may be referred to when revisions to the draft papers are being considered.

All of these consultants donate their time to the Commission as a public service. We are most indebted to them for contributing so generously to the cause of law reform. Needless to say, our work is rendered far more valuable as a result of their help.

Special Consultations

The category of special consultations is meant to describe specific consultative events held with groups, institutions or professionals who are concerned with the work of the Commission. This past year the Commission participated in the following events.

Access to the Criminal Process

A special consultation with distinguished representatives of the media concerning the Working Paper on *Public and Media Access to the Criminal Process* was held in Vancouver on November 3, 1986. Those present included Tony Cox (CHEK-TV, Vancouver), Patrick Harden (the *Edmonton Sun*, Edmonton), Alan Merredew (the *Province*, Vancouver), Patrick O'Callaghan (the *Calgary Herald*, Calgary), James Struthers (the *Leader Post*, Regina), Arthur Wood (the *Cambridge Reporter*, Cambridge), Thompson MacDonald (CFCN-TV, Calgary).

Pretrial Detention

In April, 1987, the Criminal Procedure Project held a meeting at the Law Reform Commission Offices in Montréal to discuss conditions of pretrial detention with representatives of Ontario and Québec Correctional Services. Those present included: John Main, Regional Director, Metro Region, Ontario Ministry of Correctional Services; Ken Sandhu, Manager, Policy Development &

Co-ordination, Ontario Ministry of Correctional Services; Murray Chitra, Director of Legal Services, Ontario Ministry of Correctional Services; Gérard Gallant, Consultant, Solicitor General; Gilles Roussel, Director of the Parthenais Detention Centre, Montréal.

Legal Theory and Practice Conference

In May 1986, the Commission in cooperation with the Canadian Institute for the Administration of Justice and the Faculty of Law of the University of Ottawa sponsored a conference entitled "Legal Theory meets Legal Practice." The aim of the conference was to encourage a dialogue between legal philosophers, judges and legal practitioners by stimulating the lawyers' appreciation of the relevancy of legal theory and facilitating the legal philosophers' understanding of the judicial process. Sessions consisted of both panels and workshops, and the speakers included philosophers, law professors and members of the judiciary.

Workshop on Report 30

In May 1986, a Workshop on Report 30 was held at the annual convention of the Québec Bar. It was chaired by the Honourable Antonio Lamer of the Supreme Court of Canada. The participants included the Vice-President of the Commission, Gilles Létourneau, defense counsel Jean-Claude Hébert and Crown counsel Bernard Laprade. Over sixty lawyers attended the workshop and there was overwhelming support for the efforts of the Commission's work on the new draft Criminal Code.

International Conference on Reform of the Criminal Law

For the past year the Commission has participated in the organization of an international conference on the reform of the criminal law which is to be held in London, England from July 26 to 29, 1987. The purpose of the conference is to bring together law reformers, senior

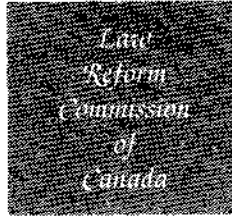
government officials, politicians, judges, members of the Bar, academics and the press, to examine and exchange views on the future direction of the reform of the criminal law.

Towards a Modern Federal Administrative Law

By the end of 1986-87, the Commission undertook the first stage in the consultation process dealing with its research programme in administrative law.

In order to gather the opinions of jurists, and professors in political science and public administration, a consultation paper titled *Towards a Modern Federal Administrative Law* was discussed at the 55th Conference of the Association canadienne-française pour l'avancement des sciences held at the University of Ottawa in May 1987. The document will again be discussed in June 1987 at the Learned Societies Conference with members of the Canadian Association of Law Teachers and the Canadian Association of Political Science.

In early 1987-88, the Administrative Law Project intends to organize a series of consultations with members of the Senate and the House of Commons, the Canadian Bar Association, senior civil servants of the Department of Justice, independent federal agencies, federal departments, provincial law reform commissions and judges from the Federal Court of Canada.



CO-OPERATION WITH OTHER INSTITUTIONS

During the course of the last year, the Commission continued to co-operate with many other institutions involved in law reform activities. We met with committees of Parliament, including the Standing Committee on Justice and Legal Affairs and Public Accounts. We continued our co-operation with the two legal departments of the federal government — the Department of Justice and the Department of the Solicitor General — and provincial governmental officials. We remained in contact with the Canadian Judicial Council, the Canadian Judges Conference, the Canadian Institute for the Administration of Justice, the John Howard Society and the Canadian Criminal Justice Association. Co-operation has also been initiated or maintained with the federal Departments of Transport and Environment, the Economic Council of Canada, the Public Service Commission of Canada, the Groupe de travail québécois sur les tribunaux administratifs, and the Canadian Council of Administrative Tribunals.

Our close co-operation continued with other Canadian law reform agencies and similar bodies around the world. The newsletter, *Law Reform*, was published three times last year, containing news from the various law reform bodies in Canada and abroad. We attended the meeting of the Law Reform Conference of Canada held in Winnipeg, Manitoba.

As in other years, the Commission worked closely with the Canadian Bar Association. We reported, as is our custom, to both the mid-winter meeting and the annual meeting. As noted earlier in this Report, we jointly organized the Law-Day dinner in Ottawa, at which the guest speakers included the Right Honourable Brian Mulroney, Prime Minister of Canada and the Right Honourable Brian Dickson, Chief Justice of the Supreme Court of Canada. At this

dinner, the first annual Scales of Justice Awards were presented to media figures who contributed to a better understanding of the legal system of Canada. The Awards were presented by the Minister of Justice, the Honourable Ray Hnatyshyn, on behalf of the Canadian Bar Association and the Law Reform Commission of Canada. We established a particularly close contact with the President, Mr. Bryan Williams of Vancouver, the executive and staff of the CBA and participated in several CBA section meetings including Criminal Law, Corporate Counsel, Administrative Law and Health Law. The President debated the future of the criminal jury at the annual meeting in Edmonton.

The Commission continued its close association with the Canadian Association of Law Teachers (CALT), participating in the organization of its annual meeting in Hamilton, and consulting with the criminal law and administrative law teachers at that time. We maintain a summer research intern programme, as well as contact people in each Canadian law school. This year, the CALT-LRCC Award for an outstanding contribution to legal research and law reform went to Professor Andrée Lajoie of the University of Montréal. Professor Lajoie, who has been teaching for twenty years is a former director of the Centre de recherche en droit public and a respected scholar who has written several books and numerous articles on public law. The President discussed the option paper on abortion with the family law teachers at their meeting held in April. The President also spoke at several law schools including Osgoode Hall, Queen's, Dalhousie, Ottawa and Toronto. The Secretary of the Commission spoke at the University of Ottawa's "Débat-midi" on Report 30.

Consultation meetings were held with the National Advisory Council on the Status of Women, The Canadian Sentencing Commission, Mr. Justice Coulter Osborne, Mr. Justice Thomas Zuber, the Canadian Medical Association, the

American Bar Association, the National Institute for Dispute Resolution, the Institute for Public Resources, the Rand Corporation, the Federal Judicial Center, the Canadian Political Science Association, the Association canadienne-française pour l'avancement des sciences and others.

During the year, officials of the Commission delivered papers to the American Bar Association, the Québec Bar Convention, the National Defence College, the Canadian Police College, the RCMP Mess Dinner, the Ottawa Women's Canadian Club, the Humane Societies' annual meeting and several other bodies.

OPERATIONS

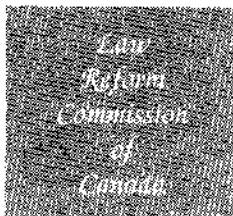
The operations of the Commission are the responsibility of the Secretary of the Commission, who is the ranking public servant of the Commission. He is assisted by the Director of Operations.

Meetings

Activities continued again this year at a brisk pace. The Commission held thirty-three formal meetings.

Regional Operations

Within a year of its establishment, the Commission had opened a Québec regional office, located in the city of Montréal. This presence in the civil-law province has proved invaluable to the Commission in the fulfilment of its statutory responsibility to reflect "the distinctive concepts and institutions of [both] the common law and civil law legal systems in Canada, and the reconciliation of differences and discrepancies in the expression and application of the law arising out of differences in those concepts and institutions;" (*Law Reform Commission Act*, s. 11(b)) The Commission is well attuned to the thinking and aspirations of the legal community and the general public in Québec.



Through smaller operations in Vancouver and Toronto, the Commission maintains a presence which is conducive to a more active involvement of Canadians in federal law reform in these regions of the country.

Official Languages Policy

The Commissioner of Official Languages recognized the excellent record of the Commission in the application of the official languages policy and to this effect the Commission has received tributes from the Official Languages Commissioner which indicates "consistently high achiever." The Commission intends to maintain its record.

Library

The library of the Law Reform Commission maintains a core collection of Canadian and foreign legal materials and publications of other law reform bodies from around the world. Books and documents in other fields are acquired as needed, depending on the priorities of the Commission's projects. The library provides reference and inter-library loan services to support the needs of the researchers.

In keeping with its policy of gradual modernization the existing on-line retrieval equipment was up-dated and a powerful personal computer was acquired late in the year. After an initial period of training and adjustment, the benefits to be derived will include efficient internal processes and improved delivery of inter-library loan and reference services.

Personnel

As in the past, during the fiscal year under review, ending March 31, 1987, the personnel strength of the Commission varied according to seasonal and functional factors. The Commission utilized the services of eighty-five research consultants at some point during that period (see Appendix I). They were all retained on a contractual basis in accordance with subsection 7(2) of the *Law*

Reform Commission Act. All of the support staff, with the occasional exception of temporary office assistants, are public servants. The Commission this year used forty-four of the forty-five authorized person years.

Not included in this figure, but worth mentioning, are certain temporary employees whose assistance to the operating of the Commission has been invaluable. The Commission's enormous mailing operations at the time of releases of new publications were greatly helped by the assistance of persons sponsored by the Ottawa and District Association of the Mentally Retarded.

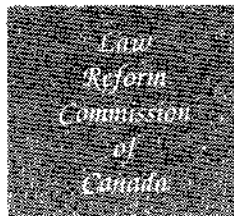
Information Services

The law reform message was carried to the Canadian public through the media, several of them taking an active interest in the Commission's work. More than 800 articles and editorials contained comments on our publications last year. The Commission members and consultants have always made themselves available for interviews. This year more than 200 interviews were conducted and aired by such television programmes as "The National," "The Journal," "Téléjournal," "Le Point," "Droit de parole," "Webster Show," "Canada AM," "Morning Side," "Ce Soir," "W5," "Newsday," "The Fifth Estate"; and radio programmes such as "As It Happens," "L'informateur," "Présent national," "La filière," "Prisme," "L'événement," "Ontario Morning," "Speaking Out," "Edmonton Today," "CKO Radio News," "Metro Morning," "Vie privée," "Day Break," "Impact Almanach," "All in a Day," "Saskatchewan Today," "The House," "Insight," "Afternoon Show," "D'un soleil à l'autre," "L'Orient Express," "World Today," "The Dave Rutherford Show," "Open House," "Radio Noon," "Midday," and "Cross Country Checkup". We have also published several "Dialogue on Law Reform" pages in the *National*, the Canadian Bar Foundation newspaper, in addition to six special features about our new Reports and Working Papers, in

Barreau '86 of the Québec Bar and in the *Lawyers Weekly*. These same features were carried by many of the 735 English and 168 French community newspapers to whom we have provided camera-ready proofs.

Finances

The Commission was allotted a budget of \$4,799,000 for fiscal year 1986-87. Of that amount, a sum of \$4,245,270 (88.5%) was spent by the organization in the course of doing business. The amount unspent, \$553,730, is attributable in part to the continuing federal government restraint programme and reductions in printing, distribution of reports, postage, travel and office supplies. (Please refer to table for budget breakdown: figures are still subject to final audit).



FISCAL YEAR 1986-87

	\$	\$
Operating Budget		4,799,000
Expenditures by Standard Object*		
01 Personnel Salaries & Wages (including employee benefits)	1,785,821	
02 Transportation & Communications	412,141	
03 Information	241,767	
04 Professional & Special Services	1,531,346	
05 Rentals	59,276	
06 Purchased Repair & Upkeep	15,458	
07 Materials & Supplies	129,476	
09 Furniture & Equipment	69,740	
10 Other Expenditures	246	
TOTAL	<u>4,245,270</u>	4,245,270
Amount unspent		<u>553,730</u>

* Figures supplied by Supply and Services Canada

General Administration

Included under this heading are: information and library service; mail and records management; material, property and telecommunications management; text processing and secretarial services; printing and duplicating services; personnel services and contract administration. During the year under review, considerable savings were realized with the reorganization of secretarial services, as well as distribution methods.

VISITORS

During the year under review, we were pleased to receive the following visitors at the Commission:

Mr. Koichi Bai, Professor of Law and Director of the Institute of Medical Humanities, Sagamihara-shi, Japan

Senator Jean Bazin, Vice-President, Canadian Bar Association, Montréal, Québec

Mr. John Buchanan, Secretary, Commonwealth Magistrate's Association, London, England

Mr. Paul Byrne, Commissioner, Law Reform Commission, Sydney, New South Wales

Mr. Tom Crowther, Publisher, *Daily Alliance*, Fredericton, New Brunswick

Mr. Michael J. Foers, HM Inspector of Taxes, Inland Revenue, London, England

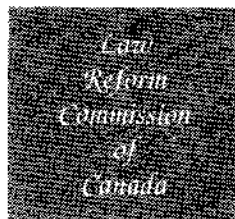
Mr. John E. Foy, President, Canadian Daily Newspaper Publisher's Association, Toronto, Ontario

Mr. Benjamin Geva, Associate Professor of Law, Osgoode Hall Law School, Toronto, Ontario

Mr. Rod Howie, Attorney General's Department, Criminal Law Review Division, Sydney, New South Wales

Mr. Tim Keedy, Court Administration Division, Sydney, New South Wales

Mr. Vladimir Kuznetsov, Second Secretary of the U.S.S.R. Embassy, Ottawa, Ontario



APPENDICES

APPENDIX A REPORTS TO PARLIAMENT

The Reports along with the response of Parliament and other institutions to our recommendations are listed below.

1. Evidence (1975)

An Act to enact the Access to Information Act and the Privacy Act, to amend the Federal Court Act and the Canada Evidence Act and to amend certain other Acts in consequence thereof, S.C. 1980-81-82-83, c. 111 (Code ss. 43(4), 89(c)).

An Act to amend the Criminal Code in relation to sexual offences and other offences against the person and to amend certain other Acts in relation thereto or in consequence thereof, S.C. 1980-81-82-83, c. 125 (Code s. 88(b)).

Young Offenders Act, S.C. 1980-81-82-83, c. 110 (Code ss. 16, 51).

Canadian Charter of Rights and Freedoms, Constitution Act, 1982, Part I of Schedule B, *Canada Act 1982*, c. 11 (U.K.), s. 24(2) (Code s. 15).

Bill S-33, "An Act to give effect, for Canada, to the Uniform Evidence Act adopted by the Uniform Law Conference of Canada" first reading November 18, 1982, Senator Olson.

2. Guidelines — Dispositions and Sentences in the Criminal Process (1976)

Young Offenders Act, S.C. 1980-81-82-83, c. 110 (Code ss. 26, 51).

Publication of a policy paper by the Government of Canada, *Sentencing* (February 1984).

3. Our Criminal Law (1976)

Publication of a policy paper by the Government of Canada, *The Criminal Law in Canadian Society* (August 1982).

Criminal Law Amendment Act, 1985, S.C. 1985, c. 19 (Repeal of Code ss. 423(2) (Conspiracy) and 253 (Venereal Diseases)).

Report of the Special Committee on Pornography and Prostitution (Paul Fraser, Chairman), *Pornography and Prostitution* (1985).

4. Expropriation (1976)

Amendments to *National Energy Board Act* (Bill C-60) S.C. 1980-81-82-83, c. 80, assented to December 8, 1981, proclaimed in force March 1, 1983.

5. Mental Disorder in the Criminal Process (1976)

Proposed Amendments to the Criminal Code (Mental Disorder), The Minister of Justice, June 23, 1986.

6. Family Law (1976)

Publication by the Department of Justice of a booklet entitled *Divorce Law in Canada: Proposals for Change* (1984).

An Act to Amend the Divorce Act, S.C. 1986, c. 3.

Divorce Act, 1985, S.C. 1986, c. 4.

7. Sunday Observance (1976)

R. v. Big M Drug Mart, [1985] 1 S.C.R. 295.

8. The Exigibility to Attachment of Remuneration Payable by the Crown in Right of Canada (1977)

Garnishment, Attachment and Pension Diversion Act, S.C. 1980-81-82-83, c. 100, s. 5.

9. Criminal Procedure — Part I: Miscellaneous Amendments (1978)

Criminal Law Amendment Act, 1985, S.C. 1985, c. 19. (Code ss. 464, 485(2), 485(3), 486, 491, 495, 553.1 and 574(5)).

10. Sexual Offences (1978)

An Act to amend the Criminal Code in relation to sexual offences and other offences against the person and to amend certain other Acts in relation thereto or in consequence thereof, S.C. 1980-81-82-83, c. 125.

11. The Cheque: Some Modernization (1979)

Bill C-19, "An Act to amend the Criminal Code ..." first reading February 7, 1984, The Minister of Justice.

12. Theft and Fraud (1979)

Bill C-19, "An Act to amend the Criminal Code ..." first reading February 7, 1984, The Minister of Justice.

13. Advisory and Investigatory Commissions (1980)

Under consideration by the Department of Justice.

14. Judicial Review and the Federal Court (1980)

Minister of Justice's Draft proposal to amend the *Federal Court Act* (August 29, 1983).

15. Criteria for the Determination of Death (1981)

Under consideration by the Department of Justice.

16. The Jury (1982)

Criminal Law Amendment Act, 1985, S.C. 1985, c. 19. (Code ss. 554(1), 560(1)).



- 17. Contempt of Court** (1982)
Bill C-19, "An Act to amend the Criminal Code ..." first reading February 7, 1984,
The Minister of Justice.
- 18. Obtaining Reasons before Applying for Judicial Scrutiny: Immigration Appeal Board** (1982)
Under consideration by the Department of Justice.
- 19. Writs of Assistance and Telewarrants** (1983)
Criminal Law Amendment Act, 1985, S.C.
1985, c. 19.
- 20. Euthanasia, Aiding Suicide, and Cessation of Treatment** (1983)
Under consideration by the Department of Justice.
- 21. Investigative Tests: Alcohol, Drugs and Driving Offences** (1983)
Criminal Law Amendment Act, 1985, S.C.
1985, c. 19.
- 22. Disclosure by the Prosecution** (1984)
Under consideration by the Department of Justice.
- 23. Questioning Suspects** (1984)
Publication entitled *Report to the Attorney General by the Police Commission on the Use of Video Equipment by Police Forces in British Columbia* (1986).
- 24. Search and Seizure** (1985)
Criminal Law Amendment Act, 1985, S.C.
1985, c. 19.
- 25. Obtaining Forensic Evidence: Investigative Procedures in Respect of the Person** (1985)
Under consideration by the Department of Justice.
- 26. Independent Administrative Agencies** (1985)
Under consideration by the Department of Justice.
- 27. Disposition of Seized Property** (1986)
Criminal Law Amendment Act, 1985, S.C.
1985, c. 19.
- 28. Some Aspects of Medical Treatment and Criminal Law** (1986)
Under consideration by the Department of Justice.
- 29. Arrest** (1986).
Under consideration by the Department of Justice.
- 30. Recodifying Criminal Law — Volume 1** (1986).
Under consideration by the Department of Justice.



APPENDIX B WORKING PAPERS

- Although the recommendations contained in Working Papers are not final, from time to time they do have an impact on legislation. Some examples from this year include Bill C-47, "Canadian Environmental Protection Act," 1st reading June 26, 1987 (Working Paper 44, *Crimes Against the Environment* (1985)) and Bill C-54, "An Act to Amend the Criminal Code [Pornography]" 1st reading May 4, 1987 (Working Paper 50, *Hate Propaganda* (1986)).
1. *The Family Court* (1974). 55 p.
 2. *The Meaning of Guilt: Strict Liability* (1974). 38 p.
 3. *The Principles of Sentencing and Dispositions* (1974). 35 p.
 4. *Discovery* (1974). 44 p.
 5. *Restitution and Compensation* (1974). 25 p. (Bound with Working Paper 6.)
 6. *Fines* (1974). 30 p. (Bound with Working Paper 5.)
 7. *Diversion* (1975). 25 p.
 8. *Family Property* (1975). 45 p.
 9. *Expropriation* (1975). 106 p.
 10. *Limits of Criminal Law: Obscenity: A Test Case* (1975). 49 p.
 11. *Imprisonment and Release* (1975). 46 p.
 12. *Maintenance on Divorce* (1975). 40 p.
 13. *Divorce* (1975). 70 p.
 14. *The Criminal Process and Mental Disorder* (1975). 61 p.
 15. *Criminal Procedure: Control of the Process* (1975). 60 p.
 16. *Criminal Responsibility for Group Action* (1976). 68 p.
 17. *Commissions of Inquiry: A New Act* (1977). 91 p.
 18. *Federal Court: Judicial Review* (1977). 54 p.
 19. *Theft and Fraud: Offences* (1977). 123 p.
 20. *Contempt of Court: Offences against the Administration of Justice* (1977). 69 p.
 21. *Payment by Credit Transfer* (1978). 126 p.
 22. *Sexual Offences* (1978). 66 p.
 23. *Criteria for the Determination of Death* (1979). 77 p.
 24. *Sterilization: Implications for Mentally Retarded and Mentally Ill Persons* (1979). 157 p.
 25. *Independent Administrative Agencies* (1980). 212 p.
 26. *Medical Treatment and Criminal Law* (1980). 136 p.
 27. *The Jury in Criminal Trials* (1980). 164 p.
 28. *Euthanasia, Aiding Suicide and Cessation of Treatment* (1982). 79 p.
 29. *The General Part: Liability and Defences* (1982). 204 p.
 30. *Police Powers: Search and Seizure in Criminal Law Enforcement* (1983). 356 p.
 31. *Damage to Property: Vandalism* (1984). 65 p.
 32. *Questioning Suspects* (1984). 104 p.
 33. *Homicide* (1984). 117 p.
 34. *Investigative Tests* (1984). 166 p.
 35. *Defamatory Libel* (1984). 99 p.
 36. *Damage to Property: Arson* (1984). 44 p.
 37. *Extraterritorial Jurisdiction* (1984). 210 p.
 38. *Assault* (1984). 59 p.
 39. *Post-Seizure Procedures* (1985). 77 p.
 40. *Legal Status of the Federal Administration* (1985). 106 p.
 41. *Arrest* (1985). 143 p.
 42. *Bigamy* (1985). 32 p.
 43. *Behaviour Alteration and the Criminal Law* (1985). 48 p.
 44. *Crimes against the Environment* (1985). 75 p.
 45. *Secondary Liability* (1985). 53 p.
 46. *Omissions, Negligence and Endangering* (1985). 42 p.
 47. *Electronic Surveillance* (1986). 109 p.
 48. *Criminal Intrusion* (1986). 25 p.
 49. *Crimes against the State* (1986). 72 p.
 50. *Hate Propaganda* (1986). 57 p.
 51. *Policy Implementation, Compliance and Administrative Law* (1986). 105 p.
 52. *Private Prosecutions* (1986). 51 p.
 53. *Workplace Pollution* (1986). 94 p.
 54. *Classification of Offences* (1986). 92 p.
 55. *The Charge Document in Criminal Cases* (1987). 57 p.
 56. *Public and Media Access to the Criminal Process* (1987). 106 p.



APPENDIX C PUBLISHED STUDIES, STUDY PAPERS, BACKGROUND PAPERS AND CONFERENCE PAPERS

Administrative Law

1. Anisman, Philip. *A Catalogue of Discretionary Powers in the Revised Statutes of Canada 1970* (1975). 1025 p.
2. *The Immigration Appeal Board* (1976). 88 p.
3. Carrière, Pierre and Silverstone, Sam. *The Parole Process: A Study of the National Parole Board* (1977). 157 p.
4. Doern, G. Bruce. *The Atomic Energy Control Board: An Evaluation of Regulatory and Administrative Processes and Procedures* (1977). 85 p.
5. Lucas, Alastair, R. *The National Energy Board: Policy, Procedure and Practice* (1977). 216 p.
6. Mullan, David J. *The Federal Court Act: Administrative Law Jurisdiction* (1977). 117 p.
7. Issalys, Pierre and Watkins, Gaylord. *Unemployment Insurance Benefits: A Study of Administrative Procedure in the Unemployment Insurance Commission* (1978). 342 p.
8. Seminar for Members of Federal Administrative Tribunals, April 5-7, 1978. *Speakers' Remarks* (1978). 253 p.
9. Fox, David. *Public Participation in the Administrative Process* (1979). 174 p.
10. Franson, Robert T. *Access to Information: Independent Administrative Agencies* (1979). 80 p.
11. Issalys, Pierre. *The Pension Appeals Board: A Study of Administrative Procedure in Social Security Matters* (1979). 360 p.
12. Janisch, H.N., Pirie, A.J. and Charland, W. *The Regulatory Process of the Canadian Transport Commission* (1979). 151 p.
13. Seminar for Members of Federal Administrative Tribunals, March 19-22, 1979. *Selected Proceedings*. Edited by C.C. Johnston (1979). 90 p.
14. Slayton, Philip. *The Anti-dumping Tribunal* (1979). 111 p.
15. Vandervort, Lucinda. *Political Control of Independent Administrative Agencies* (1979). 190 p.
16. Kelleher, Stephen. *Canada Labour Relations Board* (1980). 106 p.
17. Leadbeater, Alan. *Council on Administration* (1980). 88 p.
18. Seminar for Members of Federal Administrative Tribunals, March 1-12, 1980, at Touraine, Québec. *Speakers' Remarks and Excerpts from Discussion Periods*. Edited by C.C. Johnston (1980). 156 p.
19. Eddy, Howard R. *Sanctions, Compliance Policy and Administrative Law* (1981). 141 p.
20. Johnston, Christopher C. *The Canadian Radio-television and Telecommunications Commission* (1981). 144 p.
21. Slayton, Philip and Quinn, John J. *The Tariff Board* (1981). 154 p.
22. Slatyer, Frans. *Parliament and Administrative Agencies* (1982). 154 p.
23. Frecker, John *et al.* *Towards a Modern Federal Administrative Law* (1987). 27 p.
24. Mockle, Daniel. *Immunity from Execution* (1987). 103 p.
25. *Obscenity* (1972). 81 p.
26. *Fitness to Stand Trial* (1973). 57 p.
27. *A Proposal for Costs in Criminal Cases* (1973). 20 p.
28. *Discovery in Criminal Cases* (1974). 261 p.
29. *Discovery in Criminal Cases: Report on the Questionnaire Survey* (1974). 116 p.
30. Schmeiser, Douglas A. *The Native Offender and the Law* (1974). 90 p.
31. *Studies in Strict Liability* (1974). 251 p.
32. *Studies on Sentencing* (1974). 205 p.
33. *Studies on Diversion* (1975). 255 p.
34. Becker, Calvin. *The Victim and the Criminal Process* (1976). 338 p.
35. *Community Participation in Sentencing* (1976). 249 p.
36. *Fear of Punishment: Deterrence* (1976). 149 p.
37. Harrison, Irene. *Public and Press Response to Sentencing Working Papers* (1976). 135 p.
38. Macnaughton-Smith, Peter. *Permission to Be Slightly Free* (1976). 307 p.
39. *Studies on Imprisonment* (1976). 327 p.
40. *Towards a Codification of Canadian Criminal Law* (1976). 56 p.
41. *Preparing for Trial: Report of Conference Held in Ottawa, March 23-24, 1977* (1977). 342 p.
42. Kennedy, Carole. *Evaluation of the Comments Received on Working Paper 22 "Sexual Offences"* (1978). 46 p.
43. *The Jury* (1979). 473 p.
44. Stenning, Philip C. and Shearing, Clifford D. *Search and Seizure: Powers of Private Security Personnel* (1979). 204 p.
45. Grant, Alan. *The Police: A Policy Paper* (1980). 97 p.
46. Paikin, Lec. *The Issuance of Search Warrants* (1980). 119 p.
47. Stenning, Philip C. *Legal Status of the Police* (1981). 169 p.
48. Brooks, Neil. *Police Guidelines: Pretrial Eyewitness Identification Procedures* (1983). 260 p.
49. Smith, Maurice H. *Origins of Writ of Assistance Search in England, and Its Historical Background in Canada* (1984). 99 p.
50. Brooks, Neil and Fudge, Judy. *Search and Seizure under the Income Tax Act: Summary of a Study Paper* (1985). 23 p.



Evidence

51. *Evidence: 1. Competence and Compellability. 2. Manner of Questioning Witnesses. 3. Credibility. 4. Character* (1972). 60 p.
52. *Evidence: 5. Compellability of the Accused and the Admissibility of His Statements* (1973). 42 p.
53. *Evidence: 6. Judicial Notice. 7. Opinion and Expert Evidence. 8. Burdens of Proof and Presumptions* (1973). 67 p.
54. *Evidence: 9. Hearsay* (1974). 20 p.
55. *Evidence: 10. The Exclusion of Illegally Obtained Evidence* (1974). 36 p.
56. *Evidence: 11. Corroboration* (1975). 19 p.
57. *Evidence: 12. Professional Privileges before the Courts* (1975). 26 p.

Family Law

58. London, Jack R. *Tax and the Family* (1975). 349 p.
59. Payne, Julien. *A Conceptual Analysis of Unified Family Courts* (1975). 681 p.
60. *Studies on Divorce* (1975). 313 p.
61. *Studies on Family Property Law* (1975). 401 p.
62. Kennedy, Carole. *Evaluation of Comments Received in the Area of Family Law* (1976). 88 p.
63. Ryan, Edward F. *Enforcement of Maintenance Obligations* (1976). 47 p.
64. Bowman, C. Myra. *Practical Tools to Improve Interprovincial Enforcement of Maintenance Orders after Divorce* (1980). 50 p.

Protection Of Life

Phase I — Medico-legal Issues

65. Keyserlingk, Edward W. *Sanctity of Life or Quality of Life* (1979). 224 p.
66. Somerville, Margaret A. *Consent to Medical Care* (1980). 186 p.

Phase II — Environmental Issues

67. Schrecker, Theodore F. *Political Economy of Environmental Hazards* (1984). 112 p.
68. Swaigen, John and Bunt, Gail. *Sentencing in Environmental Cases* (1985). 81 p.

Miscellaneous

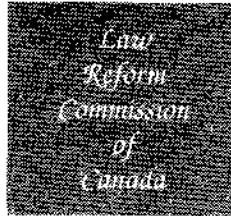
69. *First Research Programme of the Law Reform Commission of Canada* (1972). 21 p.
70. Eddy, Howard R. *The Canadian Payment System and the Computer: Issues for Law Reform* (1974). 80 p.
71. Lajoie, Marie, Schwab, Wallace and Sparer, Michel. *Drafting Laws in French* (1981). 296 p.



APPENDIX D UNPUBLISHED PAPERS PREPARED FOR THE LAW REFORM COMMISSION

The following papers supplement the list of over 280 unpublished papers which appeared in the Fourteenth and Fifteenth Annual Reports. Unpublished papers are available for consultation in the Commission's library and can be purchased on microfiche from private companies. Please contact the Commission for additional information.

- Brennan, Christopher. "Kidnapping and Related Offences" (1984). 194 p.
- Clifford, John C. "Aviation Safety Inspection: Field Observations and Thoughts About Reform of Canada's Federal Inspectorates" (1987). 79 p.
- Dyke, Karen. "Administrative Agencies as a Party to Proceedings before a Court" (1984). 24 p.
- Fitzgerald, Patrick. "Nothing for Nothing: The Law against Obscenity" (1974) 46 p.
- Goldsmith, Andrew J. "Offences Relating to the Possession of Property Obtained by Crime" (1982). 54 p.
- Gosse, Richard. "The Custody, Care and Upbringing of Children of Divorcing Spouses" (1973). 228 p.
- Hill, Brian P. "Draft Working Paper: Offences against Peace (Public Order Offences)" (1984). 54 p.
- Huestis, Lynne B. "Policing Pollution: The Prosecution of Environmental Offences" (1984). 225 p.
- McCallum, Sandra K. "Point Lepreau Generating Station: The Licensing Process" (1975). 104 p.
- Miller, Joyce. "Law and Technology" (1984). 129 p.
- Mockle, Daniel. "Administrés et usagers de service public : introduction à l'environnement social et juridique d'une catégorie floue du droit administratif" (1987). 65 p.
- Morse, Bradford and Nahwegahbow, David. "The Interaction between Environmental Law Enforcement and Aboriginal and Treaty Rights in Canada" (1985). 321 p.
- Ouellette-Lauzon, Monique. "Droit des enfants au Québec" (1972). 27 p.
- Pirie, Andrew J. "Dispute Resolution in Canada: Present State, Future Direction" (1987). 168 p.
- Robardet, Patrick. "Document d'étude sur la procédure administrative" (1985). 230 p.
- Robardet, Patrick. "L'État administratif et l'évolution du droit administratif : communication préparée pour la réunion de l'Association canadienne de science politique. Learned Societies Conference, McMaster University" (1987). 59 p.
- Schiff, Stanley. "Comments on Bruce McDonald's Draft Paper on 'Authentication and Identification'" (1975). 32 p.
- Schiff, Stanley. "Comments on Draft Paper 'Authentication and the Documentary Originals Rule' by R.J. Delisle" (1975). 14 p.
- Webb, Kernaghan R. "An Historical Perspective on Current Problems in Canadian Administrative Law." (1987) 91 p.
- Working Group on the Legal Status of the Foetus. "Options for Abortion Policy Reform: A Consultation Document" (1986). 98 p.
- Speeches & Statements*
- Linden, Allen. Statement made upon Release of Report 30, December 1986.
- "Canadian Tort Law: Yesterday, Today and Tomorrow," 23rd Conference on Law and Contemporary Affairs "Tort Law in Crisis," University of Toronto, January 16, 1987.
- "Renewing Canadian Law," Women's Canadian Club of Ottawa, January 21, 1987.
- "Dispute Resolution in Canada" American Bar Association, Special Committee on Dispute Resolution, San Diego, California, January 30-31, 1987.
- "Abortion Reform: Issues and Options," Canadian Association of Law Teachers Consultation, Banff Springs Hotel, April 24, 1987.
- "Reform of Criminal Code Offences Against Animals," Allen M. Linden and John Barnes. Annual General Meeting of Humane Societies, Hamilton, Ontario, April 26, 1987.
- "Toward a Canadian Jurisprudence," Conference, University of Ottawa, Legal Theory Meets Legal Practice, May 14, 1987.
- "The R.C.M.P. and the L.R.C.C.: Partners in the Criminal Justice System," address to the R.C.M.P. 1987 Mess Dinner, Canadian Police College, Ottawa, May 22, 1987.
- Létourneau, Gilles. "La réforme du droit criminel : un aperçu de la problématique et des solutions", Québec Bar Conference, Montréal, May 15, 1987.
- Opening Statement for the Press Conference held on the release of Working Paper 56, *Public and Media Access to the Criminal Process*, Montréal, Château Champlain, Salon Viger C, June 4, 1987.
- Maingot, Joseph. Speech to the Canadian Medical Association Conference on Liability, Canadian Medical Association House, Ottawa, October 23, 1986.
- "Parliamentary Privilege in Canada," 4th Annual Presiding Officer's Conference, Commonwealth Parliamentary Association, Winnipeg, January 30 - February 1, 1987.
- Frecker, John. Administrative Law Seminars, University of British Columbia and University of Alberta, Faculties of Law, Fall, 1986.
- "New Directions in Administrative Law," University of Victoria, fall, 1986.
- "Recent Developments in Law Reform," Canadian Bar Association, Newfoundland Branch, June 23, 1987.
- Reports to the Canadian Bar Association Council, August 1986.



APPENDIX E

BOOKS, ARTICLES AND PAPERS PUBLISHED INDEPENDENTLY WITH LAW REFORM COMMISSION INVOLVEMENT

The following is a selection from the more than 125 private publications with which Commission personnel have been involved both in this year and in previous years.

Books

- Abella, R.S. and Rothman, M.L., eds. *Justice beyond Orwell* (Montréal: Yvon Blais, 1985).
- Anisman, P. and Linden, A.M., eds. *The Media, the Courts and the Charter* (Toronto: Carswell, 1986).
- Anisman, P. et al. *Proposals for a Securities Market Law for Canada* (Ottawa: Supply and Services Canada, 1979).
- Anisman, P. *Takeover Bid Legislation in Canada: A Comparative Analysis* (Don Mills, Ont.: C.C.H. Canadian, 1974).
- Barton, B.J., Franson R.T. and Thompson, A.R. *A Contract Model for Pollution Control* (Vancouver: University of British Columbia, Westwater Research Centre, 1984).
- Caparros, E. *Les régimes matrimoniaux au Québec* (Montréal: Wilson et Lafleur/Sorej, 1979).
- Cohen, S.A. *Invasion of Privacy: Police and Electronic Surveillance in Canada* (Toronto: Carswell, 1983).
- Del Buono, V.M. *Canadian Criminal Procedure: Cases, Notes, Materials* (Toronto: Butterworths, 1981).
- Del Buono, V.M., ed. *Criminal Procedure in Canada: Studies* (Toronto: Butterworths, 1982).
- Evans, J.M., Janish, H.M., Mullan, D.J. and Risk, R.C.B. *Administrative Law: Cases, Text and Materials* (Toronto: Emond-Montgomery, 1980).
- Fitzgerald, P., ed. *Crime, Justice & Codification: Essays in Commemoration of Jacques Fortin*. (Toronto: Carswell, 1986).
- Fitzgerald P. and McShane, K. *Looking at Law: Canada's Legal System*. Revised edition (Ottawa: By Books, 1982).
- Fitzgerald, P. *This Law of Ours* (Scarborough: Prentice Hall, 1977).
- Fortin, J. *Preuve pénale* (Montréal: Thémis, 1984).
- Fortin, J. and Viau L. *Recueil d'arrêts en droit pénal général* (Montréal: Thémis, 1983).
- Fortin, J. and Viau, L. *Traité de droit pénal général* (Montréal: Thémis, 1982).
- Friedland, M.L. *Access to the Law* (Toronto: Carswell, 1975).
- Garique, P. *Famille, science et politique* (Montréal: Leméac, 1973).
- Keyserlingk, E.W. *The Unborn Child's Right to Prenatal Care: A Comparative Law Perspective* (Montréal: Québec Research Centre of Private & Comparative Law, 1984).
- Levy, H.J. *A Reporter's Guide to Canada's Criminal Justice System* (Ottawa: Canadian Bar Foundation, 1986).
- Mockle, D. *Recherches sur les pratiques administratives parareglementaires* (Paris: Librairie générale de droit et de jurisprudence, 1984).
- Popovici, A. *L'outrage au tribunal* (Montréal: Thémis, 1977).
- Ratushny, E. *Self-incrimination in the Canadian Criminal Process* (Toronto: Carswell, 1979).
- Stenning, P.C. *Appearing for the Crown: A Legal and Historical Review of Criminal Prosecutorial Authority in Canada* (Cowansville, Qué.: Brown Legal Publications, 1986).
- Stuart, D.R. *Canadian Criminal Law: A Treatise* (Toronto: Carswell, 1982).
- Waller, L. *Criminal Law: Text and Cases*, 4th ed. (Melbourne: Butterworths, 1978).

Articles

- Bouchard, M. "Administrative Law Scholarship" (1985), 23 Osgoode Hall L.J. 411.
- Cohen, S. "Roadside Detentions: A.L.E.R.T. Testing and the Right to Counsel" (1986), 51 C.R. (3d) 34.
- Gilhooly, J. "Ethical Issues and Societal Concerns," in Proceedings of the Biotechnology Workshop, October 29, 1985 (1985-86:1) 8th Annual Report, Ontario Advisory Council on Occupational Health and Occupational Safety, 200.
- Jull, K., Clarkson, V.R. "Do We Need A Legal Emergency Department?" (1986), 32 McGill L.J. 359.
- Jobson, K. and Ferguson, G. "Toward A Revised Sentencing Structure for Canada" (1987), 66 Can. Bar Rev. 1.
- Keyserlingk, E.W. "Against Infanticide" (1986), 14:3-4 Law, Medicine & Health Care 154.
- Keyserlingk, E.W. "Non-Treatment in the Best Interests of the Child: A Case Commentary of *Couture-Jacquet v. Montreal Children's Hospital*" (1986), 32 McGill L.J. 413.
- Mockle, D. "Andrée Lajoie, Contrats administratifs : jalons pour une théorie [Book Review]" (1986), 17 R.G.D. 632.
- Mockle, D. "La rationalité juridique et politique de l'État providence" (1987), Politique, No. 11, p. 138-146.
- O'Reilly, J. "Annotation [R. v. Squires]" (1986), 50 C.R. (3d) 320.
- Robardet, P. "The Charter, Public Policy and the Administrative State" (1986), Public Policy and Administrative Studies, (Univ. of Guelph), Vol. 3, 52.
- Webb, K. "Between the Rocks and Hard Places: Bureaucrats, the Law and Pollution Control" (1987), 14:2 Alternatives: Perspectives on Society, Technology and Environment 4.



APPENDIX F SOME ARTICLES ABOUT THE LAW REFORM COMMISSION AND ITS WORK

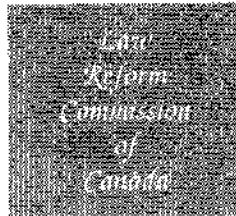
The following is a selective list of the more than 210 articles which have been published about the Commission and its work this year and in previous years. Additional material is listed in previous annual reports.

In General

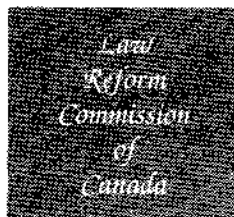
- Barnes, J. "Law Reform" and "Law Reform Commission of Canada" in *The Canadian Encyclopedia* (Edmonton: Hurtig, 1985) at 987.
- Barnes, J. "The Law Reform Commission" in R.St.J. MacDonald and J.P. Humphrey, eds. *The Practice of Freedom* (Toronto: Butterworths, 1979) at 319.
- Barnes, J. "The Law Reform Commission of Canada" (1975), 2 *Dalhousie L.J.* 62.
- Fortin, J. "La Commission de réforme du droit du Canada: un bilan succinct" (1982), 15 *Criminologie* 105.
- Muldoon, F.C. "Law Reform in Canada: Diversity or Uniformity" (1983), 12 *Man. L.J.* 257.
- Muldoon, F.C. "What Influences Policy-Makers? A Law Reformer's Perspective" in D. Gibson and J.K. Baldwin, eds. *Law in a Cynical Society? Opinion and Law in the 1980s* (Calgary: Carswell, 1985) at 381.
- Ryan, E.F. and Lamer, A. "The Path of Law Reform" (1977), 23 *McGill L.J.* 519.
- Ryan, W.F. "The Law Reform Commission of Canada: Some Impressions of a Former Member" (1976), 25 *U.N.B.L.J.* 3.
- Samek, R.A. "A Case for Social Law Reform" (1977), 55 *Can. Bar Rev.* 409.
- Turner, J. "Law for the Seventies: A Manifesto for Law Reform" (1971), 17 *McGill L.J.* 1.
- Turp, P. "La Commission de réforme du droit du Canada: Exposé descriptif de ses activités," [1984] *Juriste international* 17.
- Administrative Law**
- Butt, S. "Crown Immunity" (1986), 2 *Admin. L.J.* 24.
- Fera, N.M. "A Critical Examination of the LRC's Proposals for Reform of Extradition Review" (1977), 20 *Crim. L.Q.* 103.
- Fera, N.M. "LRC's Proposals for the Reform of the Federal Judicial Review System: A Critical Examination and Counterpoise" (1977), 8 *Man. L.J.* 529.
- Ganz, G. "Parliament and Administrative Agencies: A Study Paper Prepared for the Law Reform Commission of Canada by Frans Slatter," [1984] *Public L.* 168.
- Mockle, D. "La réforme du statut juridique de l'administration fédérale: observations critiques sur les causes du blocage actuel" (1986), 29 *Can. Pub. Admin.* 282.
- Thomas, P.G. "Administrative Law Reform: Legal versus Political Controls on Administrative Discretion" (1984), 27 *Can. Pub. Admin.* 120.
- Thomas, P.G. "Courts Can't Be Saviours" (1984), 5:3 *Policy Options* 24.
- Criminal Law And Procedure**
- Baker, B.M. "Mens Rea, Negligence and Criminal Law Reform" (1987), 6 *Law & Philosophy* 53.
- Barnes, J. "Criminal Law Reform: Canadian Style" [1976] *Crim. L. Rev.* 299.
- Barnes, J. and Marlin, R. "Radical Criminology and the Law Reform Commission of Canada — A Reply to Professor M.R. Goode" (1977-78), 4 *Dalhousie L.J.* 151.
- Beaulne, J.P. "Working Paper 3: Principles of Sentencing and Dispositions" (1975), 7 *Ottawa L. Rev.* 262.
- Black, B. "Working Paper 11: Imprisonment and Release" (1976), 8 *Ottawa L. Rev.* 322.
- Branson, C.O.D. "Discovery and Proceedings" (1975), 17 *Crim. L.Q.* 24.
- Cassels, J. "Imprisonment and Release" (1976), 8 *Ottawa L. Rev.* 329.
- Cassels, J. "Working Paper 4: Criminal Procedure: Discovery" (1975), 7 *Ottawa L. Rev.* 281.
- Clendenning, J.L. "Working Paper 7: Diversion" (1976), 8 *Ottawa L. Rev.* 275.
- Colvin, E. "Codification and Reform of the Intoxication Defence" (1983), 26 *Crim. L.Q.* 43.
- Curran, W.J. "Comments on Mohr's Law and Mental Disorder: A Critique of the Law Reform Commission of Canada" in D.N. Weissstub, ed. *Law and Psychiatry: Proceedings of an International Symposium* (New York: Pergamon, 1978) at 100.
- Cyr, J.J. and Coons, W.H. "The Criminal Law: Negative Reinforcement and Punishment: A Comment on the Law Reform Commission's Working Paper 43" (1986), 7:2 *Health Law in Canada* 59.
- Davies, D.T. "The Pitfalls of Diversion: Criticism of a Modern Development in an Era of Penal Reform" (1976), 14 *Osgoode Hall L.J.* 759.
- Del Buono, V.M. "Mental Disorder: A Crime" (1975), 18 *Can. J. Crim. & Corr.* 302.
- Del Buono, V.M. "Towards A New Criminal Code for Canada" (1986), 28 *Crim. L. Q.* 370.
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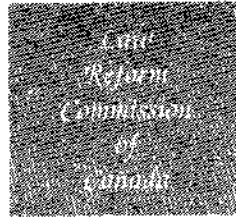


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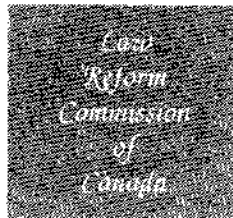


APPENDIX G
LAW REFORM COMMISSION PUBLICATIONS
REFERRED TO BY THE COURTS

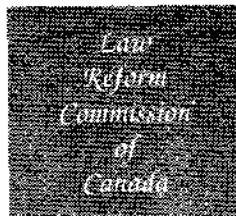
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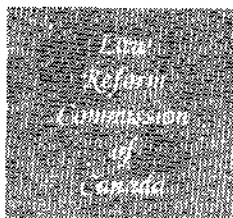
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APPENDIX H EXAMPLE OF EDITORIAL REACTION TO REPORT 30

a) *General*

"Its first virtue is simplicity. Gone are the obstructions of post-Victorian legal jargon, replaced by plain and simple words and grammar.... Its second virtue is consistency. The present Code's lack of unifying principles not only makes it hard to understand — it makes for unpredictable judgments in the courts."

The Ottawa Citizen, Dec. 5, 1986
Ottawa, Ont.

"To the extent law and order are a concern to Canadians, the revisions to the Criminal Code reflect this concern. But the deepening awareness of the need for flexibility and compassion are taken into account as well. The Law Reform Commission has done some good work in the past seven years. The amendments to the Criminal Code before Parliament are another example of that good work."

Melville Advance, Feb. 11, 1987
Melville, Sask.

"Any set of criminal laws which includes prohibitions against duelling, against seduction of female passengers on vessels ... cannot be said to have much relevance to anything in late-1980s Canada."

Times-Colonist, Dec. 8, 1986
Victoria, B.C.

"[T]he commission has provided Parliament with an excellent basis for a modern, usable and understandable Criminal Code. A special parliamentary sub-committee should be struck to continue the public debate and bring the new code to fruition."

The Toronto Star, Dec. 4, 1986
Toronto, Ont.

"One of the most notable things about these first recommendations is that they reflect very clearly the feelings of most Canadians, who increasingly are demanding that laws be made tougher and law-breakers punished more severely."

The Calgary Sun, Dec. 5, 1986
Calgary, Alta.

"Let's hear the backbenchers urge the government to act quickly on the reform commission's report. Then they would have their priorities straight."

The Province, Dec. 5, 1986
Vancouver, B.C.

"Every Canadian has a vested stake in the new proposed Criminal Code. It's an important and encouraging document that demands immediate attention. After all we have waited 94 years until the Code endured the full review it has long needed. Let's not wait another 94 years for reform."

Victoria County Record,
Dec. 17, 1986
Perth-Andover, N.B.

"The final decision on the new Criminal Code will be made by Parliament — as it must be. But the law reform commission has eased the way considerably with its in-depth analysis and report."

The Examiner, Dec. 8, 1986
Peterborough, Ont.

"So let's make appropriate haste. Authorities can't keep lecturing us that ignorance of the law is no excuse when all the experts also must concede that much of our criminal law is just not understandable to the ordinary Joe."

The Toronto Sun, Dec. 5, 1986
Toronto, Ont.

"The commission has taken an encouraging first step toward updating the Criminal Code. The next step is conscientious scrutinizing of the report by the government and members of Parliament, and wide public debate."

The London Free Press,
Dec. 6, 1986
London, Ont.

"Sensible though many of the proposed changes are, others should be refined by public opinion and political action."

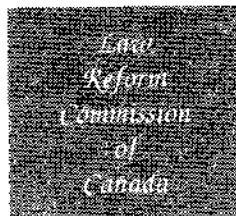
The Edmonton Journal,
Dec. 6, 1986
Edmonton, Ont.

"In spite of these and other reservations, we welcome the proposed new code. Its tabling is just the beginning of a debate that is desirable in a country that is increasingly conscious of its own identity, concerned about crime and its ramifications, and dedicated to the rule of law."

The Toronto Star, Dec. 4, 1986
Toronto, Ont.

"The legal and social implications of the new criminal law are profound. And the proposals are going to require the widest possible study and debate as the reform process unfolds.... While there will be differences over the changes, what does seem clear is that a criminal law designed in the 19th century will not be appropriate for the approaching 21st century."

Telegraph-Journal (Morning),
Dec. 29, 1986
Saint John, N.B.



b) Specific

i) Drunkenness

"The proposed remedy would prevent situations in which people can be convicted of lesser offences, or acquitted, by showing they were drunk. It would punish people for negligently getting drunk, and help to guide the courts in dealing with repeat offenders."

The Hamilton Spectator,
Dec. 5, 1986
Hamilton, Ont.

"Drunkenness and assaults associated with it should be treated harshly by the courts. The same with drunken driving. Such practices are menaces to public safety and should be contained."

The Daily Gleaner, Dec. 5, 1986
Fredericton, N.B.

ii) Family Violence

"The incidence of wife-battering appears to be growing. No person should be subjected to violence and abuse with impunity and the Criminal Code should be rewritten in such a way as to be a deterrent to such brutality."

The Daily Gleaner, Dec. 5, 1986
Fredericton, N.B.

"I'm just delighted," said John King, a Crown prosecutor with the New Brunswick provincial youth court.... Someone who is proposing that legislation has the sensitivity to see that the biggest problem in family violence is vulnerability."

Telegraph-Journal, (Morning)
Dec. 5, 1986
Saint John, N.B.

"The Federal Law Commission ... recognizes the inadequacies in the system and recommends a revamping of the law to ensure that the offences carry a more severe punishment."

The Evening Telegram, Dec. 5, 1986
St. John's, Nfld.

"The new recommendations should encourage women to go to court and that's good, but it is equally necessary that men receive treatment to stop their violence toward those whom, often, they also love."

The Kings County Record,
Jan. 7, 1987
Sussex, N.B.

iii) Terrorism

"Other proposals, such as rewriting homicide laws to deal with anyone who commits murder for political or terrorist purposes, are likewise needed."

The Hamilton Spectator,
Dec. 5, 1986
Hamilton, Ont.

"Among the many recommendations are ones calling for a crackdown on terrorists and drunks who commit crimes. Good! Society has shown a thirst for such changes."

The Toronto Sun, Dec. 5, 1986
Toronto, Ont.

"The Law Reform Commission ... has zeroed in on terrorists, wife-beaters and drunks, recommending more severe penalties for people convicted in these categories.... Those who engage in such activities should face tougher laws."

The Daily Gleaner, Dec. 5, 1986
Fredericton, N.B.

"Included are terrorist killings, as well they should be."

The Calgary Sun, Dec. 5, 1986
Calgary, Alta.

iv) Euthanasia

"That society recognizes mercy killing as being different from other types of premeditated murder is reflected in the fact that few mercy killers are even taken to court.... However, the acceptability of this change would depend very much on how it is applied."

The Sault Star, Ont., Dec. 4, 1986
Sault Ste. Marie

"The law reform commission's proposal, or something like it, may well come to pass. Some heartache would be eased, but despite the best will in the world, it seems inevitable that new heartache would be created, too."

The Gazette, Dec. 3, 1986
Montréal, Qué.

"Two separate issues are raised: that of deliberately taking a life, and that of avoiding extraordinary efforts to prolong a life that is about to end. Should there be a distinction?"

The Edmonton Journal,
Dec. 6, 1986
Edmonton, Alta.

"Ottawa can cleanse the code of archaic offenses while awaiting more consultation and discussion of mercy-killing and 'Good Samaritan' laws."

The Hamilton Spectator
Dec. 5, 1986
Hamilton, Ont.

"The recommendation by the commission is a bold one and will undoubtedly lead to considerable controversy.... [I]t is an item that should not be rushed through hastily."

The Times Journal, Dec. 5, 1986
St. Thomas, Ont.

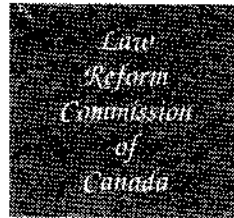
v) "Good Samaritan" law

"There will be wide approval, we think, of the proposed law which provides penalties for those who fail to take reasonable steps to help another person in danger."

The Globe and Mail, Dec. 5, 1986
Toronto, Ont.

"The so-called Good Samaritan law should spur Canadians to think about their responsibility as citizens and their obligations to society.... If Canadians hold that the state cannot dictate moral conduct in such areas as pornography, how can a Good Samaritan law be justified?"

The Edmonton Journal,
Dec. 6, 1986
Edmonton, Alta.



"This unnecessary provision misjudges the values of Canadians and takes the criminal law into areas where it does not belong."

The Toronto Star, Dec. 4, 1986
Toronto, Ont.

vi) *Abolition of Minimum Sentence for Second-Degree Murder*

"[W]e just don't understand why the same commission wants the code to be silent on minimum punishment for second-degree murder."

The Toronto Sun, Dec. 5, 1986
Toronto, Ont.

"The minimum sentence is one of the few tools the legal system has, apart from capital punishment, that can assert that murder is totally unacceptable. The minimum, in other words, sends a message to every potential murderer: Don't kill."

The Kitchener-Waterloo Record,
Dec. 8, 1986
Kitchener, Ont.

vii) *Defence of Necessity*

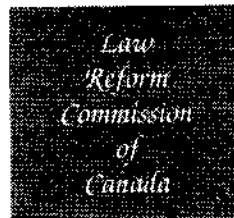
"More disturbing is the recommendation that necessity is an appropriate defence for stealing: for instance, a mother stealing to feed her children.... To agree to such a proposition would be to repudiate the compassionate society we have built.... The recommendation implies that the state can no longer fulfil its obligation to provide food and shelter for all its citizens; that the only recourse in certain cases is to steal. Canadians must press their politicians to maintain the social safety net so that such a law never becomes necessary."

The Edmonton Journal,
Dec. 6, 1986
Edmonton, Alta

viii) *Endangering*

"This is one instance in which we should not follow the lead of the Americans. It would be going to unacceptable extremes to throw motorists in jail for having bald tires on their cars, even should this be a factor in an accident endangering the lives of passengers in that vehicle."

The Sault Star, Dec. 6, 1986
Sault Ste. Marie, Ont.



APPENDIX I RESEARCH CONSULTANTS

Substantive Criminal Law Project

Co-ordinator: Mr. François Handfield, B.A. (Montréal), LL.L. (Montréal); Professor, University of Ottawa; Member, Québec Bar.

Principal Consultant: Professor Patrick J. Fitzgerald, M.A. (Oxon); Barrister-at-Law (Lincoln's Inn); Professor, Carleton University; Member, Ontario Bar.

Names and Areas of Study

BARNES, John, B.A. (Hons.), B.C.L. (Hon.) (Oxford); Barrister-at-Law (Middle Temple). *Codification; Cruelty to Animals*

CYR, Lita, LL.B. (Ottawa); Member, Ontario Bar. *Codification*

DEL BUONO, Vince, B.A. (Glendon), M.A., LL.B., LL.M. (Toronto); Member, Alberta Bar, Dept. of Justice, Ottawa. *Codification*

DOUGLAS, Lynn C., B.A., LL.B., Dip. in Legislative Drafting (Ottawa); Member, Ontario Bar. *Codification*

FITZGERALD, Oonagh E., B.F.A. (Hons.) (York), LL.B. (Osgoode-York); Member, Ontario Bar; Part-time Lecturer, Carleton University. *Codification*

FRIEDLAND, Martin L., Q.C., B.Com., LL.B. (Toronto), Ph.D. (Cantab.); Member, Ontario Bar; Professor, University of Toronto. *Comments on the Draft Code*

GILMOUR, Glenn A., B.A., LL.B. (Queen's); Member, Ontario Bar. *Hate Propaganda; Codification*

JOHNSON, Gordon, Student. *Codification: Commercial Fraud Crimes*

MILLER, Joyce N., B.A. (Sir George Williams), LL.B., B.C.L. (McGill); Member, Ontario Bar. *Prostitution*

TREMBLAY, Marie, LL.B. (Laval); Member, Québec Bar. *Codification*

TURP, Philippe, LL.B. (Sherbrooke); Member, Québec Bar. *Hate Propaganda*

WHITE, Donna, B.A. (Carleton), LL.B. (Ottawa); Member, Ontario Bar. *Codification*

WHITELEY, Cy, ACIS, AIB (England), CGA, PAdm. *Plain Language Program*

Criminal Procedure Project

Co-ordinator: Mr. Stanley A. Cohen, B.A. (Manitoba), LL.B. (York), LL.M. (Toronto); Member, Manitoba Bar.

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FRIEDLAND, Martin L., Q.C., B.Comm., LL.B. (Toronto), Ph.D. (Cantab.); Member, Ontario Bar; Professor, University of Toronto. *Pleas and Verdicts; Double Jeopardy*

GILMOUR, Glenn A., B.A., LL.B. (Queen's); Member, Ontario Bar. *Compelling Appearance, Interim Release and Pretrial Detention; Criminal Code Volume III*

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GRENIER, Bernard, His Honour, B.A. (Collège Jean de Brébeuf), LL.L. (Montréal); Judge of the Court of the Sessions of the Peace. *Jurisdiction of Courts*

HEALY, Patrick, B.A. (Victoria), B.C.L. (McGill), LL.M. (Toronto); Member, Québec Bar; *Presumption of Innocence*

JORDAN, James C., B.A. (Winnipeg), LL.B. (Manitoba), LL.M. (Alberta); Member, Manitoba and Alberta Bars. *The Charge Document in Criminal Cases; Pleas and Verdicts; Criminal Code Volume III*

JULL, Kenneth E., B.A. (Toronto), LL.B., LL.M. (Osgoode); Member, Ontario Bar. *Remedies; Criminal Code Volume III*

KRONGOLD, Susan, B.A., B.A. (Hons.) (York), LL.B. (Ottawa), Dip. in Legislative Drafting (Ottawa); Member, Ontario Bar. *Arrest; Criminal Code Volume III*

LABRÈCHE, Diane, LL.L., LL.M. (Montréal); Member, Québec Bar; Associate Professor, University of Montréal. *Extraordinary Remedies*

MACKINNON, Peter, B.A. (Dalhousie), LL.B. (Queen's), LL.M. (Saskatchewan); Member, Saskatchewan Bar; Professor, University of Saskatchewan. *Costs*

MANNING, Morris, Q.C., LL.B. (Toronto); Member, Ontario Bar. *Jurisdiction of Courts*

MORIN, André Albert, LL.M. (Montréal), LL.L. (Ottawa); Member, Québec Bar. *Costs*

MORRISON, Peter J., B.A. (Hons.) (Ottawa), M.A. (Queen's); *Statistical Research; Jurisdiction of Courts*

MUSKATEL, Josef, B.A. (Hons., Philosophy) (McGill), LL.L. (Montréal); Member, Québec Bar; *Costs*

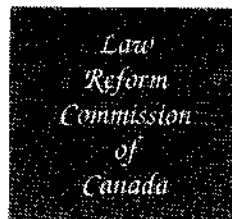
O'REILLY, James W., B.A. (Hons.) (Western), LL.B. (Osgoode); Member, Ontario Bar. *Public and Media Access; Arrest; Contempt of Court; The Charge Document in Criminal Cases*

OSCAPELLA, Eugene L., B.A. (Toronto); LL.B. (Ottawa), LL.M. (London, U.K.); Member, Ontario Bar. *Classification of Offences; Trial within a Reasonable Time*

PRÉFONTAINE, Stéphane, LL.L. (Montréal), LL.M. (Columbia). *Costs*

ROSENBERG, Marc, LL.B. (Osgoode); Member, Ontario Bar. *Powers of the Attorney General*

SINGER, Frederick, Summer Student. *Invasion of Privacy; Interception of Private Communications*



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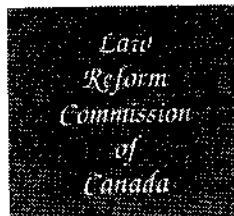
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