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**Department of Justice Canada.**

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Law Reform Commission  
of Canada

Commission de réforme du droit  
du Canada

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*17th  
Annual  
Report*

Canada

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of  
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SEVENTEENTH  
ANNUAL  
REPORT

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Ottawa  
July, 1988

The Honourable Doug Lewis, P.C., M.P.,  
Minister of Justice,  
Ottawa, Canada.

Dear Mr. Lewis:

In accordance with section 17 of the *Law Reform Commission Act*, I submit herewith the Seventeenth Annual Report of the Law Reform Commission of Canada for the period June 1, 1987 to May 31, 1988.

Yours respectfully,



Allen M. Linden  
President  
Law Reform Commission of Canada

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## HIGHLIGHTS

### PUBLICATIONS

***PRINCIPLES OF CRIMINAL  
PROCEDURE***

12

*Our Criminal Procedure*, Report 32, outlines for the first time in the history of Canadian criminal law a systematic and principled approach to criminal procedure.

***A STUDY PAPER ON PESTICIDES*** 13

A major study paper on *Pesticides in Canada* examines the environmental and human health problems presented by pesticides and outlines a number of recommendations for reform.

***A COMPREHENSIVE NEW  
CRIMINAL CODE FOR CANADA*** 12

*Recodifying Criminal Law*, Report 31, (an enlarged and revised edition of Report 30) was tabled in Parliament this Spring. The Report contains a comprehensive proposal for a new modern and distinctively Canadian Code on substantive criminal law.

***VIDEOTAPING POLICE  
INTERVIEWS*** 13

The Commission's empirical evaluation of the *Halton Police Project* of interviews with suspects and accused persons was completed this year. The results show that the use of audio-visual technology is a positive and efficient tool in the police investigation process.

### IMPLEMENTATION

***VICTIMS OF CRIME*** 11

This year Parliament enacted a mini code for victims of crime. It incorporates in substance a number of ideas and recommendations outlined in LRC publications.

***SIGNIFICANT JUDICIAL  
DECISIONS*** 8

In five judgements, including two landmark decisions — *Vaillancourt* and *Morgentaler* — the Supreme Court of Canada cited the Commission's work as part of its decision-making process.

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## PEOPLE AND EVENTS

### ***APPOINTMENT OF NEW COMMISSIONER***

5

Judge Michèle Rivet of Montreal was appointed Commissioner of the Protection of Life Project.

### ***LAW DAY DINNER***

7

Special guests at the LRC-CBA co-sponsored Law Day Dinner were: The Honourable Minister of Justice Ray Hnatyshyn and Madam Justice L'Heureux-Dubé of the Supreme Court of Canada.

### ***SCALES OF JUSTICE (MEDIA) AWARDS***

7

Four Scales of Justice Awards and three Certificates of Merit were given to seven outstanding members of the news media (print, radio and television) from across Canada.

### ***PLAIN LANGUAGE AWARD***

8

Cy Whiteley of the LRC's Plain Language Project was presented with an award at the Law Day Dinner.

### ***PUBLIC MEETING IN QUÉBEC CITY***

20

More than 200 people, representing some 125 organizations attended a public meeting in the Palais de Justice in Québec City to discuss the Commission's proposal for a new Criminal Code.

### ***INTERNATIONAL CONFERENCE ON CRIMINAL LAW REFORM***

20

An international group of law reformers, including 17 Attorneys-General from around the world, participated in the prestigious founding meeting of the International Society for the Reform of the Criminal Law. This meeting was held at the Inns of Court in London, England and was co-sponsored by the Commission.



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## CRIMINAL LAW REFORM CONTINUES

With most of the work on a new substantive Criminal Code completed this year, the Commission has turned its attention to completing a new Code of Criminal Procedure. We are pleased to report that the many Working Papers and Reports on criminal procedure already published are now being consolidated into a modern Code of Criminal Procedure with a coherent underlying philosophical base.

Fairness, efficiency, clarity, restraint, accountability, participation, and protection are the underlying principles of the Commission's proposed Code of Criminal Procedure. These principles, which are outlined in Report 32, *Our Criminal Procedure*, reflect for the first time in the history of Canadian criminal law a systematic, coherent and modern approach to criminal procedure.

Our present law of criminal procedure which, like our substantive law, is rooted in 19th century values and expressed in archaic language, has been the victim of *ad hoc* amendments over the past 96 years. The result is that the procedural provisions in our present *Criminal Code* are scattered and incoherent, bewildering in their detail and often at cross purposes with one another. But most importantly they do not reflect in a principled and logical manner the rights given to us under our *Charter of Rights and Freedoms*.

The Commission's proposed Code of Criminal Procedure aims to rectify the present disparities which can, in certain cases, disregard individual rights or show excessive leniency towards accused persons. With the underpinnings of a coherent and principled foundation, the new Code will set out the steps for the processing of suspects and

accused persons, from the earliest moments in the process through to its completion. Not only will the new Code provide clear guidance to the various participants in the process, but it will do it in a principled manner that affirms the fundamental values of our society as a whole.

The proposed Code of Criminal Procedure, which will be completed in the near future, will substantially end the Commission's work in its fundamental review of our criminal law. Report 31, which contains a comprehensive proposal for a new, modern and distinctively Canadian Code on substantive criminal law, was tabled in Parliament by the Minister of Justice, the Honourable Ray Hnatyshyn, on May 19th, 1988. This proposed Code has now become the object of study by the Federal and Provincial Attorneys-General, the Canadian Bar Association, the Canadian Association of Law Teachers, as well as individual legal scholars. In July of 1987 the proposed Code was favourably received at a prestigious international conference on criminal law reform held at the Inns of Court in London.

The Commission is confident that Canada is ready for a modern Code of criminal law. The recent landmark decisions of the Supreme Court — *Vailancourt*, *Morgentaler* — striking down sections of the *Criminal Code* as being contrary to the *Charter of Rights and Freedoms*, underscore this need for a modern and principled *Criminal Code* that adheres to our fundamental values. We were pleased to see that the Supreme Court relied on recommendations from our new draft Criminal Code, our Working Paper on *Homicide*, and policy paper *Options for Abortion* to help reach decisions in these landmark cases.




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## 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**

Seventeen years after the creation of the Commission, we are very proud of our achievements and successes. We have produced 32 Reports to Parliament, 56 Working Papers, 72 published Study Papers, over 150 unpublished Study Papers and we have contributed to the private publication of more than 100 books and articles. Approximately 1.5 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. Our goal 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 focused 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 profound studies leading to 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 has developed a practical and relevant new programme of research which focuses on the key legal concerns of today's society. This new research programme has been finalized and submitted to the Minister of Justice for consideration.

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### **The Current Team**

Joining President Linden and Vice-President Létourneau in carrying out the duties of the Commission are three 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; Mr. John Frecker, a barrister and solicitor from St. John's, Newfoundland, is the Commissioner in charge of the Administrative Law Project; and Judge Michèle Rivet is in charge of the Protection of Life Project. Judge Rivet, a judge of the Québec Provincial Court in Montréal, was appointed on August 31, 1987. Judge Rivet brings



Her Honour Judge  
Michèle Rivet  
Commissioner  
Protection of Life  
Project

to her new position not only an outstanding background as a jurist, lawyer, professor and author but also, high energy and enthusiasm. A graduate of the University of Montréal (BCL) and the Uni-

versity of Paris (DES) Judge Rivet was a Professor of law at the University of Montréal from 1971 to 1981. During that time she also practiced law on a part-time basis with the Montréal firm of Létourneau, Stein, Marseille, Delisle and Larue and stood as a member of the Human Rights Commission of Québec until her appointment to the Court on December 9, 1980. Judge Rivet is also the author of many publications in various journals.

The Commissioners are supported in their work by four Project Co-ordinators. They are Dr. Edward W. Keyserlingk, Protection of Life (part-time until a new Co-ordinator is appointed); 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.

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## 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.

In addition to 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, many Commission researchers have continued their interest in scholarship, 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 on 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 than 1.5 million copies have been distributed. This year the Commission has received over 12,000 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 6,000 information sheets, catalogues and pamphlets were distributed to the Law Day organizers throughout Canada in an attempt to inform the public about law reform.

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 seventeen 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.

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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 by setting up information kiosks at various conferences to inform the public about the work of the Commission. Also, in co-operation with various organizations we arrange for the insertion of law reform information sheets, pamphlets and catalogues into delegate kits at their conferences. This year at these functions the Commission distributed an additional 10,000 items of information highlighting our work.

In 1983, to commemorate the date of the signing of the *Charter*, the Canadian Bar Association decided to designate April 17 as "Law Day". The purpose of this day is to make Canadians more aware of the law by informing them about our justice system and law reform. 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 in Ottawa, and invites the general public to come and meet and exchange ideas with members of the legal profession. This year over 350 members of the public attended the dinner which was held at the Congress Centre in Ottawa.

Special guests included the Minister of Justice, the Honourable Ray Hnatyshyn and Madam Justice Claire L'Heureux-Dubé of the Supreme Court of Canada. One of the highlights of the evening was the announcement by Madam Justice L'Heureux-Dubé of the recipients of the third annual Scales of Justice Awards. 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 and 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.

Four Scales of Justice Awards and three certificates of merit were given to seven outstanding media representatives. The winners were: Kirk Makin, *The Globe and Mail*, a Scales of Justice Award for his six-part series, "Killing the Killers"; CTV-W5, a Scales of Justice Award for "A Case of Influence"; a Scales of Justice Award to CBC Radio's "Maritime Magazine" for "Frank Edwards' Notes"; a Certificate of Merit to CKVU-TV First News of Vancouver for its documentary on the death penalty, "A Matter of Conscience; A Matter of Policy"; a Certificate of Merit to Patricia Jeflyn for her report, "Québec Prosecutors", for CBC Radio's "Sunday Morning". In the



The Minister of Justice, the Honourable Ray Hnatyshyn, Keynote Speaker.



The Honourable Madam Justice Claire L'Heureux-Dubé (S.C.C.) presenting the Scales of Justice Award to Kirk Makin from *The Globe and Mail*.

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public legal education category, introduced for the first time this year, a Scales of Justice Award was presented to Radio Canada's "La Cour en direct"; and a Certificate of Merit went to CBC Radio-Winnipeg for the program, "Paul Walsh's Weekly Column".

A special Plain Language Award was presented to Cy Whiteley of the Law Reform Commission of Canada, for his contribution to simplifying government forms and promoting the use of clear, understandable and straightforward language.

### Judicial Decisions

We are pleased to report that, to date, Law Reform Commission publications and recommendations have been cited in over 160 judgements of courts at all levels, including 26 instances of citation by the Supreme Court of Canada.

This year, members of the judiciary considered our work in 29 cases, covering a variety of subjects reflective of the broad

range of legal issues which we have studied since 1971. Our contributions to family law, the law of evidence, to statutory construction and especially the application of the *Charter* to criminal law and procedure continue to be used to advance the law along new paths.

The Supreme Court of Canada relied in part on our work in five cases this year. In *Vaillancourt v. The Queen*, (1987) 2 S.C.R. 636, the court ruled that section 213(d) of the *Criminal Code*, murder in the course of robbery, was a violation of the *Charter* principle that a minimum mental element is an essential requirement of an offence. In support of this judgement, Mr. Justice Lamer pointed out that the Commission had excluded the notion of constructive murder from its draft Criminal Code in Report 30, *Recodifying Criminal Law* (1986) and had criticized section 213 in Working Paper 33, *Homicide* (1984). Also referring to this working paper was another case involving homicide, *R. v. Paré* (1987), 80 N.R. 272. In *Pelech v.*

*Pelech*, [1987] 1 S.C.R. 801, the court dismissed an appeal to vary a maintenance award granted to a spouse 12 years earlier upon divorce. Although in this case, Mr. Justice La Forest felt that the spouse's misfortune did not arise because of the marriage, he agreed with the statement in Working Paper 12, *Maintenance on Divorce* (1975) that it often becomes necessary to "require that the former spouse who does not have an economic need created by the marriage ... assist the one who has such a need to become financially rehabilitated." In *Morgentaler v. R.*, (1988) 1 S.C.R. 30, the well-publicized abortion case, Mr. Justice Beetz, in discussing the hospital committee requirement in sections 251(4) and (5) of the *Criminal Code* agreed with the Consultation Document entitled *Options for Abortion Policy Reform* (1986) that abortion committees need not be limited to hospitals. The Commission had stated "there appears to be no compelling medical reason why committees should not be attached to clinics which are equipped and licensed to practice [abortion] procedure." In *Lyons v. R.* (1987), 44 D.L.R. (4th) 193, the court dismissed an appeal imposing an indeterminate sentence on an accused and declaring him a dangerous offender. Mr. Justice La Forest wrote that procedurally, the accused had been treated fairly, even though he did not have advance notice that the Crown was seeking dangerous offender status. He quoted Working Paper 15, *Criminal Procedure: Control of the Process* (1975) as follows: "Justice should not be and should not be seen to be something that can be purchased at the bargaining table."

The Ontario Court of Appeal cited our work in two interesting cases this year. In *R. v. Kopyto* (1987), 62 O.R. (2d) 449, the court held that the common law offence of scandalizing the court violates section 2(b) of the *Charter*. Among the authorities on contempt of court reviewed by Msrs Justice Holden and Cory was our Report 17, *Contempt of Court*



The Honourable Madam Justice Claire L'Heureux Dubé (S.C.C.) presenting the Scales of Justice Award to Peter Rehak from CTV.

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(1982). The second case, *R. v. Stoddart* (1987), 37 C.C.C. (3d) 351 cited our Report 16, *The Jury* (1982).

Our work in the area of sexual offences was cited by the courts in two reported cases. In *R. v. Petrozzi* (1987), 13 B.C.L.R. (2d) 273 (C.A.), a case dealing with the nature of fraud in a sexual offence, Mr. Justice Craig, referring to Report 10, *Sexual Offences* (1978), stated, "I fail to appreciate why, as a matter of policy, we should restrict fraud insofar as it relates to consent in common assault and sexual assault cases to a case involving the nature and quality of the act or to a case involving the identity of an offender .... In coming to this conclusion, I have regard ... to the 1978 report which the Law Reform Commission sent to the Minister of Justice regarding sexual offences." In the second case, *R. v. Ferguson* (1987), 16 B.C.L.R. (2d) 273 (C.A.) both Madam Justice McLachlin and Mr. Justice Taggart used Report 10 and Working Paper 22, *Sexual Offences* (1978) to assist them in determining whether section 146(1) of the *Criminal Code* violates sections 1 and 7 of the *Charter*, because it removes as a defence, the complainant's mistaken belief as to the age of the victim. Madam Justice McLachlin stated, "The only serious alternative to the elimination from section 146(1) of the defence of the accused's belief as to the complainant's age is the proposal put forward by the Law Reform Commission of a reverse onus coupled with a due diligence test."

The Saskatchewan Court of Appeal referred to our Working Paper 19, *Theft and Fraud: Offences* (1977) in two cases. In *R. v. Sebe* (1987), 57 Sask. R. 256 the court used our analysis to determine the nature of *mens rea* in a fraud offence and to define the four elements of an offence under section 338(1) of the *Criminal Code*. In *R. v. Fischer* (1987), 31 C.C.C. (3d) 303, the court accepted the Commission's interpretation of section 283 of the *Criminal Code*, namely, that it cre-

ates two types of theft (fraudulent taking and fraudulent conversion) and allows for two kinds of *animus furandi*.

Our work was cited in a number of cases involving the search and seizure power. For example, in *Laplante v. R.* (1987), 59 Sask. R. 251 (C.A.), Mr. Justice Vancise, ruled that section 37(1)(a) of the *Food and Drugs Act* which authorizes the search of private premises other than a dwelling house violates the *Charter*. He notes that Working Paper 30, *Police Powers: Search and Seizure in Criminal Law Enforcement* (1983) identifies 82 federal statutes which authorize search of private premises and agrees with the Commission that the law should be reviewed to afford private premises the same protection as a dwelling house. In *CHUM Ltd. v. Wicks* (1987), 65 Nfld. & P.E.I.R. 26 (Nfld. S.C.), the judge quashed a search warrant for being improperly documented. In doing so, he adopted the approach of Working paper 30, which recommended authorization of questioning of the applicant for the warrant, and if additional information is relied upon to decide the application it should be attested to on the face of the information. In *R. v. Meyers* (1987), 78 A.R. 255, the Alberta Court of Queen's Bench agreed with the recommendation in Report 24, *Search and Seizure* (1984) that a consenting person who has been informed of the right to refuse consent should be present during warrantless searches. This report was also used by the British Columbia Court of Appeal in *R. v. Coull and Dawe* (1986), 33 C.C.C. (3d) 186 on the issue of the extent of time before a search warrant should expire.

In other cases involving criminal procedure, Mr. Justice Vancise in *R. v. Racette* (1988), 61 Sask. R. 248 (C.A.) points to the fact that Report 21, *Investigative Tests: Alcohol, Drugs and Driving Offences* (1983) was published while Working Paper 34, *Investigative Tests* (1984) was still in progress as indicating the importance of the problem of the

drunk driver in Canadian society. In *R. v. Beare*; *R. v. Higgins* (1987), 56 Sask. R. 173 (C.A.), [which was later overruled by the Supreme Court] the court ruled that compulsory fingerprinting of a person not convicted of a crime violates the principles of section 7 of the *Charter*. Mr. Justice Cameron quoted extensively from Working Paper 34 and agreed with the Commission that investigative tests be compulsory "only in cases where some legitimate investigative function is served" and that random and arbitrary testing should be prevented. In *R. v. MacDougall* (1987), 67 Nfld. & P.E.I.R. 169 (P.E.I.S.C.) the court agreed with the Study Paper, *Police Guidelines: Pre-trial Eyewitness Identification Procedures* (1983) that guidelines regarding eyewitness identification procedures may be unnecessary where the suspect is known to the witness before the crime was committed.

The courts relied on our Working Paper 56, *Public and Media Access to the Criminal Process* (1987) in two cases involving Southam News. In the first case, *Southam v. R.*, Ont. S.C. No. 58/87, Aug. 7, 1987, Madam Justice Boland quoted Working Paper 56 regarding the purpose of a non-publication order under the authority of section 442(3) of the *Criminal Code*. In the second case, *R. v. Southam*, [1988] R.J.O. 307, the Québec Court of Appeal used our work to explain why a truly public judicial debate must necessarily include the media.

The Alberta Court of Appeal and the Ontario Provincial Court, both referred to Report 1, *Evidence* (1975). In the former, *R. v. Sweryda* (1987), 34 C.C.C. (3d) 325 the issue concerned the rules regarding statements made to persons in authority. In the latter, *Catholic Children's Aid Society of Metropolitan Toronto v. S. (J)* (1987), 62 O.R. (2d) 702 the issue was admissibility of lay opinion evidence.

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A challenge to the jurisdiction of the Unified Family Court of Hamilton-Wentworth was the subject of *MacBride and MacBride* (1986), 58 O.R. (2d) 230. This court was created as a pilot project in response to Working Paper 1, *The Family Court* (1974), and the Commission's influence upon the structure of that court was examined in detail.

### 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 noted in our *Fourteenth Annual Report 1984-1985*, our Working Paper 4 on *Discovery* (1974) has helped to significantly alter 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. The Commission continues to influence administrative law, including the practices and operation of various federal institutions. While most of our past work has focused on independent administrative agencies, we have broadened the scope of our research to include government departments. As a result, the Commission can contribute directly to the reform of government, and can benefit from ongoing field experiments to support its work. A broad survey conducted with federal inspectorates has produced positive results. Not only did it provide us with valuable information for our research, it also initiated further analysis within these institutions on

the nature of their role in government and on the operational realities that are common among them. This initiative was an opportunity to establish important contacts with leading administrators in order to support reforms undertaken by them.

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

Our Working Paper 32, *Questioning Suspects* (1984) recommends videotaping 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. Project TIP was undertaken to test this concept by the Halton Regional Police Force assisted by the Commission. 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. Professor Alan Grant of Osgoode Hall Law School, York University, was invited to evaluate the advantages and disadvantages of audio-visual technology for modern police investigative interviewing.

In October 1987, the final evaluation report was issued. The results clearly demonstrated the usefulness of videotaping interviews. Of 946 recorded interviews, less than five per cent of the suspects/accused refused to be interviewed on tape and a little over seventy per cent of those who agreed to be videotaped made admissions or confessions. 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.

On the whole the two-year project did much to confirm the perceived advantages of electronic recordings of interviews. 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 our recommendations by police forces will not only save valuable time and court costs, but will fairly and justly expedite the administration of justice. Supreme Court of Ontario Justice, Rod Barr, recently reinforced this optimism in a comment to the *Toronto Star*. In expressing his view that a murder trial, which took 13 days would have ended sooner if police had videotaped the accused's interrogation, he stated: "Why on earth do the police not have video cameras to record these interviews .... The time and public expense saved would be enormous."

Plea discussions is another area in which the Commission has been influential in changing conduct. A meeting this year with Ontario Crown Attorneys to discuss the Commission's paper on plea discussions has resulted, as one Crown informed the Commission, in a fundamental rethinking of their procedures in this area.



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## Legislation

As 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 we can influence law reform is through the enactment of legislation. Although this is not the only measure of our success, we are pleased to report that fourteen out of thirty-two of our Reports have been enacted — at least in part — by Parliament. (See Appendix A)

This year, an exciting new law was enacted by Parliament, a mini Code for assisting victims of crime. Though differing in some details, the general thrust of the new law is consistent with the ideas and recommendations outlined in various Commission publications. (See, Working Paper on *Public and Media Access to the Criminal Process*; Working Paper on *Post-Seizure Procedure*; Report to Parliament on *Disposition of Seized Property*; Working Paper on *The Principles of Sentencing and Dispositions*; Working Paper on *Restitution and Compensation*; and a Study Paper on *Restitution, Compensation for Victims of Crime and Canadian Criminal Law*.)

The provisions included in the *Criminal Code* aim at: (1) protecting the identity of victims and witnesses by the use of a publication ban; (2) facilitating prompt return of property by use of alternative evidence, e.g., using photographic evidence; (3) allowing victims to make statements at sentencing; (4) giving restitution where appropriate without the victim having to apply for it; and (5) laying fine surcharges to be used for victim services.

The Commission is very pleased to see this legislative initiative, not only because it reflects our recommendations, but also because it reflects a positive step by Parliament towards recognizing the needs of victims.

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* (1976). 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.

A number of recommendations on criminal procedure dealt with in our publications, extending back more than a decade, have been enacted in the *Criminal Law Amendment Act, 1985*. Commission recommendations included in the Act were: the abolition of writs of assistance; the introduction of telewarrants; the authorization of pretrial conferences and motions; the taking of blood samples; some matters of search and seizure; changes to the jury system; and issues of jurisdiction.

The Commission is also pleased to see that the proposed amendments to the *Code* on mental disorder incorporated the policy and substance of the recommendations in our Report 5 to Parliament, *Mental Disorder in the Criminal Process* (1976). 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 be used so as to involve the minimum possible interference with the liberty of the individual consistent with public safety. Although our approach taken in 1976 predates the *Charter*, we are pleased to see how relevant it has proven to be in this post-*Charter* era.

Although no response is technically 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*.

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## PUBLICATIONS

The Commission publishes three categories of documents: Reports to Parliament, Working Papers and Study Papers. To date we have published 32 Reports, 56 Working Papers, and 72 Study Papers.

### 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 31

##### *Recodifying Criminal Law*

This Report is a revised and enlarged edition of Report 30 (tabled in Parliament on December 3, 1986) proposing a new Code of Substantive Criminal Law for Canada. It is divided into a General Part (Title I) containing rules of general application and a Special Part (Titles II—VI) defining particular crimes. 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, the existing law of homicide has been reduced from thirty-five sections to six; the redundant and complex law of theft and fraud has been reduced from fifty-six sections to three sections; as well, the law of property damage has been restated in two straightforward sections — one on vandalism and one on arson.

Title II of the Special Part contains most of the crimes against the person; Title III enumerates most of the crimes against property; Title IV lists crimes against the natural order; Title V deals with crimes against the social order; and Title VI encompasses crimes against governmental order. Each title is subdivided where appropriate by references to the interests infringed. Crimes against the social order, for example, are divided into crimes against social harmony and crimes against public order. Each subcategory is further subdivided where appropriate. Crimes against social harmony, for example, are divided into: stirring up hatred and inciting genocide.

Finally, the crimes in these subcategories are mostly listed in ascending order of gravity. Less serious crimes precede more serious ones which include or build upon them. For example, in crimes against public order, disturbing public order precedes unlawful assembly (disturbing by three or more) which in turn precedes riot (unlawful assembly resulting in risk of injury or property damage). As expected, the provisions in all these titles are affected by the principles set out in the General Part.

#### Report 32

##### *Our Criminal Procedure*

This Report contains a set of principles which reflect the various rules of procedure the Commission has proposed in its numerous Working Papers and Reports published over the past 17 years. Succinctly, the principles enunciated in this

report aim for a Criminal Code of Procedure which is simply and clearly expressed; which seeks fairness yet promotes efficiency; which practices restraint and is accountable yet protects society; and which encourages the active involvement and participation of the citizen. In essence, these principles will constitute the basis for the Commission's new Code of Criminal Procedure.

Illustrations of how the principles apply to work that has been undertaken by the Commission are given in Report 32.

### 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 56

##### *Public and Media Access to the Criminal Process*

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

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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.

### *Pesticides in Canada: An Examination of Federal Law and Policy*

This Study Paper by J.F. Castrilli and Toby Vigod was prepared for the Protection of Life Project. It first outlines the environmental and human health problems presented by pesticides. Then it discusses the adequacy of, and difficulties in applying, common law remedies to pesticide-related damage. Constitutional underpinnings of federal/provincial legislative authority in this area are briefly noted.

With emphasis on the federal level, it then analyses the origins and adequacy of current legislation and policy, regarding both front-end (preventive techniques) and back-end (remedial enforcement approaches) of regulating pesticides. Non-regulatory mechanisms and their relationship to existing law are also examined where they may suggest areas of future regulatory control or alternatives that would reduce dependence on pesticide use and its resulting enforcement needs. Finally the paper suggests a number of law reform recommendations and assesses current and future prospects for preventive and remedial strategies to control pesticides in Canada.

### Other Publications

#### *The Audio-visual Taping of Police Interviews with Suspects and Accused Persons by Halton Regional Police Force: Summary of Evaluation Paper*

This paper, by Joyce Miller, is a summary of an evaluation report prepared for the Commission by Professor Alan Grant of Osgoode Hall Law School. The overall evaluation was of a two-year empirical study by the Halton Regional Police on "Taped Interviewing Procedures" (Project T.I.P.). Their aim was to test the advantages and disadvantages of the audio-visual recording of police interviews. The results proved positive. The study showed that most of the perceived advantages were valid, and that the perceived disadvantages were invalid. One of the first and most important things the data revealed was that people are not inhibited by the video camera or from making admissions on videotape. Out of 946 recorded interviews, less than five per cent of the suspects/accused refused to be taped and more than seventy per cent of those who agreed to be videotaped made admissions or confessions.

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## CURRENT RESEARCH

### Substantive Criminal Law Project

Since early 1988, the direction of the Substantive Criminal Law Project has been shared by the President Mr. Justice Allen M. Linden and Commissioner Joseph Maingot, Q.C. They are assisted by Mr. François Handfield, the Co-ordinator of the Project, and Professor Patrick J. Fitzgerald, a Special Advisor to the Commission.

Members of the Project are currently researching sentencing, sex offences, prostitution, pornography and intellectual property. On sentencing, the Project is preparing a short chapter for inclusion in the proposed Code comprising a recommended approach to sentencing, a statement of purposes and principles of sentencing (to be located at the beginning of the Code) and a list of maximum penalties to be assigned to each offence. On sex offences, prostitution and pornography we are developing new chapters to be added to the proposed Code's existing text. On intellectual property we are examining the problem of 'theft' of trade secrets and the question of integrating (if necessary) the present law on copyright offences and computer crimes within the proposed Code.

At the same time, in light of continuing consultations and other feedback, the Project is examining the remaining items dealt with in the current *Code* (firearms, gambling) and is keeping Report 31, *Recodifying Criminal Law*, under review for possible improvement.

Finally, members of the project assisted the Protection of Life Project team in coordinating work on the Working Paper relating to the status of the foetus precipitated by the decision of the Supreme Court of Canada on January 28, 1988 in the *Morgentaler* case.

### Criminal Procedure Project

Vice-President Gilles Létourneau and Joseph Maingot Q.C. are responsible for the Criminal Procedure Project. Stanley A. Cohen is the Project Co-ordinator and is responsible for the supervision and direction of research. 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 recently published a statement enunciating general principles of criminal procedure. This Report, number 32, entitled *Our Criminal Procedure*, sets out the guiding principles which inform the work of the Commission in all of the procedural areas which it reports on. This document, even prior to its publication, served as a reference point for both the preparation of particular Working Papers and the drafting of component parts of the code of criminal procedure.

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

For the past few years we have been 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. We recently published Working Paper 57, *Compelling Appearance, Interim Release and Pre-trial Detention*. Approval for publication has already been given to Working Papers on plea discussions and agreements and toward a unified criminal court. Working Papers on remedies, appeals, the trial process, extraordinary remedies, costs, pleas and verdicts, and powers of the attorney general are in an advanced stage of preparation and we envision their approval and publication over the coming months.

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The second track is that of Codification. Our recent endeavours have largely concentrated on the development of the first volume of our code of criminal procedure pertaining to police and investigatory powers. During the past year we held consultations on all elements of this volume and we anticipate its publication in the Fall of 1989. The remainder of our work will be assembled in an additional one or two volumes devoted to the pre-trial, trial and appeal processes. In 1989 the Commission will begin to present these components to its regular consultation groups and then will invite greater public involvement in the consultation process.

### Protection of Life Project

This fiscal year has been one of transition for the Protection of Life Project. Judge Michèle Rivet, on leave from the Québec Provincial Court, was appointed Commissioner in September of 1987 for a five year mandate. The appointment of a new Project Co-ordinator will be made in the near future.

The Protection of Life Project, now based in Montréal, was established in 1975. Since then it has addressed a broad spectrum of law reform problems within the ambit of the Project's mandate. Publications in the form of Study Papers, Working Papers and Reports have stimulated fundamental, broad based discussion on the interrelationship of law, technology and evolving social values.

Originally the Project's primary goal was to analyze the strengths and weaknesses of existing health related federal law to better respond to both technological developments and evolving values. The emphasis was on the criminal aspects of the practice of medicine. This gave rise to studies on 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. In 1986, recommendations and conclusions drawn from these separately published papers were collected 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 on the legal status of the foetus. The background research and analysis, now nearing completion, is being undertaken by a working group of leading scholars drawn from such fields as biology, philosophy, sociology and law. In the fall of 1986, the Commission released a consultation document on abortion policy options. It identified the range of possible abortion policy options and the implications of accepting them. The paper was distributed to numerous professional associations, interest groups and interested members of the general public for their response. These responses have now been considered by the working group and have culminated in the production of a final report which was presented to the Commission in May 1988. This report will form the basis of the Commission's recommendations on the legal status of the foetus. We anticipate that these recommendations will be published as a Working Paper in the Protection of Life Series, during 1989.

A second study currently under way deals with biomedical experimentation on humans. It focuses on issues of consent to experimental treatment and the cost-benefit analysis which must be made to justify such treatment. It addresses a variety of issues including the amount of information patients should be provided with to allow them to exercise informed consent. Children, prisoners and the mentally handicapped function under special constraints which make the legal validity of their consent even more difficult to assess. Nevertheless, there comes a time in the history of every therapeutic drug or treatment when the first human

trials must occur. At what level of risk are such trials justifiable? This is the cost-benefit analysis which must take place and for which a legal minimum standard must be clarified.

In the longer term, studies are under way on several fronts. The desirability of a national medical ethics committee is being investigated, as is the concept of individual genetic patrimony as it impinges on human dignity.

The Project has also embarked on a number of preliminary studies in anticipation of a new research program to be finalized next year. Among these are challenging legal issues which arise from our aging population and from what appears to be an increase in the abuse of the elderly.

In a time of increasing costs and demands, the allocation of rare medical resources is being examined. Along similar lines, a study of the availability and distribution of organs and tissues for transplantation is in its early stages.

Human reproductive technology is entering a new era of medical intervention which will require our attention — and, where sexually transmissible diseases are involved, urgent questions on patient confidentiality versus public health will need to be addressed.

In 1981, the Protection of Life Project added a new component to its health-related concerns: the protection of the environment. The basic philosophical thrust remained the same, that of the protection of life and health, this time in the context of technological hazards that threaten human integrity. Papers published by the Commission in this area include *Political Economy of Environmental Hazards*, *Crimes Against the Environment*, *Behavior Alteration and the Criminal Law*, *Workplace Pollution and Pesticides*, and *Pesticides in Canada: an Examination of Federal Legislation and Policy*.

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In the coming year, the environmental law thrust of Protection of Life is expected to consist of two lines of related research: prosecution of environmental offences and responsibility for toxic wastes.

### Administrative Law Project

The Commissioner responsible for the Administrative Law Project is Mr. John P. Frecker. The project co-ordinator is M. Patrick Robardet.

The Commission reported on its 1986-87 activities under the theme "A fresh start in administrative law". The experience of 1987-88 confirmed that the project theme of the previous year, bridging the gap between law and administration, was a good foundation on which to base the new federal administrative law.

Working Paper 51, entitled *Policy Implementation, Compliance and Administrative Law* and published in September 1986, developed a relational perspective emphasizing relations between the federal administration and individuals and a broader approach to compliance, based on the large number of measures available for this purpose, in comparison with criminal law. It was also decided to begin work on environmental mediation, for which a preliminary study was completed in 1986-87. The final report on this subject should be submitted to the Commission in April 1989. The study on an economic approach to administrative law, announced in 1986-87, was completed at the end of this reporting year and will be the topic of consultations in June 1988.

Also following Working Paper 51, the 1987-88 research on inspectorates resulted in a study of aviation safety. An initial report, entitled *Aviation Safety Inspection: Field Observation and Thoughts about Reform of Canada's Federal Inspectorates*, was presented at a



Administrative Law Project from left to right: John Clifford, Patrick Robardet, Co-ordinator, John Frecker, Commissioner, Kernaghan Webb, Armande Spittle, Jackie Ralston.

joint workshop organized by the Commission, the Canadian Association of Law Teachers and the Canadian Political Science Association at the Learned Societies Conference held at McMaster University in June 1987, and at a study session with the administrative law section of the Canadian Bar Association in August 1987.

As the Commission announced in its 1986-87 Annual Report, it was decided to combine the aviation safety study and a bibliography on inspection into a study paper. This new document, designed to introduce a framework for federal inspections, was completed in 1987-88. It should be published during 1988-89.

Over the past year, research into the legal status of the federal administration continued apace. As well, work on Crown liability is continuing, and in August 1987 the first version of a consultation document on the approach to be adopted in this area was the subject of a study session organized with the administrative

law section of the Canadian Bar Association. The second version was submitted to the Commission in March 1988.

Studies are also continuing 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, and procedural privileges and immunities of the Crown. Last year saw the start of a study on limitation periods in federal law. This will endeavour to eliminate procedural anomalies resulting from application of provincial limitation laws in actions involving the federal crown. The first draft of a paper on this subject was submitted in March 1988.

A study on the liability of the Crown and its agents resulted in a first draft in March 1988. A second study on federal fiscal immunity focused on the economic consequences of the application of section 125 of the *Constitution Act, 1867*. It indicated that no serious financial consequences would result from such applica-

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tion. A preliminary version, submitted in February 1987, will be examined at a study session in June 1988.

Administrative institutions and action continue to be a major research theme of the Administrative Law Project. In line with the current concern with forms and transformation of administrative institutions, we undertook a preliminary study on the assessment of environmental impacts. This report should be available in July 1988. Before preparing a more general document on the consequences of choices between available models, other preliminary studies will have to be done.

The studies on administrative appeals and the federal ombudsman, announced in our *Fifteenth Annual Report*, are at different stages of completion. A preliminary study of administrative appeals was delayed until 1989-90. The final version of the study paper on the Australian Administrative Appeals Tribunal will be published in 1989. The study on a proposal for creation of an office of Federal Ombudsman is continuing. The main document has been revised and one consultation held. In 1988-89 we plan to carry out a survey of the attitudes of federal parliamentarians to the ombudsman proposal. We will also be examining the types of cases handled by provincial ombudsmen. These studies will give a clearer indication of the duties and terms of reference of the proposed federal ombudsman.

Consultations and final revision of the study paper on the Immigration Appeal Board will be completed during 1988-89. Internal reforms already implemented with our assistance should be continued under the proposed Immigration and Refugee Board, which will supersede the present Immigration Appeal Board. The Commission is also monitoring the progress of the Public Service Commission study on appeal boards, in which it participated.

The following projects are planned for 1988-89: continuing research on pollution control, government inspection, financial incentives, crown liability and administrative decision making with a view to consolidating past work; further work on the proposal for a federal ombudsman; a symposium on Administrative Law in the Administrative State co-sponsored with the Faculty of Law at the University of Toronto. The Commission also intends to begin a study on a proposal for further widening of concurrent jurisdiction of the Federal Court of Canada and the provincial superior courts. Preliminary discussions on this subject were held with the Canadian Bar Association during the summer of 1987.

### Human Rights

The Commission has begun to expand its research activities into the human rights field, with the help of Stanley A. Cohen, Special Counsel, Charter of Rights.

The bulk of our current legislation was developed before the enactment of our *Canadian Charter of Rights and Freedoms* and modern Human Rights statutes. The Commission has found that, at this stage in the infancy of the Charter, and in the aftermath of Supreme Court of Canada pronouncements concerning the paramount importance of Human Rights legislation, we increasingly confront laws and institutions that are in flux and require improvement.

Since the Commission's inception, work in virtually every area of concern has been rights-oriented. This feature of our endeavours has been especially pronounced in the field of Criminal Procedure. The Commission's philosophy as expressed in Report 32, *Our Criminal Procedure* strongly attests to this fact.

During the past year, under the umbrella of our existing research programme we have begun in a modest fashion to explore the larger dimensions of human rights in the Canadian legal context. In future we plan to enhance our involvement in the field of human rights. To this end, we have commissioned a study to explore the policy dimension of the federal jurisdiction over the field of human rights. We have also established contact with the Canadian Human Rights Commission, the Public Inquiry Into The Administration of Justice and Aboriginal People in Manitoba and the Royal Commission on The Donald Marshall, Jr., Prosecution in Nova Scotia. Indeed, we have embarked upon a joint venture with the Manitoba Inquiry to study the impact of the sentencing process on the Native offender in Canada. Also, we have commissioned a study by a leading Canadian scholar on public international law in the Canadian legal context, in particular, the context of the Canadian Charter of Rights and Freedoms and legal rights and are now supporting her independent research endeavours.

In the near future, we anticipate the establishment of an advisory group to assist us in determining developmental strategies for our continuing work in human rights. The most important task of this working group will be to identify subjects upon which the Commission can make a unique contribution. Our study on the federal dimensions of human rights in Canada should provide a suitable focus for this initial exercise. The selection of topics is crucially important to ensuring the ultimate usefulness of the Commission's contributions in this field.

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## 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 believe the more we can encourage people, whether professionals or members of the general public, to discuss ideas about law and principles of law, the greater their awareness will be of approaches to law and the greater the opportunity for effective change in the way law affects individuals on a day-to-day basis. To this end the Commission, over the years, has organized public meetings 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 their contribution is an essential element in the development of our recommendations.

## Regular Consultations

### Criminal Law

As part of the accelerated Criminal Law Review, the Commission regularly consults with major interest groups. These include an advisory panel of judges from across Canada; a delegation of defence lawyers nominated by the Canadian Bar Association; chiefs of police; legal scholars chosen by the Canadian Association of Law Teachers; and representatives from the federal and provincial governments. Through these consultations, the Commission benefits from the advice of key players in the criminal justice system.

This year meetings were held in Quebec City, Winnipeg and Halifax. Discussion focused on criminal procedure and dealt with topics such as electronic surveillance, search and seizure, disposition of seized property, investigative tests, compelling appearance, interim release and pretrial detention.

The Commission wishes to thank all our consultants for donating their time and contributing so generously to the cause of law reform:

#### *Advisory Panel of Judges*

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 Fred Kaufman, Court of Appeal of Québec, Montréal

The Hon. Mr. Justice Gérard 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

Judge Louis-Philippe Landry, Superior Court of Québec, Hull

Judge Bernard Grenier (Cour des sessions de la paix) Montréal

Judge André St-Cyr (Tribunal de la jeunesse) Montréal

Judge Jean B. Falardeau (Cour des sessions de la paix) Montréal

The Hon. Judge Stephen Borins, District Court of Ontario, Toronto

The Hon. Judge Robert Salhany, District Court, Kitchener

In addition, judges from the local communities are usually added to the advisory group when it meets in various regions of the country.

#### *Delegation from the Canadian Bar Association*

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

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

Mr. Morris Manning, Q.C., Toronto

Mr. Serge Ménard, Bâtonnier du Québec



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

Mr. Michel Proulx, Montréal

Mr. Marc Rosenberg, Toronto

Mr. Donald J. Sorochan, Vancouver

*Representatives from the Canadian  
Association of Chiefs of Police*

Chief Greg Cohoon, Moncton Police Force,  
Moncton

Deputy Chief Thomas G. Flanagan, Ottawa  
Police Force, Ottawa

Chief Robert Hamilton, Hamilton-Wentworth  
Regional Police, Hamilton

Chief Collin Millar, Hamilton-Wentworth  
Regional Police, Hamilton

Mr. Guy Lafrance, Montréal Urban  
Community, Montréal

Chief Herbert Stephen, Winnipeg Police  
Department, Winnipeg

Staff Sgt. John Lindsay, Edmonton Police  
Force, Edmonton

*Canadian Association of Law Teachers*

Professor Bruce Archibald, Dalhousie  
University

Professor Eric Colvin, University of  
Saskatchewan

Professor Anne Stalker, University of Calgary

Professor Donald R. Stuart, Queen's  
University

*Federal/Provincial Government Group*

Daniel Préfontaine, Assistant Deputy  
Minister, Department of Justice, Ottawa

John McIsaac, Department of Justice, Ottawa

Fred Bobiasz, Solicitor General, Ottawa

Edwin A. Tollefson, Q.C., Co-ordinator,  
Criminal Code Review, Department of  
Justice, Ottawa

David Whellams, Solicitor General, Ottawa

Howard Morton, Q.C., Director, Crown Law  
Office, Ministry of the Attorney-General of  
Ontario

Jeff Casey, Senior Crown Counsel, Ministry  
of the Attorney-General of Ontario

M<sup>e</sup> Jean-François Dionne, Québec

M<sup>e</sup> Daniel Grégoire, Québec

Richard Hubley, P.E.I.

Robert Hyslop, Nfld.

Ronald Richards, Nfld.

**Administrative Law**

Following the June 1987 publication of the consultation document entitled *Towards a Modern Federal Administrative Law*, a series of preliminary consultations were held at the Learned Societies meetings in May and June 1987 to ascertain the views of jurists and teachers of political science and public administration, notably the Canadian Association of Law Teachers and the Canadian Political Science Association. In June 1987, the consultation document was distributed to the members of the Senate and House of Commons, whose views will be incorporated in the draft report, *Our Administrative Law*.

Some major developments in 1987-88 contributed to the advancement of administrative law reform. First, special distribution of the consultation document was extended to law faculties, where it was widely circulated and debated in several administrative law courses. It was also the topic of a special consultation at a joint workshop of the Canadian Association of Law Teachers and the Canadian Political Science Association at the Learned Societies Conference at McMaster University in June 1987, and

at the annual meeting of the Administrative Law Group of the Society of Public Teachers of Law at the University of Warwick, England, in April 1988. Finally, the document was examined in a series of consultations in each province between September 1987 and April 1988 and at several meetings in Ottawa. The Commission took steps to gather the opinions of senators and members of Parliament, the Canadian Bar Association, senior Justice Department officials, members and senior officials of federal departments and independent agencies, members of provincial law reform commissions, and judges of the Federal Court of Canada. Many responses were received from jurists in the Commonwealth and other countries. These consultations were useful to the Commission in developing its program of research on administrative law reform and co-ordinating its work with that of the academic community and with the concerns of the legal community as a whole.

Consultations were held in the following universities and institutions between September 1987 and April 1988:

Université de Montréal, Faculty of Law (Centre de recherche en droit public and Université de Sherbrooke, Faculty of Law),

McGill University, Faculty of Law (and Université du Québec à Montréal, Department of Legal Sciences),

Osgoode Hall Law School, York University,

University of New Brunswick, Faculty of Law (and St. Thomas University),

Université de Moncton, School of Law and Public Administration Programs,

Dalhousie University, Law School and School of Public Administration,

Université Laval, Faculty of Law and École nationale d'administration publique,

University of Western Ontario, Faculty of Law,

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University of Windsor, Faculty of Law,

University of Saskatchewan and Native Law Centre,

Law Reform Commission of Manitoba and the University of Manitoba Law School (and the University of Winnipeg),

University of Alberta and Canadian Institute of Resource Law,

University of Victoria, Faculty of Law,

University of British Columbia, Faculty of Law (and Simon Fraser University).

## Public Meeting

Québec City

On January 26, 1988, more than 200 people, representing some 125 organizations, attended the Commission's fifth public meeting in the Palais de Justice.

The people of Québec City enthusiastically took part in the forum by presenting their views on such topics as family violence, criminal intoxication and endangering.

These public meetings are always an interesting and informative way for the Commission to consider the public's perceptions and attitudes on law reform. In Québec City, the Commission received a number of valuable suggestions that will be taken into consideration when formulating its final recommendations.

We would like to thank the members of the Centre Communautaire juridique de Québec for co-sponsoring this event and the people of Québec for their advice, help and kind hospitality.

## 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.

### *International Conference on Reform of the Criminal Law*

The Commission was pleased to co-sponsor and participate in the prestigious founding meeting of the International Society for the Reform of the Criminal Law. The conference, which took place on July 26–29, 1987 at the Inns of Court in London, brought together an international group of law reformers, senior government officials, politicians (including 17 Attorneys General), judges, members of the Bar, academics and the press to examine and exchange views on the future direction of criminal law reform. Participants at the Conference looked at all aspects of the process of reform and at all the possible outcomes of reforms in specific areas such as homicide, theft and fraud, and sexual offences.

A second meeting of the society will be held in August 1988 in Ottawa. The topic of discussion will be sentencing reform.

### *Consultation on Plea Discussions*

Over the past many months the Commission has been engaged in a process of consultation with respect to its Draft Working Paper on Plea Discussions and Agreements. The subject is one which has an intimate relationship to the daily operation of the criminal justice system and yet remains highly controversial. While the Commission has an effective process of regular consultation on all of its criminal procedure studies it was felt that the unique character of this area of the law justified the creation of a more extensive advisory process. Thus, in addition to the Commission's proposals being subjected to its ordinary advisory

process (embracing the close scrutiny of our five major consultative groups) special workshops were convened with a broad spectrum of experienced legal professionals who are generally familiar with the Commission's work. These representatives from the bench and the prosecuting and defence bar from across the country participated in the four sessions on the reform of plea bargaining practices that were held in the cities of Winnipeg, Vancouver, Toronto and Montreal.

The Commission wishes to thank the following special consultants for their invaluable assistance in the development of this important project:

### *Winnipeg — December 8th, 1987*

Associate Chief Justice The Hon.  
Mr. Richard J. Scott  
The Hon. Mr. Justice Theodore M. Glowacki  
The Hon. Madam Justice Ruth Krindle  
His Honour Judge R.L. Kopstein  
His Honour Judge C. Newcombe  
Mr. G. Gregory Brodsky, Q.C.  
Mr. David G. Frayer, Q.C.  
Mr. John P. Guy, Q.C.  
Mr. Peter M. Kremer  
Mr. Jeffrey Gindin  
Mr. Stuart J. Whitley  
Mr. Hersch E. Wolch, Q.C.

### *Vancouver — December 10th, 1987*

The Hon. Mr. Justice Wallace T. Oppal  
The Hon. Mr. Justice Samuel M. Toy  
His Honour Judge Gordon H. Johnson  
His Honour Judge K.J. Libby  
His Honour Judge Douglas T. Wetmore  
His Honour Judge Randall S.K. Wong  
Mr. Leonard T. Doust  
Mr. John E. Hall, Q.C.  
Mr. P.W. Halprin  
Mr. R.T. Israels  
Mr. H.A.D. Oliver, Q.C.  
Mr. G.B. Purdy  
Mr. Ernie Quantz  
Mr. Scott Van Alstine  
Mr. Herbert F. Weitzel

### *Toronto — March 10th, 1988*

The Hon. Mr. Justice Gregory T. Evans  
The Hon. Mr. Justice Eugene G. Ewaschuk

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The Hon. Mr. Justice John G.J. O'Driscoll  
His Honour Judge David Humphrey  
His Honour Judge S.M. Harris  
His Honour Judge Hugh R. Locke  
His Honour Judge R.D. Reilly  
Mr. Austin M. Cooper, Q.C.  
Ms. Marllys A. Edwardh  
Mr. Edward L. Greenspan, Q.C.  
Mr. Alan D. Gold  
Mr. Douglas C. Hunt, Q.C.  
Mr. Morris Manning, Q.C.  
Mr. G.H. McCracken, Q.C.  
Ms. Bonnie Wein

*Montreal* — March 22nd and May 3rd,  
1988

The Hon. Mr. Justice Claude Bisson  
The Hon. Mr. Justice Jacques Duros  
Associate Chief Judge Jean-Pierre Bonin  
Mr. Claude Bélanger, Q.C.  
Mr. Jacques Letellier, Q.C.  
Mr. François Daviault  
His Honour Judge Bernard Grenier  
His Honour Judge Jean Sirois  
Mr. Serge Ménard  
Mr. Claude Parent  
Mr. André Vincent

## 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 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 Society for the Reform of Criminal Law, the John Howard Society and the Canadian Criminal Justice Association.

Our close co-operation continued with other Canadian law reform agencies and similar bodies around the world. The

newsletter, *Law Reform*, containing news from the various law reform bodies in Canada and abroad was continued. We attended the meeting of the Law Reform Conference of Canada.

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 speaker was the Minister of Justice, the Honourable Ray Hnatyshyn. At this dinner, the third annual Scales of Justice Awards were presented to media figures who contributed to a better understanding of the legal system of Canada.

The Commission continued its close association with the Canadian Association of Law Teachers (CALT), participating in the organization of its annual meeting in Windsor, 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-LRC Award for an outstanding contribution to legal research and law reform went to Professor J.C. Smith of The University of British Columbia.



Professor J.C. Smith  
recipient of the 1988  
CALT-LRC Award.

Professor Robert Eagleson, distinguished Australian scholar and Plain English specialist visited Ottawa in July 1988 and lectured to over 300 enthusiastic people about the simplification of government

forms and legal language. The Law Reform Commission was happy to take part in planning the event at the Government Conference Centre along with the Canadian Law Information Council.

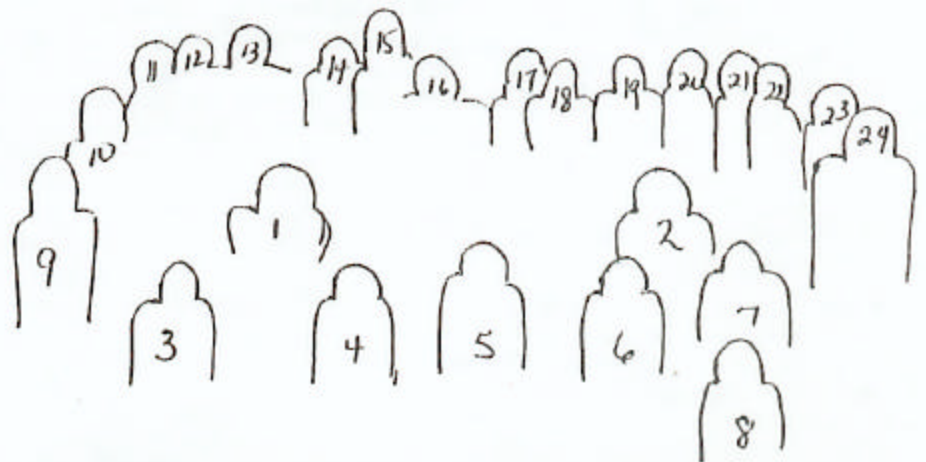
The Commission has been co-operating with and exchanging ideas with the Royal Commission on the Donald Marshall Jr. Prosecution. As well we are co-sponsoring a study and participating with the research committee of the Public Inquiry into the Administration of Justice and Aboriginal People.

The Administrative Law Project did some preliminary research in 1986-87 on statutory offences, with a view to supporting Justice Department initiatives in this area. At a meeting with senior Justice Department officials in January 1988 for the purpose of planning research on administrative law, the Commission decided to undertake a joint project. This initiative led to organization of a joint conference with the Justice Department and the Office of Privatization and Regulatory Affairs on the theme "Responses to Non-compliance with Legal Standards." This conference, held in Ottawa in May 1988, was designed to lend direct support to the efforts of the Department. It brought together academics from Canada, the United Kingdom and the United States, as well as senior federal public servants and Administrative Law Project consultants, who helped plan and organize the study session. The Commission intends to follow up on developments arising from this study session, since the topic is part of its current work. The conference proceedings were recorded and will probably be available to the public in 1988-89.

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Over the past year, Administrative Law Project consultants co-operated with federal bodies with a view to contributing to the reform of administrative law and procedures. They presented papers and participated in seminars and workshops on such subjects as environmental law (Québec, October 1987), reform of the federal law on environmental protection (Toronto, October 1987), the evolution of Canadian administrative law (Société de droit administratif du Québec, Montréal, May 1988), the public service appeal procedure (Toronto, November 1987), reform of Quebec government agencies (Université Laval, December 1987), the role of administrative tribunals (4th Conference of the Council of Canadian Administrative Tribunals, Ottawa, May 1988), the Commission's research on administrative law (Institute of Public Administration of Canada, regional subgroup, Moncton, New Brunswick, November 1987). This co-operation involved such organizations as the federal departments of Justice and the Environment, the Public Service Commission, the Canadian Institute for the Administration of Justice, the Canadian Environmental Law Association, the Council of Canadian Administrative Tribunals, and the Institute of Public Administration of Canada.

Commissioner Joseph Maingot, Q.C. was requested by the Standing Committee of the House of Commons on Labour, Employment and Immigration to do a study of their research needs. Following a thorough study of the issues in late 1987 and early 1988, he submitted a report to them including recommendations about the role of researchers and of Members concerning research support for the committee.



1. Mr. Justice Allen M. Linden, President, L.R.C.; 2. Gilles Létourneau, Vice-President, L.R.C.; 3. James O'Reilly, Research Officer, L.R.C.; 4. Chief G.D.J. Cohoon, Moncton Police Force; 5. Prof. Anne Stalker, University of Calgary; 6. Prof. Donald R. Stuart, Queen's University; 7. Pat Healey, Consultant, L.R.C.; 8. Sally Morrow, Assistant Consultation Administrator; 9. Carole Kennedy, Consultation Administrator; 10. Prof. Bruce Archibald, Dalhousie University; 11. Dr. Jim Jordan, Research Officer, L.R.C.; 12. Chief Herbert Stephen, Winnipeg Police Department; 13. Deputy-Chief Tom Flanagan, Ottawa Police Force; 14. Chief Colin Miller, Hamilton-Wentworth Regional Police; 15. Joseph Maingot, Q.C., Commissioner, L.R.C.; 16. Her Honour Judge Michèle Rivet, Commissioner, L.R.C.; 17. John Frecker, Commissioner, L.R.C.; 18. D.J. Sorochan, Barrister, Vancouver; 19. Serge Ménard, Bâtonnier du Québec; 20. Prof. Pierre Béliveau, University of Montreal; 21. Guy Lafrance, Montreal Urban Community; 22. Marc Rosenberg, Barrister, Toronto; 23. Prof. Eric Colvin, University of Saskatchewan; 24. Stan Cohen, Project Co-ordinator, L.R.C.

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## ADMINISTRATION

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*, section 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.

### Translation

The Commission wishes to express its gratitude to the translators of the Department of the Secretary of State, who translate the Commission's publications into French or English, as the case may be. In particular, we would like to thank Messrs. Richard Jacques, Pierre Ducharme, and Ms. Marcelle Gendron, for their outstanding work over the years.

### 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.

### Personnel

As in the past, during the fiscal year under review, ending March 31, 1988, the personnel strength of Commission varied according to seasonal and functional factors. The Commission utilized the services of ninety research consultants at some point during that period (see Appendix H). 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-three of the forty-four 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.

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### 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," "Impact," "Webster Show," "Canada AM," "Morningside," "Ce Soir," "W5," "Newsday," "The Fifth Estate"; and radio programmes such as "As It Happens," "L'informateur," "Présent national," "La filière," "Prisme," "L'événement," "L'heure juste," "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 514 special features about our new Reports and Working Papers, in *Barreau* of the Québec Bar, *Le Monde Juridique* and in the *Lawyers Weekly*.

### Finances

The Commission was allotted a budget of \$4,710,000 for fiscal year 1987-88. Of that amount, a sum of \$4,305,518 (91.4%) was spent by the organization in the course of doing business. The amount unspent, \$404,482, is attributable in part to unforeseen delays in completing some contracted research work and reductions in printing, distribution of research documents, postage and travel. (Please refer to table for budget breakdown: figures are still subject to final audit).

#### FISCAL YEAR 1987-88

	\$	\$
Operating Budget		4,710,000
Expenditures by Standard Object*		
01 Personnel Salaries & Wages (including employee benefits)	1,855,042	
02 Transportation & Communications	429,079	
03 Information	192,159	
04 Professional & Special Services	1,527,345	
05 Rentals	64,379	
06 Purchased Repair & Upkeep	38,835	
07 Materials & Supplies	134,672	
09 Furniture & Equipment	63,922	
12 Other Expenditures	85	
<b>TOTAL</b>	<b>4,305,518</b>	<b>4,305,518</b>
Amount unspent		<u>404,482</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.

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## VISITORS

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

The Honourable Senator Jean Bazin, Vice-President, Canadian Bar Association

Mr. John E.S. Briggs, Royal Commission on the Donald Marshall Prosecution, Halifax, Nova Scotia

Carolyn Fan Coder, 25 Belize Park Gardens, London, Journalist

Ms. Pat File, National Association of Women and the Law

Professor Benjamin Geva, Osgoode Hall Law School

Mr. Ken Keith, Law Commission of New Zealand

Professor Jeremy McBride, Faculty of Law, University of Birmingham, England

Professor John McEldowney, School of Law, University of Warwick, Warwick, England

Ms. Prue Oxley, Law Commission, New Zealand

Ms. Jennifer Pothier, University of Ottawa Women's Caucus

Dean J.R.S. Prichard, Faculty of Law, U. of Toronto

Mr. Marc Robert, Magistrat à l'administration centrale de la justice, Paris, France

Professor C.K. Rowland and Mrs. Rowland, University of Kansas, Lawrence, Kansas

Mr. Mel Smith, Department of Justice, Deputy Secretary for Justice, New Zealand

Xiao Tong-Zaen, Legislative Affairs, State Council, People's Republic of China

His Honour Judge Vanikkul, Office of Judicial Affairs, Bangkok, Thailand

Ms. Margaret C. Venault, University of Auckland, Member of the Board of Directors of the Accident Compensation Corporation, Auckland, New Zealand

His Excellency Jaime Vical, Ambassador of Columbia

Sun Wanzhong, Director General, Legislative Affairs, State Council, People's Republic of China

Professor Geoffrey Wilson, School of Law, University of Warwick, Warwick, England

Mr. Jean-Marie Woehrling, Vice-président, Tribunal Administratif de Strasbourg, France

## 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).

*An Act to Amend the Criminal Code (Victims of Crime)*, S.C. 1988, c. 30.

Bill C-155, "An Act to Amend the Criminal Records Act," first reading, August 25, 1988, The Solicitor General of Canada.

Bill C-154, "An Act to Establish the Office of the Correctional Investigator," first reading, August 25, 1988, The Solicitor General of Canada.

*Proposed Amendments to the Parole Act and the Penitentiary Act*, The Solicitor General of Canada, August 16, 1988.

#### 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.



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*An Act to Amend the Criminal Code and the Canada Evidence Act*, S.C. 1987, c. 24.

*An Act to Amend the Criminal Code (Victims of Crime)*, S.C. 1988, c. 30.

**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.

Bill C-263, "An Act to Amend the Criminal Code (Contempt of Court)" first reading June 30, 1987, Mr. Kaplan.

Bill C-274, "An Act to Amend the Constitution Act, 1867, to Amend the Criminal Code and to Amend the Senate and House of Commons Act (Contempt)," first reading December 2, 1987, Mr. Robinson.

**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.

*An Act to Amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act*, S.C. 1988, c. 51.

**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.

*An Act to Amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act*, S.C. 1988, c. 51.

*An Act to Amend the Criminal Code (Victims of Crime)*, S.C. 1988, c. 30.

**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 I*** (1986).

*An Act to Amend the Criminal Code*, S.C. 1987, c. 13 (Draft Code s. 35).

**31. *Recodifying Criminal Law: Revised and enlarged edition of Report 30*** (1987).

Under consideration by the Department of Justice.

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**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 current examples include the *Canadian Environmental Protection Act*, S.C. 1988, c. 22 (Working Paper 44, *Crimes Against the Environment* (1985)), Bill C-54, "An Act to Amend the Criminal Code [Pornography]" 1st reading May 4, 1987 (Working Paper 50, *Hate Propaganda* (1986)), Bill C-89, "An Act to amend the Criminal Code (Victims of Crime)," (Working Paper 56, *Public and Media Access to the Criminal Process* (1987)) and *An Act To Amend the Criminal Code (War Crimes)* S.C. 1987, c. 37 (Working Paper 37, *Extraterritorial Jurisdiction* (1984)).

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.

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**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.
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26. *Fitness to Stand Trial* (1973). 57 p.
27. *A Proposal for Costs in Criminal Cases* (1973). 20 p.
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61. *Studies on Divorce* (1975). 313 p.
62. *Studies on Family Property Law* (1975). 401 p.
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64. Ryan, Edward F. *Enforcement of Maintenance Obligations* (1976). 47 p.
65. Bowman, C. Myrna. *Practical Tools to Improve Interprovincial Enforcement of Maintenance Orders after Divorce* (1980). 50 p.

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### Miscellaneous

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**APPENDIX D**  
**UNPUBLISHED PAPERS PREPARED FOR**  
**THE LAW REFORM COMMISSION**

The following papers supplement the list of over 300 unpublished papers which appeared in the Fourteenth, Fifteenth and Sixteenth 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.

- Barnes, John. "Offences against Animals" (1985). 103 p.
- Bélanger, Jacques. "Background Paper: Invasion of Privacy" (1983). 61 p.
- Clifford, John. "Aviation Safety Inspection: Field Observations and Thoughts about Reform of Canada's Federal Inspectorates" (1987). 80 p.
- Colvin, Eric. "Criminal Law and the Rule of Law" (1986). 141 p.
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- Rabinovitch, Neil. "The Law Reform Commission of Canada and the Supreme Court of Canada: Partners in Law Reform - Search and Seizure in the Criminal Law Context" (1988). 126 p.
- Robardet, Patrick. "Should We Abandon the Adversarial Model in favour of the Inquisitorial Model in Commissions of Inquiry?", paper presented at a Conference titled: "Commissions of Inquiry: Lawyers' values and Policy Makers' Values," Dalhousie University, Halifax, Feb. 25-27, 1988.
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- Webb, Kernaghan. "Taking Matters into Their Own Hands: The Increasing Role of the Public in Canadian Pollution Control," paper presented at a meeting of the Canadian Law and Society Association, Learned Societies Conference, University of Windsor, Ontario, 1988.

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"Animal Experimentation in Canada: Legal Provisions and Police Alternatives" (with J. Barnes), Joint Medical Research Council/National Institutes of Health Workshop, Ottawa, April 26, 1988.

"The State of Products Liability in Canada," American Bar Association Meeting, Toronto, August 8, 1988.

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

The following is a selection from the more than 140 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).
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- 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 pararéglementaires* (Paris: Librairie générale de droit et de jurisprudence, 1984).
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- 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).

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- Bouchard, M. "Administrative Law Scholarship" (1985), 23 Osgoode Hall L.J. 411.
- Clifford, J.C. "Airline Deregulation Virtues: A Commentary on Jeremy McBride's Paper" in *Legal Aspects of Free Trade and Economic Integration: A Comparison between Canada and Britain in their North American and European Contexts*". (N.p.: Faculté de Droit de l'Université Laval, Faculty of Law, University of Birmingham, 1987). p. 248.
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- Handfield, F. and Morin A.A. "Le droit de la preuve, la Charte et le droit à une défense pleine et entière" in *Nouveaux développements en droit criminel découlant de la Charte canadienne des droits et libertés*. (Cowansville, P.Q.: Yvon Blais, 1988). p. 117.
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- O'Reilly, J.W. "*Hunter*: Access to Sealed Documents and Informer Privilege" (1987), 57 C.R. (3d) 16.
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- Webb, K. "An Historical Perspective on Current Problems in Canadian Administrative Law" in *Proceedings of the Third Annual Canadian Law and Society Association Conference*. Toronto: YULL Publications, 1987, 751.
- 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.
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**APPENDIX F**  
**SOME ARTICLES ABOUT**  
**THE LAW REFORM COMMISSION AND ITS WORK**

The following is a selective list of the more than 225 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**

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- 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.
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- Fortin, J. "La Commission de réforme du droit du Canada: un bilan succinct" (1982), 15 *Criminologie* 105.
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- Criminal Law and Procedure**
- Baker, B.M. "Mens Rea, Negligence and Criminal Law Reform" (1987), 6 *Law & Philosophy* 53.
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- 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.
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**APPENDIX G  
LAW REFORM COMMISSION PUBLICATIONS  
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- Evidence: 4. Character** (1972)
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- Evidence: 5. Compellability of the Accused and the Admissibility of His Statements** (1973)
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- R. v. Wood*, [1976] 2 W.W.R. 135; 26 C.C.C. (2d) 100 (Alta. C.A.).
- R. v. Zelensky*, [1977] 1 W.W.R. 155 (Man. C.A.).
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- Criminal Procedure — Discovery** (Working Paper 4, 1974)
- Kristman v. R.* (1984), 12 D.L.R. (4th) 283; 13 C.C.C. (3d) 522 (Alta. Q.B.).
- Magna v. The Queen* (1978), 40 C.R.N.S. 1; [1977] C.S. 138 (Qué. S.C.).
- R. v. Barnes* (1979), 74 A.P.R. 277; 49 C.C.C. (2d) 334; 12 C.R. (3d) 180 (Nfld. Dist. Ct.).
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- Droit de la Famille — 100**, [1984] C.S. 75.
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- R. v. Swain* (1986), 53 O.R. (2d) 609; 24 C.C.C. (3d) 385; 50 C.R. (3d) 97 (C.A.).
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- Vetrovec v. The Queen*, [1982] 1 S.C.R. 811; (1982), 136 D.L.R. (3d) 89; 41 N.R. 606; [1983] 1 W.W.R. 193; 67 C.C.C. (2d) 1; 27 C.R. (3d) 404.
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- Sunday Observance** (Report 7, 1976)
- R. v. Big M Drug Mart*, [1983] 4 W.W.R. 54 (Alta. Prov. Ct.).
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- Criminal Responsibility for Group Action** (Working Paper 16, 1976)
- R. c. Cie John de Kuyper et Fils Canada Ltée*, [1980] C.S.P. 1049.
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- R. v. McLay* (1976), 19 A.P.R. 135 (N.S.C.A.).
- R. v. Moulard* (1982), 38 Nfld. & P.E.I.R. 281; 108 A.P.R. 281 (Nfld. Prov. Ct.).

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- The Exigibility to Attachment of Remuneration Payable by the Crown in Right of Canada** (Report 8, 1977)
- Bank of Montreal v. Pafford* (1984), 6 D.L.R. (4th) 118 (N.B. Q.B.).
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**Options for Abortion Policy Reform: A Consultation Document** (1986)

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## APPENDIX H RESEARCH CONSULTANTS

### Criminal Procedure Project

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

### Names and Areas of Study

ACADÉMIE INTERNATIONALE DE DROIT  
COMPARÉ, JOBIN, Pierre-Gabriel

ARCHIBALD, Bruce P., B.A., M.A., LL.B. (Dalhousie), LL.M. (Columbia); Member, Nova Scotia Bar; Associate Professor, Dalhousie Law School. Arrest, Compelling Appearance and Laying of Charges.

ARNUP, C. Jane, LL.B. (Toronto); Member Ontario Bar. The Control of Prosecutions, The Attorney-General and Crown Prosecutor; Entrapment; Mental Disorders; Criminal Code of Procedure.

BAAR, Carl, A.B. Political Science (California), M.A. (Chicago), Ph.D. (Chicago); Member, Ontario Bar. Towards A Unified Criminal Court; Trial Within A Reasonable Time.

BARRETT, Julicann, Criminology Student, Carleton University.

DOOB, Nathony, A.B. (Harvard); Ph.D. (Stanford); Director, Centre of Criminology (Toronto). Plea Bargaining. Public Attitudes to Plea Bargaining.

EDWARDS, J. LL.J., LL.D. (Cantab.); Powers of The Attorney-General.

GALLUP CANADA INCORPORATED,  
Charlebois, Owen A.; Gallup Poll — Public Attitude on Plea Bargaining.

GILMOUR, Glen A., B.A., LL.B. (Queen's); Member, Ontario Bar. Compelling Appearance, Interim Release and Pretrial Detention; Pleas & Verdicts; Criminal Code of Procedure.

GIROUX, Yvan, Summer Student. Entrapment; and Jury.

HEALY, Patrick, B.A. (Victoria), B.C.L. (McGill), LL.M. (Toronto); Member, Québec Bar; The Presumption of Innocence; Draft Legislation on Questioning Suspects and Accused Persons.

JORDAN, James C., B.A. (Winnipeg), LL.B. (Manitoba), LL.M. (Alberta), LL.D. (Ottawa); Member, Manitoba and Alberta Bars. Appeals; Pretrial Eyewitness Identification Procedures; Criminal Code of Procedure.

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

KRONGOLD, Susan, B.A., B.A. (Hons.) (York), LL.B. (Ottawa), Dip. in Legislative Drafting (Ottawa); Member, Ontario Bar. Draft Legislation for the Criminal Code of Procedure.

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

MORIN, André Albert, LL.L. (Ottawa); Member, Québec Bar. Costs; Contempt of Court; Jury; Entrapment; Criminal Code of Procedure.

O'REILLY, James, W., B.A. (Hons.) (Western), LL.B. (Osgoode); Member Ontario Bar. Public and Media Access to the Criminal Process; Unified Criminal Court; Criminal Code of Procedure.

ORR, Patrick Hutchins, B.A. (Toronto) LL.B. (Toronto). Draft Legislation on Public and Media Access to the Criminal Process.

OSCAPELLA, Eugene L., B.A. (Toronto), LL.B. (Ottawa), LL.M. (London, U.K.); Member, Ontario Bar. Inventory of Criminal Code Procedure Provisions.

POMERANT, David L.; B.A. (Toronto); LL.B. (Toronto); Member, Alberta and Ontario Bars. Criminal Code of Procedure.

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

PRICE, Ronald R., B.A. (Toronto), LL.B. (Toronto); Member, Alberta, Northwest Territories and Ontario Bars. Criminal Appeal Procedure.

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

SCHIFFER, Marc Evan, LL.B. (Windsor), LL.M. (Toronto), S.J.D. (Toronto), Ph.D. (Cambridge); Member, Ontario Bar. Plea Discussions and Agreements; Judge and Conduct of Trial; Trial Within A Reasonable Time; Mental Disorders; and Code of Criminal Procedure.

### 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.

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

MCDONALD, Mark W., Student. *Codification.*

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

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

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### Protection of Life

- BAUDOIN, Jean-Louis, Q.C., B.A. (Paris), B.C.L. (McGill), D.J. (Paris), D.E.S. (Madrid and Strasbourg); Member, Québec Bar; Professor, University of Montréal. *Human Experimentation; Legal Status of the Foetus; Towards a National Medical Ethics Committee.*
- BRUN, Henri, B.A. philosophy (Laval), LL.B. (Laval), licence en lettres (histoire) (Laval), D.E.S. en droit (Paris), Ph.D. (Paris). *Judicial Opinion on Two Questions Relating to Voluntary Termination of Pregnancy.*
- FREEDMAN, Benjamin, B.A., M.A., Ph.D. (Brooklyn College, City University of New York). *Legal Status of the Foetus.*
- GILHOOLY, Joe R., B.A., M.A. (Carleton). *Biotechnology; New Genetic Technologies; Legal Status of the Foetus.*
- HEBERT, Martin, Faculté de droit de l'Université Laval. *The Current Status of Public Debate in Britain in the Medical and Bioethical Areas Concerning the Warnock Report.*
- JONES, Derek, B.A. Political Economy (Yale), Institut d'Études Politiques Paris), J.D. (Harvard). *Organ donor banks.*
- KEYSERLINGK, Edward W., B.A. (Loyola College), B.Th., L.Th. (Montréal), L.S.S. (Gregorian University, Rome), LL.M., Ph.D. (McGill). *Legal Status of the Foetus.*
- KNOPPERS, Bartha, B.A. (McMaster), M.A. (Alberta), LL.B., B.C.L. (McGill), D.E.A. (Paris), D.L.S. (Trinity, Cambridge). *Legal Status of the Foetus; Protocol of Research Parameters on the Concept of Genetic Patrimony and Human Dignity.*
- KOURI, Robert P., B.A. (Bishops), LL.L. (Sherbrooke), M.C.L., D.C.L. (McGill). *Legal Status of the Foetus.*
- LIPPMAN, Abby, B.A. (Cornell), Ph.D. (McGill), F.C.C.M.C. *Legal Status of the Foetus.*
- LUTHER, Lorie, B.C.L., LL.B. *Study of divulging Transmissible Diseases and Epidemiological Records.*
- MARCOUX, Anne, LL.B. (Laval), LL.M. (York, Toronto), Baccalauréat en droit (Laval). *Towards a Sociology of Judicial Orders.*
- NOOTENS, Suzanne, M.D. (Louvain), Certificat en anesthésiologie (Louvain), LL.B. (Sherbrooke), LL.M. (McGill). *New Reproductive Technologies.*
- OUELLETTE, Monique, LL.L., D.E.S. (droit aérien), D.E.S. (droit civil); Lawyer and Professor, Université de Montréal. *Towards a National Medical Ethics Committee.*
- POIRIER, Donald, B.A. arts (Montréal), M.A. psychologie (Moncton), LL.B. en droit (Nouveau-Brunswick), LL.M. en droit (McGill), doctoral studies (Montréal). *Protocol for Possible Research Concerning the Elderly.*
- PREFONTAINE, Stéphane, LL.B. (Montréal), LL.M. (Columbia, N.Y.), D.E.A. (Inst. ét. pol., Paris) *Research to establish legal parameters for the allocation of rare medical resources.*
- ROBERTSON, Gerald, LL.B. (Edinburgh), LL.M. (McGill) *Protocol establishing areas of study for federal law concerning the elderly.*
- RODGERS, Sanda, B.A. (CWRU), LL.B., B.C.L. (McGill), LL.M. (Montréal). *Legal Status of the Foetus.*
- SIMAND, Harriet, B.A. (Trent). *Surrogate Mothers; Legal Status of the Foetus (chapter on abortion).*
- SMITH, R. David, B.A., M.A. (Toronto), Graduate Diploma Social Sciences (Stockholm), Ph.D. (Toronto). *Legal Status of the Foetus.*

### Administrative Law Project

- Co-ordinator: Dr. Patrick Robardet, LL.L., LL.M. (Reims), LL.D. (Laval)
- BISHOP William, B.A. (Hons.) (Memorial), M.A. (Econ.) (Western Ontario), B.A., B.C.L. (Oxon.); Ph.D. (L.S.E.);
- CHAPMAN, Bruce, B.A. (Carleton), Ph.D. (Cambridge), LL.B. (Toronto); Professor, Faculty of Law, University of Toronto (Ontario). *Statutory Infractions.*
- CLIFFORD, John C., B.A. (Western Ontario), LL.B. (Dalhousie); Member, Nova Scotia Bar. *Policy Implementation; Inspectorates.*
- COHEN, David S., B.Sc. (McGill), LL.B. (Toronto), LL.M. (Yale); Professor, Faculty of Law, University of British Columbia. *Crown Liability*
- CRANE, Brian A., Q.C., B.A., LL.B. (British Columbia), A.M. (Columbia); Member, Ontario Bar. *Limitation of Actions in the Federal Sphere*
- CUNNINGHAM, Thomas D. B.Sc. (Hons.) (U.W.B.) M.Sc. (Dalhousie), LL.B. (U.N.B.), Member, Law Society of New Brunswick *L'Ombudsman; Le statut de réfugié au Canada.*
- DWIVEDI, O.P., B.Sc. (Allahabad), M.A. (Saugor), M.A. (Carleton). Ph.D. (Queen's); professeur. Département d'études politiques, University of Guelph (Guelph, Ontario). *Environnement et participation du public.*
- ECKENFELDER, Margaret, B.A. (Hons.), M.P.A. (Queen's), LL.B. (Saskatchewan); Saskatchewan Bar. *Ombudsman; Les appels de la fonction publique.*
- FRÉMONT, Jacques, LL.B. (Laval), LL.M. (Osgoode); membre du Barreau du Québec; professeur, Faculté de droit, Université de Montréal (Montréal, Qué.). *L'application des lois à la Couronne.*
- GOW, James Iain, B.A., M.A. (Queen's), Ph.D. (Laval). *Environnement et participation du public.*

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of  
Canada*

- KITCHEN, Harry, B.A. (Hons.), M.A.  
(McMaster); professeur, Département  
d'économie, Trent University  
(Peterborough, Ontario). L'immunité  
fiscale de la Couronne.
- MERCER, Peter, LL.B. (Western Ontario),  
LL.M., Ph.D. (Cambridge); Member,  
Law Society of Upper Canada;  
professeur, Faculté de droit, University  
of Western Ontario (London, Ontario).  
La médiation en matière  
d'environnement.
- MOCKLE, Daniel, LL.B. (Laval), D.E.A.,  
Droit public, LL.D. (Lyon); membre du  
Barreau du Québec. Statut juridique de  
l'Administration fédérale, des  
administrés et usagers de service public.
- RATUSHNY, Edward, B.A., LL.B.  
(Saskatchewan), LL.M. (L.S.E.),  
LL.M., S.J.D. (Michigan); Professor,  
Faculty of Law, University of Ottawa.  
*Statutory Infractions*
- RIEL, Jean-Pierre, LL.L. (Ottawa); Member,  
Québec Bar. *Institutional  
Transformation; Administrative Decision  
Making*
- SALTSMAN, Joel, M. LL.B. (Toronto),  
LL.M. (L.S.E.); Member, Law Society  
of Upper Canada and Law Society of  
British Columbia. *Immigration Appeal  
Board.*
- VAILLANCOURT, François, B.Sc. (Econ.)  
(Montréal) Ph.D. (Econ.) (Queen's).  
*Fiscal Immunity of the Crown.*
- WEBB Kernaghan R., LL.B. (Calgary).  
*Implementation of Public Policy;  
Incentives; History of Administrative  
Law*
- WILSON, V. Seymour, B.Sc. (British  
Columbia), D.P.A., M.A. (Carleton),  
Ph.D. (Queen's); Professor, School of  
Public Administration, Carleton  
University. *Ombudsman*

*Law  
Reform  
Commission  
of  
Canada*

**APPENDIX I  
COMMISSION PERSONNEL OTHER THAN RESEARCH CONSULTANTS**

**Commission Secretary**

Handfield, François

**Director of Operations**

Rochon, Robert

**Financial Services**Chief Financial Services  
Duchene, Maurice

Supervisor

Brunet, Louise

Clerk

Ouellette, Gilles

**Administrative Services**Chief Administrative Services  
Lajoie, Georgette**Personnel and Contract Services**Personnel Services  
Plouffe, Suzanne

Contract Services

Giguère, Flora

**Material, Telecommunication and  
Property Management**

Manager

McAlear, Greg

Clerk

Fortier, Michel-Pierre

Photocopy

Mangone, John

**Records and Mail Management**

Supervisor

Dupuis, Roger

Records Processing Clerks

Hébert, Lyne  
Legault, Jean-Pierre

Mailroom Supervisor

Sabourin, Monique

**Administrator of Consultations**

Haitas, Susan

**Secretarial Services**Côté, Denise  
Dixon, Darcy  
Haché, Rose-Marie  
Ippersiel, Madeleine  
Kelly, Heather  
McKaskle, Suzette  
Morrow, Sally  
Parent-Fournier, Pierrette  
Ralston, Jacqueline  
Rathwell, Dianne  
Roberts, Aline  
Spittle, Armande  
Yule, Suzanne**Reception**

Labody, Renée

**Text Processing and Secretarial  
Services Centre**

Co-ordinator

Houle, Nicole

Text Processing Services

Delorme, Carole  
Lavigne, Carmelle**Translation**

Co-ordinators

Lajoie, Marie  
Labelle, André**Information Services**

Director

LaFrance, Rolland

Assistant to the Director

Kennedy, Carole

**Editing**

Chief of Publications

Boivin-Déziel, Monique

Editors

Bouton, Yves  
Guérin, Madeleine  
Gauthier, Francine**Information and Publications  
Distribution Centre**

Manager

Hein, Marie-Josée

Clerks

Desjardins, Marc  
Sauvé, Rachelle**Library Services**

Librarian

Rubin, Judith

Library Technicians

Hellmann, Donna  
Ippersiel, Chantal**Montréal Office**

Office Manager

Harvey, Marielle

Administrative Assistant

Deslauriers, Denis

Secretaries

Journeau, Viviane  
Ravary, Josée