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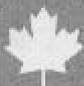

Law Reform Commission
of Canada

THIRD ANNUAL REPORT 1973 • 1974

A TRUE REFLECTION

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THIRD ANNUAL REPORT 1973 • 1974

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CHAIRMAN
LAW REFORM COMMISSION

The Honourable Otto E. Lang,
Minister of Justice,
Ottawa, Canada.

Dear Mr. Minister:

In accordance with the provisions of Section 17 of the *Law Reform Commission Act*, I submit herewith the third annual report of the Law Reform Commission of Canada for the period June 1, 1973 to May 31, 1974.

Yours respectfully,

E. Patrick Hartt

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FOREWORD

This, the third annual report of the Law Reform Commission of Canada, submitted in accordance with section 17 of the Law Reform Commission Act, covers the period from June 1st, 1973 to May 31st, 1974.
The present members of the Commission are:

Chairman	— The Honourable E. Patrick Hartt, Justice of the Supreme Court of Ontario
Vice-Chairman	— the Honourable Antonio Lamer, Justice of the Superior Court of Québec
Ful-time members	— Dr. J. W. Mohr, Professor at Osgoode Hall Law School and the Department of Sociology, York University
	— Dr. Gérard V. La Forest, Q.C., (replaced William F. Ryan, Q.C., appointed Justice of the Federal Court of Canada)
Part-time members	— Mme Claire Barrette-Joncas, Q.C., member of the Bar of the Province of Québec.
	— John D. McAlpine, member of the Bar of the Province of British Columbia.

The staff of the Commission consists of Mr. Jean Côté, B.A., B.Ph., LL.B., Secretary, Judge René J. Marin, Special Assistant and Coordinator, Colonel (Ret'd) H. G. Oliver, LL.B., member of the Bar of British Columbia, Director of Operations, and research personnel totalling, during the year under review, thirty-two. A list of names of research staff appears in PART III of this report.

Part I

A TRUE REFLECTION

Reforming laws means more than changing them; it means improving them. The two don't always go together. Cromwell's Parliament once passed an Act outlawing Christmas — a change admittedly but was it an improvement? Was the new law a true reflection of the social need?

But how ensure that new laws truly reflect the social need? The Greeks had a way. In ancient Locris, history relates, a young man challenging the justifiability of a particular law was made to appear before the people and present his argument with a halter round his neck. If he convinced his audience, they'd set him free and change the law; if not, they'd hang him. A Locrian law reformer had to stick his neck out — literally! Alteration of law for alteration's sake was not enough: new laws must truly reflect society's needs and constitute some genuine progress.

But how can we be sure of making real progress? "What we commonly call progress" said Havelock Ellis, "is often only the exchange of one nuisance for another". How true this is, for instance, of the problem of waste disposal. Formerly our cities and our factories polluted primarily their own backyards: today they threaten the whole environment. One problem simply has replaced another.

We see the same with law reform. Take for example the problem of vagrancy. Till recently, begging or wandering around without apparent means of support was an offence against the Criminal Code. But is it really a crime? Not really, many people thought; and so, in 1972 the law was changed and that particular provision was repealed. There still remained, however, the problem of what to do with beggars or unkempt and disorderly people in public places. So the police, who had to solve this problem, took to charging vagrants with violation of a local law: they charged them with being "waifs". The alteration of the law brought no real progress, for the real problem still remained unsolved.

Progress means solving real problems, and people always find this difficult. "It isn't that they can't see the solution", said G. K. Chesterton; "it is that they can't see the problem". The problem with vagrants wasn't the criminal law; it was their presence in the streets — the problem which in fact accounted for the law. Merely altering the law was failing to appreciate the real situation.

But how make certain you appreciate the real situation? Perhaps by being like Robert Benchley's imaginary bird, the killeyloo. This marvellous creature, whenever it took off on a new flight, always flew backwards first because it couldn't tell where it was going until it had seen where it had been. Before knowing where to go we must be quite clear where we stand; before knowing what alterations to make to our law, we need to understand all aspects of the legal situation — not only what the law prescribes but also what its purpose is, how it operates, which is the best way of altering it, and, last but not least, how far alteration will make any difference. This raises questions about the very nature of law reform itself, on which we have begun a fundamental jurisprudential investigation.

The usual point of departure for law reformers has been the letter of the law. Sometimes indeed the actual wording of the law can be the major problem. Laws suffering from what Bentham termed "overbulkiness", from ambiguity or from sheer obscurity impose too great a strain on courts and lawyers, but worse still, fail to provide satisfactory rules and guidelines for society.

Often, however, the letter of the law isn't the main problem. The rules themselves, not just their wording, may need to change. Official practice — the operation of the rules — may need to alter. The values which those rules enshrine may be untenable or no longer be the values of the society those rules serve. Or again, the rules themselves may be misunderstood. One well-known story tells how a young man, charge with indecent assault on a female, claimed in defence the girl's consent. The judge pointed out that the girl was under fourteen and explained that some time back the law had been amended so that consent was no defence unless the girl was over fourteen. Asked, on conviction, if he had anything else to say, the young man said he would like the court to send an urgent telegram to his mates back in the bush telling them about the amendment, since they were still working under the old law.

Law reform then must look beyond the letter of the law. It must find out how the law is understood by those applying it and those to whom it is applied. It must discover, how the law really operates — what judges, lawyers, officials and ordinary citizens actually do. It must consider how the law is thought of and accepted by the society it serves. It must examine how far the law and social attitudes to it are justified.

This means a many-pronged attack. There has to be legal research of the traditional kind — collating statutes, regulations, cases and then analysing them. There has to be empirical research — investigating in the field to see what really happens. And there has to be examination in moral and philosophical terms of the aims the law pursues, the functions it performs, the values it enshrines. Lastly there must be dialogue and consultation with the public in order to unearth and to articulate public opinion on the law — discussing with the public the values which they think law should enshrine, the functions it should perform, the aims it should pursue.

This many-pronged attack on law reform we outlined in our second annual report. We set out our general strategy of examinating general problems by focusing on particular issues, stressed the importance of empirical research, and emphasized the need for public dialogue. All this is reflected in our subsequent practice and particularly in the four Working Papers we produced this year — on the family court, on strict liability, on sentencing and on discovery.

The Family Court

Family law we included in our program as a result of initial public consultation. This revealed widespread dissatisfaction with the way the present law handles family problems. A major difficulty is the fragmentation of jurisdiction over family law. Why should people have to go to one court for divorce, another for maintenance, another for custody of children and another for wardship and adoption? In such a set-up how can a court deal comprehensively, speedily and cheaply with a total family problem?

A logical first step to any improvement of family law we see to be the establishment of a unified family court. To work out proposals for the establishment of such a court we examined the law itself, official attitudes and practices and the basic philosophy of family law. We therefore had three major background studies undertaken:

- a conceptual analysis of unified family courts;
- an explanation of the philosophy, structure and operation of the courts of Canada presently exercising jurisdiction over family law matters; and
- a survey of Canadian judges' attitudes concerning the manner in which family law matters are, and should be, disposed of by the courts.

In the light of these studies our Working Paper focussed on the problems due to fragmented jurisdiction, considered various alternatives, and finally put forward our preferred solution. This stresses the need for a unified family court fully backed up with auxiliary support services, which could, amongst other things, provide proper enforcement of maintenance orders and cut down the astronomic default rate — 80,000 families in Canada, it has been estimated, are not being maintained by the responsible spouse or parent. Besides, consolidating family law jurisdiction would enable us to start to gather and compile those sorts of information so essential to satisfactory operation of the courts: we could establish a centralized bank of statistical and social data. Finally, our proposal was put forward in a Working Paper written as simply and non-technically as possible. This was in order to promote public discussion.

Such discussion is now taking place. Members of the family law project have discussed the Working Paper with a variety of groups and organizations — a community study group on law reform, a provincial family and child welfare association, a convention of family doctors, a provincial association of family relations, and the Ottawa Council of Women on Family Law Reform. In addition, letters, inquiries, comments and suggestions on the subject are being received and scrutinized at the Commission's offices. A public dialogue on family law has begun.

Another aspect to our work on family law is the need for discussion and co-operation with the Provinces. Family law is not a purely federal matter; it is equally a matter of provincial law. In particular the detailed organization of family courts is of direct concern to the provinces and much of the responsibility for implementation rests with them. Reform, therefore, can

only be achieved by co-operation between the appropriate federal and provincial authorities and finally by agreement between the legislative bodies involved.

Such co-operation we are seeking to promote. In May this year, we convened a meeting of representatives from various federal government departments to consider setting up some inter-departmental mechanism to implement the proposals of the Working Paper, and in consequence a committee has been struck to develop a co-ordinated and coherent policy on these proposals. We also contacted representatives from most of the provinces in order to develop pilot projects to test out the theses and proposals of the Working Paper. A foundation for co-operation with the provinces is being laid.

Strict Liability

Our other three Working Papers are on criminal law. From our inception we undertook a complete review of Canadian criminal law. In doing so we asked what sort of criminal law we want, how we should treat offenders and whether our criminal trial process is satisfactory. Questions like these underly all our inquiries on the criminal law, and the first question was particularly relevant to our Paper on strict liability.

The issue here is simply this: how strict do we want our criminal law to be? Should a person be guilty of a crime whenever he does an act forbidden by law, or should he be guilty only when he does it deliberately or carelessly? What sense can we make for instance of a law like this one? A certain regulation says that every person in a boat must be provided with a life-jacket. So strick apparently is this regulation that in one case where some people in a boat who all had life-jackets rescued another person who of course did not, they were found to have broken the law — there now were more passengers than life-jackets. Can we avoid concluding that here the law's an ass?

Strict liability poses many problems. The lawyer's problem is the law's uncertainty: a vast number of offence-creating sections in statutes and regulations never say whether liability is strict or not — whether it matters what the offender knew or thought. To grapple with this problem we undertook two background studies: one a computer-assisted inquiry which revealed (as stated in last year's annual report) that the number of such offences in federal law is 20,000; the other a detailed investigation of reported cases, doctrines, principles and legal writing — an investigation which showed that no clear answer can be given to the questions "when is criminal liability strict?" and "when it is, what is entailed?" The law is hopelessly uncertain.

The administrator has a different problem. His job is to enforce regulations laying down standards of safety, health, welfare and so on. Yet how can the law-enforcer ever refute a defendant's claim that failure to attain such standards resulted from some unavoidable mistake? So, does efficient law enforcement necessitate strict liability? To answer this we had a study undertaken to investigate the practice of administrators in the Department of Consumer and Corporate Affairs. We found that in this area practice geared criminal liability to fault. Limited resources restricted prosecutions to cases most worth prosecuting, and these turned out to be those cases where the defendant broke the law intentionally and carelessly. Such cases the administrators could quite well pick out.

Can strict liability then be really necessary for efficient law enforcement of our regulatory laws? Some counter-evidence exists, we found: increasingly since 1968 federal statutes in the regulatory sector have tended to include defences of due diligence and reasonable care, without producing any great anxiety among law-enforcers. No one has yet been heard to claim that these new statutes are unenforceable. Besides, regulatory or welfare offences are created to promote standards of care — standards which rise as knowledge skill, experience and technology advance. Such standards, we argue, need to be explored, examined and discussed in open court. We need to know exactly what the defendant did and how and why he did it.

The most important problem, though, involved in strict liability is the moral one: is it right to punish people not at fault? Is it right to penalize people in cases where they don't and sometimes cannot know the circumstances which make their acts illegal? Are laws that do this justifiable?

But first there is another problem. The moral problem of strict liability seems to many people not to be a problem at all. As we explained, administrators are happy with it, lawyers face a different problem, and the general public is largely unconcerned because it thinks the offences are insignificant and the penalties trivial. Yet our first study showed that strict liability offences are highly significant in quantity if not in quality and that penalties aren't always trivial — in 70% of strict liability offences a possible penalty is imprisonment.

To show that strict liability is a serious problem, our Working Paper (and our background studies now published with the Working Paper as "Studies in Strict Liability") explores in depth the question whether strict liability is unjust. It does so in as simple and non-technical style as possible to foster public discussion.

Such discussion is now taking place. The Working Paper has been extensively considered by the Council of Churches, examined by a community study group on law reform, and presented by members of the criminal law project at meetings and conventions of profes-

sional lawyers. A television program on the topic was produced and given national coverage.

Strict liability, however, is but one aspect of a larger problem — the meaning of guilt. In looking for the right criterion of guilt, the meaning of crime and the purpose and justification of punishment, the Working Paper sets out our general philosophy of criminal law. As such it underpins all later papers on the criminal law and serves as a foundation in particular for work on other aspects of the mental element in criminal guilt — insanity, mistake of law and so on. It makes a start at trying to describe the sort of criminal law we ought to have.

Sentencing

What sort of criminal law we ought to have relates directly to the problem of sentencing. In our strict liability paper we suggested that offences should be distinguished into two kinds: real crimes and regulatory offences. Real crimes, offences which could only be committed intentionally or recklessly, would carry a possible punishment of imprisonment. Regulatory offences, to which due diligence should be a good defence, should not be punishable by imprisonment.

But, whether imprisonment is used or not, what is the purpose in sentencing offenders? What is the justification of criminal law and punishment? And what is the best way of dealing with offences? These are the basic issues raised in our Working Paper on Principles of Sentencing and Dispositions.

We begin by putting forward two possible bases for justifying criminal law — the common good and the demand for justice. In doing so, we build upon the earlier discussion in our Strict Liability paper and pave the way for later argument in our forthcoming paper on Obscenity where we consider what should be the scope of criminal law.

Whichever basis is accepted as a justification of the criminal law, we see the intervention of the law as subject to certain limitations. Care must be taken not to harm the innocent. Cruel and inhuman punishment must be avoided. Sentences must be proportional to offences. Similar offences must be treated equally. And room must be found for restitution and compensation.

These limitations restrict the place of both deterrence and rehabilitation. One problem with deterrence is the small proportion of offenders actually convicted. In 1970 for instance charges were laid in only 10 cases of theft over $50.00 for every 100 reported, in only 16 cases of break and enter for every 100 reported. Another 6 - 12% of cases were cleared up in some other way. This being so, there is a limit to what sentencing can do to increase the deterrent effect of criminal law.

Our Working Paper, therefore, looked at a possible alternative to the normal criminal proceedings. In certain areas — family law, juvenile law, and labour law — the values protected and supported by the law are dealt with, not in an adversary trial, but in a settlement or conciliation process. This seems effective in underlining community interests and values; recognizes the interests of the victim, the need for restitution and the demand for compensation; and works out the issue of responsibility with fairness, humanity and economy. With this in mind we had already set up a limited experiment to investigate the value and feasibility of such diversionary processes — the East York project, described in our second annual report. The results of this experiment are now being systematically evaluated. Our preliminary conclusion is that settlement and conciliation procedures might well be used in a range of minor offences, many of them property offences, where neither justice nor utility warrant arrest, trial, conviction, sentence and imprisonment.

Our Working Paper aims to stimulate public discussion on the whole question of sentencing. This aim is slowly being fulfilled. For instance, the John Howard Society of Ontario has planned an in-depth inquiry on this Paper. And members of the Sentencing Project have discussed the Paper at various professional and other meetings.

Discovery

No criminal law, however well designed or however rational its sentencing policy, can operate successfully without a satisfactory criminal trial process. Justice, liberty and punishment of crime depend upon the nature of that process. Accordingly, our third Working Paper on the criminal law deals in general with the criminal process and in particular with the question of discovery. That question is: how far should each side in a criminal trial disclose its case to its opponent?

This question raises the whole problem of the nature of criminal process. First, what is the aim and purpose of this process? Is it simply pursuit of truth — to find out what happened and whether the accused is guilty? Or is pursuit of truth itself limited by other values — by respect for human dignity and privacy, and by the need to minimize the risk of convicting innocent persons?

To us it seems that trying to balance these aims has partly led to our existing process — the adversary system. That system sees the criminal trial as basically a dispute between two sides. The prosecution repre-

sents the state. The other side is the accused. And both appear before an independent arbiter — the court.

But such a system can't achieve this balance without some rules about discovery. The police and prosecution gather information to establish guilt, but do so in a setting which allows them almost total control over the evidence which will be introduced and that which will be ignored. Without disclosure and discovery the defence will be less able to examine and challenge prosecution evidence and expose evidence which may be suspect.

Unfortunately Canadian criminal law gives the accused little by way of discovery as a matter of right. The reason is perhaps the theory that the prosecutor is less a partisan than a "Minister of Justice" whose task is to assist the court. In theory, then, he can be counted on to hold nothing back from the accused. A legal right of discovery becomes unnecessary.

In practice, though, an orderly system of discovery does not exist. It exists neither in formal rules nor in the exercise of prosecutory discretion. A survey conducted among prosecutors and defence counsel across Canada revealed a wide variety in discovery practices. Some prosecutors disclose very little, others quite a lot. The moral duty of prosecutors to conduct prosecutions in a fair and honourable fashion is no adequate substitute for positive legal rules.

What positive legal rules should take its place? The Working Paper examines this question in detail and ends with a concrete proposal for a rational and fair discovery procedure. This which would secure two benefits: first, greater fairness and justice to the accused in criminal trials; and, second, increased efficiency by dispensing with the need for the presence in court of many of the witnesses whose presence is required today.

A Broad Perspective

All four Working Papers were written from a broad perspective and as far as possible in a non-technical style. From a broad perspective, so that instead of looking at life from within the cloisters of the legal system and focusing exclusively on legislation as *the* instrument for reforming law, we can really try to make the law and legal system reflect and respond to present social problems. And in a non-technical style in order to facilitate public consideration and discussion. Such discussion we regard as quite essential to fruitful law reform, particularly in areas of such direct public concern as family law and criminal law. As we said in our first Research Program, the law depends on a broad consensus to achieve an effective ordering of social relations in a democratic society. Change the law without changing that consensus and maybe nothing is achieved. Change public attitudes, however, and at worst it will be easier to change the law, at best reform will follow automatically. This is why we stated in our First Annual Report:

> "Law reform is not a matter for lawyers alone . . .We are determined to see to it that the general public, not merely the legal profession, should become involved in our efforts to modernize the law".

To begin with, we relied on circulation of study papers, news media coverage, distribution to special interest groups and the like to obtain response. In our Second Annual Report, we noted that "to some extent the responses have been disappointing". Disappointment stemmed from no lack of criticism, but from failure in our own view, "to generate as much interest and discussion as we had expected". Accordingly, the Report added that "we are considering ways and means of helping and encouraging the public, through citizens associations, and other bodies, to set up a continuing dialogue on all our recommendations . . ."

To throw light on ways of doing this we set up an experiment in a local community area. The object was to test the feasibility of sustained community discussion of our work, by setting up a local study group to study, comment on and criticize it. The outcome would reveal whether this could be repeated in other parts of the country.

This project was entrusted to a university professor who specializes in philosophy of law, and who has been a president of a community association. His task was to design a study program, to establish such a group in a local community and to lead the discussions. The Community Centre Council and Community Association both lent support, and premises at the Community Centre were made available free. Advertisements were put out inviting people to attend a series of study groups on law reform.

The series took place over a period of twelve weeks. During this period the group discussed all the four Working Papers and many of the background study papers. Members of the Commission's Projects who had been engaged in working on the paper under discussion attended the meetings, answered criticisms and received suggestions.

The results of the pilot project are now being systematically evaluated. Preliminary findings indicate mixed success. The meetings drew a quite small audience — average attendance for the series was about 13 persons. This in itself, however, is a useful indication of the degree of general interest in fundamental law reform: it shows the uphill work that faces a Commission anxious to foster dialogue with the public. If from the point of view of numbers the Project was a disappointment, from the point of view of serious discussion and lasting interest the series was a complete

success. Without exception participants put a great deal of thought and effort into coming to grips with the issues presented to them. This is borne out by the transcripts taken of the meetings. Besides, the Project seems to have had some permanent effect: at the end of the series the participants had become so interested that they were considering continuing the group even without the services of a discussion leader provided by the Commission. They had become involved in law reform.

We are also trying other ways of communicating with the public. In Québec we are exploring a special type of popular newspaper coverage. Also a series of short articles on law reform is being considered for inclusion in community and church newspapers. And we have been investigating — also to some extent employing — radio, films, and television.

At the same time, we are maintaining our practice of extensive attendance at professional and other meetings across the country. Permanent liaison has been established with many different organizations in addition to those mentioned earlier in this report — for instance the Canadian Association of Forensic Scientists, Young People in Difficulty, Club du Midi, the Canadian Association of Junior Leagues, the Canadian Institute of Chartered Accountants, to mention but a few. Particularly important is our liaison with the police. For two years running we have had an input into the advanced training programs at the Ontario Police College at Aylmer, where during a heavily scheduled week Commissioners and Research Officers have held seminars with police chiefs and other senior officers on the nature, aims and purposes of the criminal law and criminal justice system. The always lively, sometimes acrimonious, discussion has deepened both police and Commission understanding of the issues involved.

Besides increasing understanding of the issues, however, our contacts with such bodies and with the general public through letters and other inquiries now enable us to act as a link between the public on one side and on the other the law, the lawmakers and those who apply and operate the law. Complaints, criticisms and positive suggestions now regularly make their way to us from practitioners and laymen; and we, in turn, can help articulate them and give extra weight to them. In this way the ordinary citizen obtains an extra opportunity of involvement in his law and in its reform.

But real citizen involvement in law reform requires that the lay public can know or easily make themselves aware of what the law lays down. The law must be accessible to the lay citizen whose law it really is. Yet in no country of which we have any knowledge is this true. It certainly isn't true in Canada. Some means must be devised of remedying the law's inaccessibility.

One way of making law accessible could be to utilize public libraries. Librarians are adept and skilled at helping people to find information. Could they be trained to do this with special reference to the law? And could our public libraries contain — could authors be engaged to write — books which would explain the law in simple terms?

To see how far this might be possible we set up a project involving several disciplines within the University of Toronto to explore methods of making law more understandable and available to the public. Initially, the project held a Workshop to find out who is approached by the general public mainly on legal problems. Having identified the institutions and organizations most commonly approached, the project then investigated the specific problems experienced by them. It also held interviews across Canada — with police, legal aid officers and clinics; public, university and law libraries; information centres, Information Canada offices, and provincial government information offices in the major cities in Canada. In addition, it undertook a number of experiments to discover how members of the public go about finding information.

In addition, the project has commissioned various people — lay people as well as lawyers — to write about small areas of law in a readable and comprehensible fashion. These models will illustrate the techniques and formats that may be used in writing materials for non-lawyers. Studies too have been commissioned into indexing and classifying legal materials.

The data collected by the surveys and inquiries is being analysed and the written models are being presently scrutinized to determine how best to make the law more readily accessible and so facilitate public involvement in both law and law reform.

Involving the public in the law and in reform, however, is a process which must start early on. For this reason, as we said in our second annual report, the process really must begin at school. If Canadians are ever to become properly at home with their law, they have to learn about it in the schools. Facts like the amount of rainfall in Upper Volta or the height of Mount Everest may not be quite without importance for our high school students, but can they really compare in significance and relevance with the workings of our legal system, our legal rights and duties and the values operating in our law?

Earlier this year we lent support to a university workshop specially designed for high school teachers interested in teaching law. Commissioners and Research Personnel participated in the course, and Commission papers were available for comment and discussion. Basically, the workshop focused on ways of teaching and exploring fundamental legal issues — issues so vital to the law reformer because they are where law and morals overlap.

If shared morality is part of what holds society together, as many argue, then law reform must take into account, articulate and help to shape those common values underlying the law. Upholding them, expressing

them, developing them — this in the ultimate analysis is what law and law reform are all about. Only by making sure that our laws enshrine the values which we really hold and by making certain that those values can be justified can we make genuine progress in our law. Only by widespread public argument and by discussion in depth — by Canadians seriously examining their law — can we achieve improvement. Indeed our main goal so far has not been to change, or recommend changes in, the law. It has been to get people generally talking about the law in a way that is, we would claim, already bringing about that change in attitudes so necessary for law reform. In this, part of our role is to sift ideas emerging from the public and articulate them in such a way that they get national attention.

The truth is, law reform has many aspects and many problems. For these, the best method of attack isn't always from the front. "Success in solving the problem," said George Polya, "depends on choosing the right aspect, on attacking the fortress from its accessible side". Sometimes the most accessible side to a problem of law reform lies in the attitudes of the general public. At other times it is to be found in the views and practices of government departments, of police, of judges and of legal practitioners. For this reason, amongst others, we have continued our practice of co-operating as far as possible with government departments — working with them to see their problems and to get them to see ours.

One of our problems is that of factual information. As we said earlier, to know where we must go we need to know where we stand now — we must have accurate information. In social matters of course our information never can be this: there always is a time-lag and the data never is complete. All the same, our criminal statistics are in our view even less up-to-date, complete and comprehensive than they should be and we are doing what we can to co-operate with relevant departments to remedy this. We need, for instance, information covering more of what actually happens. Our information also needs to be more national. But this is difficult given the federal-provincial division of responsibilities in Canada.

Indeed this has been one of the two major factors leading us to choose the path of persuasion and argument and not the more traditional path of formulating amendments. Under a federal constitution much of the law needing reform comes under provincial jurisdiction, where we have no authority to make recommendations. Argument and discussion, however, can give a lead, and some of the changes we have argued for are being put into practice, to some extent, and being adapted to the local situation in the provinces. Our most important role perhaps is putting forward ideas for others to appropriate.

The other factor leading us to choose the path we did is the dual nature of our legal system. Canadian law springs not from one, but from two different origins — we have both common law and civil law. Besides, section 11 (b) of our Act requires that the distinctive concepts of both systems of the law should be reflected in our law and that differences in expression and application due to those different concepts should be reconciled. To fulfil our responsibilities under this section we need and have sought access to foreign systems of civil law as well as common law.

Commission representatives visited France, Belgium and Switzerland, for example, and this has resulted in fruitful co-operation between the commission and relevant bodies in those countries. Exchange of information, materials and personnel is now in hand, including a scheme to facilitate "on-the-job" familiarization with French practice in legal drafting. Representatives also visited Texas to study pre-trial procedures in the criminal law, which had particular relevance to our work in criminal procedure.

Quite apart from our responsibilities under section 11 (b), we are convinced of the importance of comparative law for law reform. In particular we attach significance to close co-operation with other Law Reform Commissions in the Commonwealth. Happily our relations with such bodies have been much facilitated by the co-operation of the legal division of the Commonwealth Secretariat.

The extra responsibility arising from our federal system and the dual character of our law causes extra difficulties. It means more work, consumes more time and constitutes a greater challenge. But this in turn has meant a new approach — an approach different from that of other law reform bodies and different too from that adopted in our first program when we were only on the threshold of our task. Increasingly, understanding of the nature of that task has led, in our view, to increased insight into the nature and needs of law reform itself. To this extent, Canada could claim it has produced a novel and distinctively Canadian approach to law reform.

THE PROJECTS AT WORK

As detailed in our Second Annual Report, the projects we established are on:

- General Principles of Criminal Law and Prohibited and Regulated Conduct
- Criminal Procedure
- Sentencing
- Evidence
- Family Law
- Administrative Law
- The Law of Expropriation
- Aspects of Commercial Law
- Ongoing Modernization of Statutes

Our law, of course, does not come neatly packaged into separate compartments. Each of the above topics may impinge on all the others. Naturally then the different projects have found it necessary to co-operate closely with one another. For purposes of exposition, however, we make no more than a general reference to this aspect of our work.

General Principles of Criminal Law and Prohibited and Regulated Conduct

The project has continued dealing with the specific topics listed in the first research program and has continued its work at a theoretical level on the conception and architecture of a reformed Criminal Code.

In the field of general principles a major effort has concerned the problem of criminal responsibility. One part of this effort dealt with strict liability, the work on which has been described in part one of this report. Another aspect is the problem of mental disorder — a problem being dealt with in co-operation with the Sentencing Project. Research on this, from legal, medical and social perspectives, reached an advanced stage and a working paper is now in preparation.

In the field of specific offences, the project selected, for review, the following: homicide, sexual misconduct, obscenity, contempt of court, conspiracy and dishonest acquisition of property. These were selected as "touchstones" for discovering the values presently protected by the law. Of these the major efforts have been in obscenity and dishonest acquisition of property. On obscenity the four background study papers are now complete and a working paper is in course of preparation. This focuses on obscenity in order to illuminate the more general question of the scope of the criminal law.

We have received a first report on incest from the team at the Clark Institute of Psychiatry which is carrying out clinical and legal research on sexual offences. This report has formed the subject of meetings and discussion between the project and the Clark Institute Team.

Criminal Procedure

The criminal procedure project's major effort has concerned discovery, on which a Working Paper has

been published, as described in part one of this report. In preparing that paper the project conducted a questionnaire survey of prosecutors and defence lawyers concerning their pre-trial practices. A report on this will in due course be published.

Other work has included a study paper on plea bargaining which is now complete, and a study paper on the use of the jury in criminal cases which was then reviewed by a special task force, whose report is now before the Commission. Background research has been completed on prosecutorial discretion.

Sentencing

The sentencing project's major thrust was on the basic question of sentencing and dispositions, on which a working paper, described in part one of the report, was released.

More specifically, the project has worked on drafts of study papers dealing with imprisonment, hospital orders, sentencing principles and restitution. In addition, it met with the Canadian Psychiatric Association Sub-Committees on hospital orders and sentencing principles. Meetings were also held with the officers of the Canadian Criminology and Corrections Association. Consultations were also held with relevant personnel on the problem of the dangerous offender and on parole. Liaison was set up with a Committee within the penitentiary service, charged with recommending programs of treatment for dangerous sexual offenders. The project is also preparing a report on the East York Project and working on a draft paper on diversion.

Evidence

The evidence project completed its study papers on hearsay evidence and corroboration and is in process of completing a study paper on privilege. In addition, study papers will shortly be published on confessions, exclusionary rules and authentification and identification of documents. This will complete the program of study papers on the law of evidence. A task force has now started work on codification of the law of evidence.

At the same time empirical research is being carried out with assistance of psychologists on the frailty of children's testimony.

Family Law

The working paper on the unified family court has been described in part one of the report. The project also examined the following aspects of family law:

- A Conceptual Analysis of Unified Family Courts
- Preliminary Report on the Drafting of Model Unified Family Court Legislation
- Matrimonial Property in Québec
- Family, Science and Policy
- The Conflict of Laws Aspects of Divorce
- The Custody, Care and Upbringing of Children of Divorcing Spouses
- The *Divorce Act* in Québec Courts
- Community Property Regimes in the United States
- Divorce Reform

A working paper on family property is in an advanced stage of preparation and will shortly be completed.

Administrative Law

No law reformer could neglect that area of law which attempts to set limits of fairness and legality on governmental action or inaction. Virtually every day, government in the public interest expands its control over more and more facts of human endeavor. Much of this control is exercised by statutory authorities — those public servants, agencies, boards and commissions, departments and tribunals that Parliament has by statute created and empowered to implement a vast range of governmental activities and objectives.

Strangely, there have been few studies of our federal administrative agencies — as statutory authorities are sometimes called — about how they function, make laws in the form of rules and regulations, and adjudicate the contentious matters that come before them.

This is all the more strange because, though not all the decisions that administrative agencies make are final, yet the cost and time it takes to upset an administrative decision has tended to make them final. Does this mean sacrifice of fairness in our search for efficiency? And is the efficiency of agencies in terms of speed, quality and accuracy of decision overrated? To resolve these questions, we must have a more detailed knowledge of the workings, practices and procedures of administrative decision-making. In the last year, a prototype study of an agency — to find out if such studies were feasible — has grown into full-fledged studies of some four agencies — The Canadian Radio-Television Commission, the Canadian Transport Commission, the Immigration Appeal Board and the National Energy Board. And studies of several other agencies are planned so that we gain as broad a perspective of the administrative pro-

cess as possible. Studies of a more general nature will follow until we have a greater understanding of agency behaviour.

The agencies we study are selected on the basis of a survey of more than forty federal agencies. Our interest for the most part is in agencies that are engaged in a wide range of activities, but particularly rule or regulation-making and adjudication.

In designing research methods for our studies of administrative agencies, we have been greatly assisted by a group from Carleton University's School of Public Administration who prepared for us a paper on multidisciplinary approaches to research. A version of this paper is to be published shortly in Canadian Public Administration.

The Commission sponsored a meeting in Ottawa of the Canadian Association of Law Teacher's Administrative Law Subsection. This meeting brought together some thirty administrative law professors from across the country, a number of leading practitioners before administrative tribunals, and administrators from major regulatory agencies. A number of current problems with the regulatory process were discussed and debated by several panels. And many ideas for reform were generated.

In addition, we compiled a catalogue of legislatively conferred discretionary powers. Copies of this catalogue will be distributed to scholars, government officials, lawyers, and libraries across the country.

Expropriation

Although federal expropriation law has recently been reformed by the enactment of a new *Expropriation Act*, the bulk of expropriations authorized by federal law fall outside the ambit of this Act. The Project has now completed an examination of the law governing these expropriations, on the basis of which a working paper is being prepared and will be published shortly. The major recommendations in this area will affect expropriations by striptakers, notably pipeline and railway companies.

Aspects of Commercial Law

Over the past two years, the Commission has been conducting a preliminary study of the legal structure of the payment system. In the process, the Commission has engaged in liaison with government departments concerned, the Bank of Canada, the Economic Council of Canada, and various private groups concerned with developments in the payment system.

A report of this study, with recommendations for further work, will be released this fall.

Ongoing Modernization of Statutes

As we observed in the first part of the report, sometimes the actual wording of the law can be a major problem. The language of our statutes frequently leaves room for much improvement. Nor is it simply that particular sections are not drafted as well as they might be. The problem is a deeper one: how far is our traditional method of drafting statutes acceptable and satisfactory today?

The Commission has continued working on this problem. It is a general problem which, however, can only be satisfactorily dealt with in the context of specific legislation. For that reason, the Commission has linked this problem with the more specific one of the form and architecture of the Criminal Code. Some few preliminary meetings have been held on this, but now that the working papers on the criminal law are laying a broad general foundation of principles, the Commission is beginning to grapple more specifically with the formulation of the criminal law in particular and the formulation of the law in general.

PART III

PEOPLE AND STUDIES

Research Personnel

(employed during part or the whole of the period June 1, 1973 to May 31, 1974)

PROJECT DIRECTORS

DELISLE, Ronald J. B.Sc., LL.B., LL.M. Associate Professor of Law, Queen's University
FORTIN, Jacques, B.A., LL.L., D.E.S., LL.D., Associate Professor of Law, University of Montréal and member of the Bar of Québec
JOBSON, Keith B., B.A., B.Ed., LL.B., LL.M., J.S.D., Associate Professor of Law, Dalhousie University
PAYNE, Julien D., LL.B., member of the Bar of Ontario
ROBERTS, Darrell W., B.A., LL.B. LL.M., member of the Bar of British Columbia and Associate Professor of Law, University of British Columbia

RESEARCH CONSULTANT

FITZGERALD, Patrick, M.A., Professor of Law, Carleton University, Barrister-at-law, England

RESEARCH OFFICERS

ARBOUR, Louise, B.A., LL.L.
BAUDOUIN, Jean-Louis, B.A., B.C.L., D.J., D.I.C., D.E.S.C.
BECKER, Calvin, B.A., LL.B., LL.M.
BROOKS, Neil B.A., LL.B.
CHRETIEN, François, B.A. LL.L., member of the Bar of Québec
EDDY, Howard, R., B.A., J.D., member of the Bar, Washington State
ELTON, Tanner, B.A., LL.B.
FERGUSON, Gerard, A., B.A., LL.B., LL.M.
FRANCŒUR, Henri, former Deputy Director of Police, Laval, and former Inspector-Detective, Montréal Police
FRASER, Murray, B.A., LL.B., LL.M.
FRITZ, Ronald E., LL.B., LL.M.
GREENSPAN, Rosann, B.A., M.A.
GRENIER, Bernard, B.A., LL.L., member of the Bar of Québec
JANISCH, Hudson N., B.A., M.A. LL.B., M.C.L., LL.M., J.S.D.
KATZ, Leslie, B.A., LL.B.
KRASNICK, Mark, B.S., LL.B.
LANDREVILLE, Pierre, B.Sc., M.A., Ph.D.
MURRANT, Robert, B.A., LL.B., LL.M.
MURRAY, Graham, B.A., LL.B., LL.M., member of the Law Society of Nova Scotia
POMERANT, David L., B.A., LL.B., member of the Bar of Ontario
RYAN, Edward F., B.A., LL.B., LL.M.
THURSTON, Herbert, Advisor to the Ontario Police Commission, and former Inspector-Detective of the Metropolitan Toronto Police
TRUDEAU-BERARD, Nicole, B.A., LL.L.
WATKINS, Gaylord, B.Sc., LL.B., LL.M.
WILSON, Thomas H., B.A., LL.B., LL.M., member of the Bar of Ontario
WUESTER, Terrence, B.A., M.A., J.D., LL.M.

In-house Studies

GENERAL PRINCIPLES OF CRIMINAL LAW AND PROHIBITED AND REGULATED CONDUCT PROJECT

Aims and Purposes of Criminal Law
Insanity: Fitness to Stand Trial
Insanity and Criminal Responsibility
Strict Liability: The Size of the Problem – An Empirical Study

Strict Liability in Practice – An Empirical Study
Strict Liability in Law
Strict Liability: Recommendations for Reform
Mental Elements of the Offence
Ignorance and Mistake of Fact and Law
Compulsion
Obscenity
Contempt of court – A Joint Study with the Manitoba Law Reform Commission

CRIMINAL PROCEDURE PROJECT

Discovery: A Doctrinal Study
Discovery: Questionnaire Survey
Plea Bargaining
Search and Seizure Powers
Proposal on Costs in Criminal Cases

SENTENCING AND DISPOSITIONS PROJECT

General Principles of Sentencing
Restitution by the Offender
The role of Imprisonment
Hospital Orders
Fines
Criminal Bankruptcy
Persons Convicted in Magistrates' Courts
The Dangerous Offender

EVIDENCE PROJECT

Competence and Compellability of Witnesses
Manner of Questionning Witnesses
Credibility
Character
Compellability of the Accused and the Admissibility of his Statements
Judicial Notice
Expert Witnesses and Opinion Evidence
Burdens of Proof and Presumption
Hearsay Evidence
Privilege
Documentary Evidence and Related Matters
Statements Taken by Police – An Empirical Study
Corroboration
Confessions
Exclusion of Illegally Obtained Evidence

FAMILY LAW PROJECT

Unified Family Courts
The Distribution of Legislative Authority in Family Law
Matrimonial Property
Matrimonial Regimes in Québec

ADMINISTRATIVE LAW PROJECT

Practices and Procedures of a Federal Administrative Tribunal
Catalogue of Legislatively-conferred Discretionary Powers

COMMERCIAL LAW PROJECT

The Canadian Payments System
Bills of Exchange Act

Outside Studies

Commissioned during the year 1973-74

GENERAL PRINCIPLES OF CRIMINAL LAW AND PROHIBITED AND REGULATED CONDUCT

BERNER, S. H., Profesor, Faculty of Law, University of British Columbia
Intoxication*
CAMPBELL, Colin L., Barrister & Solicitor, Toronto
Criminal Responsibility and the Mentally Retarded Offender*
CHEVRETTE, François and MARX, Herbert, Professors, Law Faculty, University of Montréal
Constitutional Aspects of Regulating Obscenity*
DUMONT, Hélène, Professor, Faculty of Law, University of Montréal
Ignorance of the Law
GASSIN, Raymond, Professor, Faculty of Law, University of Montréal
Critical analysis of general principles papers on criminal law
GIGEROFF, A. K., Research Scientist, Clarke Institute of Psychiatry, Toronto
Empirical research: Sexual Offences under the Criminal Code of Canada
HACKLER, James C.
Police Records and the Ecology of Crime
HOOPER, Anthony, Osgoode Hall Law School, York University, Toronto
Background Study on the Law of Theft and Related Offences
HUNTER, Ian A., Department of Law, Carleton University, Ottawa
Background Study on Obscenity*
LEIGH, Leonard, Professor, London School of Economics & Political Science, University of London
Corporate Criminal Liability*
LEVY, J. C., Professor, College of Law, University of Saskatchewan
The Mental Element and Material Element of Homicide
MANITOBA LAW REFORM COMMISSION, Winnipeg
Contempt of Court — A joint study with the General Principles of Criminal Law Project
MOREL, André, Professor, Faculty of Law, University of Montréal
The Reception of English Criminal Law in Québec

* completed.

MORTON, J. D., Professor, Faculty of Law, University of Toronto
Studies in classification of offences:
- petty crimes
- procedure in petty crimes
- evidence in petty crimes
- serious crimes
- procedure in serious crimes

PICKARD, Toni (Mrs.), Associate Professor, Queen's University, Kingston
Extraterritorial Extent of the Criminal Law*

SAMEK, R. A.
Moral issues involved in criminal legislation

SCHMEISER, Douglas, Professor, College of Law, University of Saskatchewan
The Native Offender in Canada*

STARKMAN, B., Professor, Faculty of Law, University of Windsor
Preparation of background material on Law and the Control of Life*

TURNER, R. E., Associate Director, Clarke Institute of Psychiatry, Toronto
Critical analysis, from the point of view of the science of psychiatry, of General Principles of Criminal Law study papers

CRIMINAL PROCEDURE

ARBOUR, Louise
Preparation of a report on the analysis of data collected during an inquiry on discovery.*

ATRENS, Jerome, Professor, Faculty of Law, University of British Columbia
Structure and Jurisdiction of Courts for Trials and Appeals in relation to Minor Offences

BARTON, Peter, Professor, Faculty of Law, University of Western Ontario
Extraordinary Remedies in the Criminal Process and Alternatives*

BURNS, Peter T., Professor, Faculty of Law, University of British Columbia
Private Prosecutions*

CARTER, Robert J., Barrister & Solicitor, Toronto
The Nature of the Charge in a Criminal Case

GROSMAN, Brian, Professor, College of Law, University of Saskatchewan
Prosecutorial Discretion*

MACKAAY, Ejan, Professor, Assistant-director, DATUM/SEDOJ, Faculty of Law, University of Montréal
Pre-Trial Procedure in Criminal Cases (Phase I)*

SCHULMAN, Perry W., Barrister & Solicitor, Manitoba
The Jury*

TASK FORCE ON "THE JURY". Members: Mr. Justice Jacques Ducros, Superior Court of Québec, Dean Jacques Bellemare, Faculty of Law, University of Montréal, Mr. John Cassels, Crown Attorney, Ottawa, Mr. Jean-Guy Boilard, lawyer Montréal, Mr. Dan Chilcott, lawyer, Ottawa.*

SENTENCING AND DISPOSITION

BECKER, Calvin
Offender-Victim Follow-up Study*

FATTAH, E. A., Professor, School of Criminology, University of Montréal
Deterrence*

GOLD, Alan D.
The Dangerous Offender*

GREENLAND, Cyril
- Collection and tabulation of data on the "Dangerous Sexual Offender"*
- Data on hospital orders*

GROVES, Patricia
Community Service Orders*

HOGARTH, John, Professor, Osgoode Hall Law School, York University
Empirical research: East York Community Law Project*

LINDEN, Allen M., Professor, Faculty of Law, York University, Toronto
Compensation to Victims of Crimes*

ORTEGO, James, Professor, Dalhousie Law School, Halifax
Consecutive Sentences*

OUTERBRIDGE, W. R., Professor, University of Ottawa
Critical analysis of papers on Sentencing and Dispositions*

PARKER, Beverly
Research papers on Probation

PARKER, Graham, Professor, Osgoode Hall Law School, York University, Toronto
Law of probation*

PERKINS, C. E., Judge
Empirical research project on consecutive sentences and related subjects through the use of a questionnaire distributed to judges

PRICE, Ronald R.
The Dangerous Offender*

REYNOLDS, Graham
Preparation of material on juvenile delinquency*

SCACE, Anne
The Criminal Law as a Discretionary Instrument as part of the Community Law Reform Project (East York)*

SWABEY, T. R., Provincial Judge, Ottawa
The establishment, on an experimental basis, of a volunteer probation service in Ottawa*

TEEVAN, James L., Professor, Department of Sociology, University of Western Ontario, London, Ontario
Empirical study on subjective deterrence as perceived by young males in relation to theft and break and entry*

WEILER, Paul, Professor, Osgoode Hall Law School, York University
Philosophy of Punishment and Criminal Law Reform*

EVIDENCE

DOOB, Anthony, Professor, Department of Psychology, University of Toronto
Critical analysis, from the point of view of the science of psychology, of the Evidence Project study papers

* completed.

McDONALD, Bruce
Authentication and Identification*

SCHIFF, S. A., Professor, Faculty of Law, University of Toronto
Preparation of critical analysis from the point of view of the fundamentals of the laws of Evidence of all the Evidence Project study papers

FAMILY LAW

AMREN, Bergen
Report on the evaluation of the internal operation of the B.C. pilot project on Integrated Family Court

BARTKE, Richard
Preparation of background material on Community Property*

BELL, Norman, Professor, Department of Sociology, University of Toronto
Critical analysis of family law papers

BISSON, Alain, Professor, Faculty of Law, University of Ottawa
Nullity of Marriage under Common Law and Civil Law in Canada

CAPARROS, Ernest, Professor, Faculty of Law, Laval University
Matrimonial Property Regime in Québec*

DELEURY, Edith, Professor, Faculty of Law, Laval University and GARNEAU, Roger, lawyer, Québec City
Study on the protection of children in divorce and nullity proceedings relating to marriage contracted in Québec

GOSSE, Richard, Professor, Faculty of Law, University of British Columbia
The Protection of Children in Divorce and Nullity Proceedings*

HAHLO, Dr. Herman, Director, Institute of Comparative Law, McGill University
The Desirability of Fundamental Reform of the Divorce Law of Canada*

HOGARTH, Flora M.
Report on the relationship between the services of the integrated family court in B.C. and outside community agencies or groups

LEVINE, Saul V., Associate professor, Department of Psychology and Psychiatry, University of Toronto
Critical study of family law study and working papers

LONDON, Jack R., Professor, Faculty of Law, University of Manitoba
Taxation and the Family

LOWN, Peter, Professor, Faculty of Law, University of Alberta
Conflict of Laws Rules pertaining to Divorce*

MORRISON, Nancy, Judge
Preparation of critical analysis of the Family Law Project study and working papers

RAE-GRANT, Quentin, Professor of Child Psychiatry, Psychiatrist in chief, Hospital for Sick Children, Toronto
Critical study of family law study and working papers

SABIA, Maureen
Review of materials produced internally by the Family Law Project and preparation of paper on Conflict of Laws Rules*

SANDERS, Douglas, Director, Native Law Center, Carleton University
Family Law and Native People*

SAUNDERS, Ivan B., Professor, College of Law, University of Saskatchewan
The Maintenance of Family Dependants in Divorce and Nullity Proceedings

STEINBERG, David M., Provincial Judge, Family Division, Hamilton
Background paper on Family Court*

STEWART, Lorne, Judge
The Juvenile Offender and Family Court

ADMINISTRATIVE LAW

BELOBABA, Edward Paul, Researcher, Ottawa
Representation in Rule-making and Adjudication Phases*

CUTHBERTSON, D.A.
Profile of the federal administrative process*

DOERN, Bruce, School of Public Administration, Carleton University, Ottawa
Multi-disciplinary methodology for conducting studies of federal administrative and regulatory agencies, boards, commissions and tribunal, with particular emphasis on administrative pratice and procedure*

EXPROPRIATION

MORDEN, John, Barrister & Solicitor, Toronto
Expropriation Powers conferred by Federal Law and not presently within the ambit of the Expropriation Act*

OTHER RESEARCH

BAUM, Daniel J., Professor, Faculties of Law and Administrative Studies, Osgoode Hall Law School, York University, Toronto
Age and the Law*

COTLER, Irwin, Professor, Faculty of Law, McGill University, Montréal
The Attainment of Equality Before the Law

FRIEDLAND, M. L., Dean, Law Faculty, University of Toronto
Access to Justice – A feasibility study on the Library/Law Project

MACKAY, Patricia
Background material for a seminar on prenatal and early childhood nutrition to be held in Toronto and preparation of a report of the findings of the seminar for the Commission's research in the field of family and criminal laws*

MARLIN, Randal
Setting-up citizen discussion groups on law reform and preparing a report, including a model, on such citizen participation*

SMITH, J. C., Professor, Faculty of Law, University of British Columbia
A series of theoretical studies on the goal, structures of the law and other features of the decision procedure in the law

SZABO, Denis, Director, International Centre for Comparative Criminology, University of Montréal
Inventory and Analysis of Public Enquiries and Surveys on Judicial Matters*

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Report on the relationship between the services of the integrated family court in B.C. and outside community agencies or groups

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BELOBABA, Edward Paul, Researcher, Ottawa
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DOERN, Bruce, School of Public Administration, Carleton University, Ottawa
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MORDEN, John, Barrister & Solicitor, Toronto
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BAUM, Daniel J., Professor, Faculties of Law and Administrative Studies, Osgoode Hall Law School, York University, Toronto
Age and the Law*

COTLER, Irwin, Professor, Faculty of Law, McGill University, Montréal
The Attainment of Equality Before the Law

FRIEDLAND, M. L., Dean, Law Faculty, University of Toronto
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MACKAY, Patricia
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MARLIN, Randal
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SMITH, J. C., Professor, Faculty of Law, University of British Columbia
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SZABO, Denis, Director, International Centre for Comparative Criminology, University of Montréal
Inventory and Analysis of Public Enquiries and Surveys on Judicial Matters*

* completed.

PUBLICATIONS

(All publications are free of charge)

1. ANNUAL REPORT 1971-72: L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 26 pages both languages. August, 1972. Cat. no. J31-1972.

2. ANNUAL REPORT 1972-73: L.R.C. — Canada. "The Worst Form of Tyranny". (Bilingual, English & French) 8-1/2 X 11 in., 40 pages (English), 38 pages (French). August, 1973. Cat. no. J31-1973.

3. RESEARCH PROGRAM: L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 21 pages each language. March, 1972. Cat. no. J31-1/1.

4. CRIMINAL LAW — OBSCENITY: L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 134 pages (English), 169 pages (French). December, 1972. Cat. no. J31-273.

5. CRIMINAL LAW, GENERAL PRINCIPLES — FITNESS TO STAND TRIAL: L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 57 pages (English), 65 pages (French). May, 1973.

6. EVIDENCE — STUDY PAPERS:
   1. COMPETENCE AND COMPELLABILITY
   2. MANNER OF QUESTIONING WITNESSES
   3. CREDIBILITY
   4. CHARACTER

   L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 65 pages (English), 86 pages (French). August, 1972 (Second printing).

7. EVIDENCE — STUDY PAPER:
   5. COMPELLABILITY OF THE ACCUSED AND THE ADMISSIBILITY OF HIS STATEMENTS

   L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 42 pages (English), 48 pages (French). January, 1973.

8. EVIDENCE — STUDY PAPERS:
   6. JUDICIAL NOTICE
   7. OPINION AND EXPERT EVIDENCE
   8. BURDENS OF PROOF AND PRESUMPTIONS

   L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 67 pages (English), 71 pages (French). July, 1973

9. EVIDENCE — STUDY PAPER:
   9. HEARSAY

   L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 20 pages (English), 22 pages (French). May 1974. Cat. no. J32-5/1974.

10. EVIDENCE — STUDY PAPERS:
    10. THE EXCLUSION OF ILLEGALLY OBTAINED EVIDENCE

    L.R.C. — Canada. (Bilingual, English & French) 8-1/2 x 11 in. November 1974.

11. WORKING PAPER I — THE FAMILY COURT

    L.R.C. — Canada. (Bilingual, English & French) 6-1/2 X 9-3/4 in., 55 pages (English), 57 pages (French). January, 1974. Cat. no. J32-1/1 1974.

12. WORKING PAPER II — CRIMINAL LAW — MEANING OF GUILT — STRICT LIABILITY
L.R.C. — Canada. (Bilingual, English & French) 6-1/2 X 9-3/4 in., 38 pages (English), 44 pages (French). February, 1974. Cat. no. J32-1/2-1974.

13. WORKING PAPER III — PRINCIPLES OF SENTENCING AND DISPOSITIONS
L.R.C. — Canada. (Bilingual, English & French) 6-1/2 X 9-3/4 in., 35 pages (English), 38 pages (French). March, 1974. Cat. no. J32-1/3-1974.

14. WORKING PAPER IV — CRIMINAL PROCEDURE — DISCOVERY
L.R.C. — Canada (Bilingual, English & French) 6-1/2 X 9-3/4 in., 44 pages (English), 49 pages (French). June, 1974. Cat. no. J32-1/4-1974.

15. WORKING PAPER V & VI — RESTITUTION AND COMPENSATION — FINES
L.R.C. — Canada. (Bilingual, English & French) 6-1/2 x 9-3/4 in. October 1974.

16. CRIMINAL PROCEDURE — A PROPOSAL FOR COST IN CRIMINAL CASES:
L.R.C. — Canada. (Bilingual, English & French) 8-1/2 X 11 in., 28 pages (English), 29 pages (French). August, 1973.

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