crime justice and society

volume 1

fundamental principles of a new social action programme

ission of enquiry into the administration tice on criminal and penal matters in québec



crime justice and society

volume 1

fundamental principles of a new social action programme

Commission of enquiry into the administration of justice on criminal and penal matters in quebec

COMMISSION OF ENQUIRY INTO THE ADMINISTRATION OF JUSTICE ON CRIMINAL AND PENAL MATTERS IN QUEBEC

THE COMMISSION

President
Bâtonnier Yves Prévost, Q.C.

** Honorable Paul Martineau, P.C., Q.C.
Harry Gould,

* Guy Merrill Desaulniers, q.c. Laurent Laplante,

Secretary

Jean Sirois

LEGAL COUNSEL

Bâtonnier Jean MARTINEAU, Q.C.

- * Lucien THINEL, Q.C.
- * Jacques CODERRE, Q.C.

Jean Bruneau, Q.C.

F. Michel GAGNON

^{**} resigned to run as candidate in the federal election of June 25, 1968.

^{*} appointed a judge during the enquiry.

TABLE OF CONTENTS

	Paragraph	Page
INTRODUCTION	1-8	15-20
Absence of a global concept	1-2	15
1 — Disparities of intention	3	16
2 — Antagonisms	4	17
3 — Instinctive decisions	5-8	17
I — THE CONSEQUENCES	9-26	23-34
A — Immediately noticeable	10-12	23
1 — Arbitrary nature of some police		
decisions	13-14	25
· 2 — Priority to the punitive aspects		
of the law	15	27
3 — Divergence between the law and		
society	16	27
4 — The risks of corruption and		
emotionalism	17-18	29
B — More profound	19-26	30
1 — Confusion of functions	20-21	30
2 — Distortion of the law: disappearing	22-23	31
protections 3 — Neglect of fundamental rights	24-25 24-26	32
<u> </u>		
II — THE FUNDAMENTAL OBJECTIVES	27-49	37-50
A — Equal justice for all	28-34	37
1 — Fines	29	38
2 — Detention due to poverty	30-32	38
3 — Poverty and legal assistance	33	40
4 — The concept of legal security	34	40
B—A modern law	35-41	41
1 — Inapplicable laws	38	42
2 — Legislation and morals	39	42
3 — Respect of the citizen	40-41 42-49	43
C Respect of the individual		45
1 — The ineffectiveness of sentences	43-45	45
2 — The consequences of imprisonment3 — Right to liberty before the verdict or	46	47
the establishing of guilt	47-48	48
4 — Right to adequate treatment	49	49
III — THE STRATEGY OF REFORM	50-66	53-63
A — The federative system	51-54	53

	Paragraph	Page
B—The changes	55-61	56
1 — The professionals	56-60	57
2 — Public opinion	61	60
C — The priorities of reform	62-66	60
1 — Respect of liberty	63	61
2 — Priority to treatment	64	62
3 — Definition of roles	65-66	62
IV — THE PLAN OF REFORM	67-107	67-90
A — The respect of rights	68-72	67
1 — The rights of citizens	69	68
2 — The rights of the accused	70	69
detention	71	69
4 — The rights of prisoners	72	69
B — The new social action programme	73-86	70
1 — Summons and warrant of arrest	74	70
2 — Elimination of bail	75	71
3 — Liberty on personal recognizance	76	72
· 4 — Development of probationary measures	77	72
5 — Flexibility of fines	78	73
6 — Advantages of separating verdict and		
sentence	79-82	73
7 — Imprisonment as exceptional measure	83	76
8 — Part-time detention	84	77
9 — Transitional measures	85-86	77
C — The fight against crime	87-99	79
1 — Interpretation of the law	89	80
2 — Police coordination	90-95	80
3 — Mass demonstrations	96-99	83
D — The role of lawyers	100	85
E — The role of the magistrature	101-104	86
1 — Protection of individual rights	102	86
2 — Training and nomination	103	87
3 — Integration of the judicial system	104	88
F — Participation of the public	105-107	88
1 — Probation	106	88
2 — Magistrates	107	89
CONCLUSION	108	93