LAW COMMISSION OF CANADA

2002
Law Commission of Canada

ANNUAL REPORT

BEYOND CONJUGALITY
P. 2

WHAT ARE COMMUNITIES?
P. 4

WHAT IS A CRIME?
P. 10

Canada

© Her Majesty the Queen in Right of Canada, 2002
ISBN: 0-662-66529-5
Catalogue Number: JL1-1/2002

Law Commission of Canada
Web site: www.lcc.gc.ca

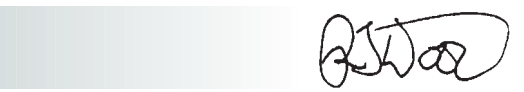
MISSION

The mission of the Law Commission of Canada is to engage Canadians in the renewal of the law to ensure that it is relevant, responsive, effective, equally accessible to all, and just.

Nathalie Des Rosiers
President
Ottawa, Ontario

Gwen M. Boniface
Commissioner
Orillia, Ontario

Alan G. Buchanan
Commissioner
Belfast, Prince Edward Island



Roderick J. Wood
Commissioner
Edmonton, Alberta

Bernard Colas
Commissioner
Montreal, Quebec

Table of Contents

Personal Relationships 2
Beyond Conjugality 2

Social Relationships 4
What are Communities? 4
Restorative Justice 5
In Search of Security: The Roles of Public Police and Private Agencies 5

Economic Relationships 6
Marginalized Work 6
Leveraging Knowledge Assets 6

Governance Relationships 8
Fiduciary Relationships 8
Reform of Democratic Institutions 9

What is a Crime? 10

Consultations, Meetings, Speeches and Conferences 12

Research Reports Completed this Year 14

Staff and Advisory Council 16

Management Report 17

> "It is time to have a more principled approach toward whether and in which way relationships should be considered by the State so that it stays out of the bedrooms of the nation."

Nathalie Des Rosiers, message introducing *Beyond Conjugality* report

Questioning the Law

Message from the President

To question a wise man, says a German proverb, is the beginning of wisdom. Hence, any type of reform requires rigorous questioning of the state of things, and in-depth reflection on the *why* and *how*.

In this spirit, the Law Commission of Canada presents its annual report for the year 2001–2002, with the theme of reflection and questioning. To question the law means questioning the fundamental concepts that structure our law to determine whether they continue to effectively reflect the realities of life.

The Commission's research plan is structured around four broad themes: personal relationships, social relationships, economic relationships and governance relationships. These themes intentionally extend beyond the traditional understanding of the categories of the law (e.g. family law, criminal law and labour law) toward an examination that is without taboos or private preserves. It is a question of reflecting in an unbiased way on the effects of the law and of questioning the *why* of concepts in the law that, in many instances, appear sacrosanct.

Indeed, the structural notions of the law often have exclusionary effects. They frequently mask the reality of less affluent citizens. The question therefore is *for whom* does the law work? Furthermore, we must challenge the relevance and efficacy of categorizations the law considers fundamental. In many cases, the concepts used by the law no longer correspond to the way society is organized and the way people view their responsibilities and relationships. This variance between the law and society undermines the confidence of citizens and contributes to the inefficiency of the law. Reform is aimed at eliminating the gap between the life of citizens and their law. Accordingly, the Commission has focused primarily on three broad issues: Why are personal relationships between citizens always organized around the notion of conjugality? How is the community conceptualized within the framework of our social relationships? And finally, "What is a crime?"

These major questions must be asked in the context of citizen engagement: it is they who reflect on and redefine the fundamental concepts of the law through their actions, words and gestures. The Commission continues to aim for a consultative, partnership-based and multidisciplinary methodology for questioning the law.

NATHALIE DES ROSIERS
President

Personal Relationships

Beyond Conjugality

Canadian legislation and legal thinking use the notion of marriage to designate personal relationships between adults that suggest economic or emotional interdependence. Over the years, in many laws, marriage has often been replaced by notions of "conjugality" directed at common-law spouses, irrespective of their sexual orientation.

What are the consequences of the predominance of conjugality as the organizing concept of our law? Is it advisable to continue limiting recognition of personal relationships between adults to conjugal relationships, structuring it on this basis, and ignoring other affective personal relationships? The Law Commission of Canada report entitled *Beyond Conjugality* examines the legal framework that characterizes our law to this day.

The two-part report is the result of several years of research and consultations on these questions. The first part of the report proposes a methodological framework (see box, below) that should

Norman:
No, my mother's there.

Carla:
Oooooowwwhhhh! You are definitely a sensitive guy, my dear Norman. It's so sweet of you to put your mother up. How long will she be staying for?

Norman:
Forever.

Excerpt from the play "Through the Key Hole"

Framework for the Future

The suggested methodology recommends:

- reflecting about the proposed objectives. Are they legitimate?
- questioning the relevance of personal relationships in achieving these objectives. For example, in the *Employment Insurance Act* or the *Bankruptcy and Insolvency Act*, is it necessary to refer to personal relationships to achieve their objectives?

If personal relationships are relevant, our methodology suggests that governments assess whether or not citizens themselves could choose to designate the persons who are dear to them, and who should benefit from government support.

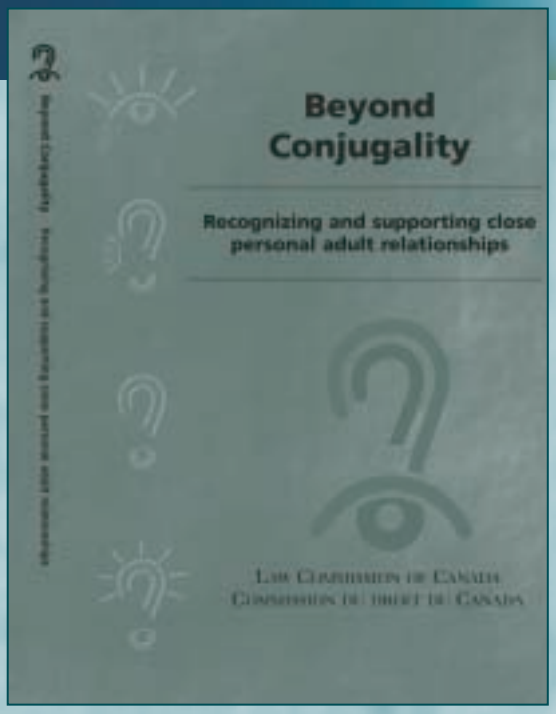
If governments must consider psychological or economic interdependence relationships, they ought to do so by using functional rather than matrimonial "status" criteria.

not only help governments reflect on current policies and programs, but also guide future efforts. The report applies this methodology to various fields, including tax laws, the *Canada Evidence Act*, the *Canada Labour Code* and the Canada Pension Plan.

The second part of the report deals with the legal framework of personal relationships. Marriage is virtually the sole existing mechanism that provides a framework for personal relationships.

*The Law Commission of Canada presented the play **Through the Key Hole** in Halifax, Gatineau, Montreal, Winnipeg and Vancouver in the winter of 2002. The play presents the lives of individuals who are living in a variety of close personal adult relationships and explores the best ways to recognize and support the choices that Canadians make.*

This mechanism is no longer sufficient. The Commission therefore recommends that systems be established to register personal relationships so that citizens who do not wish to marry may benefit from an accessible, trouble-free legal framework. These systems could provide agreement models that are suited to a range of relationships. The Commission also recommends that heterosexual limits imposed on the legal notion of marriage be re-examined.



Social Relationships

What are Communities?

Social relationships are increasingly woven at the community level. More and more, governments are calling on local communities to find possible solutions to various problems. Communities, therefore, are no longer merely groups in which government policies and programs are implemented. Governments and communities are thus working in partnership to carry out numerous initiatives.

While the artisans of government policy seek to entrust additional responsibility to communities in matters of governance, traditional notions of what constitutes a community are called into question. Canadian society is becoming increasingly compartmentalized in terms of age, race, gender, nationality, culture, sexual orientation, interests and religion. The fragmentation of communities is intensifying as their social relationships become more strained. Paradoxically, whereas the concept of community seems to be a magnet for the development of policy by decision makers, the sociological reality of the community is becoming increasingly ambiguous.

In 2001–2002, the Commission carried out a number of research projects on the subject of communities (see page 14 for details).

> "Communities want a say in what goes on, in the solutions to the systemic issues that crime often represent."

Restorative Justice: Its Promise, Its Challenges, and Its Place in a Democratic Society, speech by Nathalie Des Rosiers at the 2001 Conference on Restorative Justice

Restorative Justice

Restorative justice is a process of transformation during which the parties move backward to the situation that existed before the conflict. The process is also designed to modify the power relationship between the parties (i.e. to transform the relationship and render it more egalitarian).

This exercise of transformation must take place at the community level. Individuals cannot transform their relationships unless they put them back into the context of their lives as members of the community. The Commission has produced a video entitled *Communities and the Challenge of Conflict: Perspectives on Restorative Justice* to facilitate its consultations throughout Canada.

In Search of Security: The Roles of Public Police and Private Agencies

Even before September 11, Canadians were concerned about security. In certain segments of society, security and safety are bought like commodities. We buy intruder detection alarm systems and install bars on our windows. We hire security guards to patrol our communities. We install surveillance cameras in public spaces. We do these things as individuals, as communities, or as businesses to minimize the risk.

The Law Commission of Canada's discussion paper *In Search of Security: The Roles of Public Police and Private Agencies* examines the changes occurring in the provision of security to Canadians. It reviews security arrangements in Canada and the growth of networks of policing involving both public and private actors.

The Commission produced this video to allow Canadians across the country to learn about the subject of restorative justice and participate in consultations. The 34-minute video, which was released with a study guide, explores the possibility of using restorative justice to help build stronger and more vibrant communities. The individuals appearing in the video present different views on restorative justice.

Economic Relationships

Marginalized Work

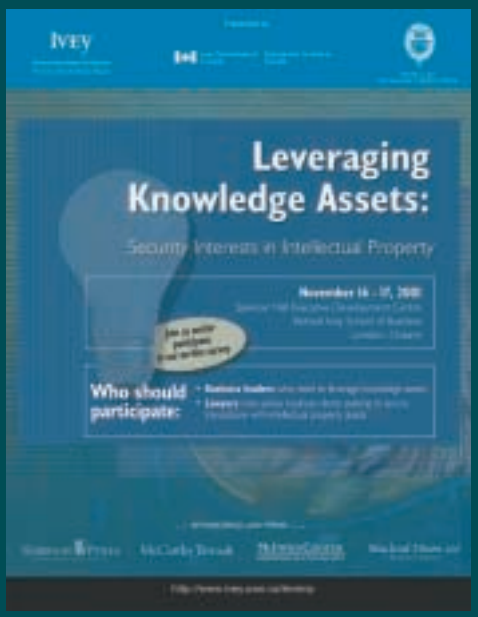
The law plays an important role in determining the type of work that will be recognized, valued and rewarded, or, conversely, belittled, ignored and forbidden. Does the law recognize a sufficiently broad range of types of work? On what basis does the law recognize and reward certain kinds of work or certain categories of workers, and not others? What are the legal and economic consequences of an absence of recognition?

The concept of marginalized work is used in its broad sense to describe certain irregular, transient, part-time and atypical jobs. Various types of work, such as moonlighting, fast-food industry services, homemaker services and some kinds of agricultural work and prostitution must be analysed separately to determine the role of the law in the pursuit of economic security.

In 2001–2002, the Commission carried out a number of research projects on the subject of marginalized work.

Leveraging Knowledge Assets

The nature of wealth has changed. While wealth was previously based on land and real estate rights, and then on market values, it is now at the mercy of knowledge. Has the infrastructure of commercial law evolved along with these changes?



The Law Commission of Canada presented, with the Richard Ivey School of Business and Faculty of Law at the University of Western Ontario, a conference on security interests in intellectual property. Leveraging Knowledge Assets, *which was held in London in November 2001, was attended by business leaders looking to increase investment in their firms based on knowledge assets and the lawyers who advise them on intellectual property matters.*

Many people consider that businesses with assets primarily in intellectual property have difficulty gaining access to investment. Is it possible to facilitate access to investment? This type of problem can arise from the uncertainty inherent in registering federal security interests on assets of this kind. It can also stem from the culture of traditional lenders as well as assessment problems. Are there some practical improvements that could facilitate access to investment for knowledge-based businesses? To what extent does the international character of the new economy prevent or accelerate the need for law reform in this field?

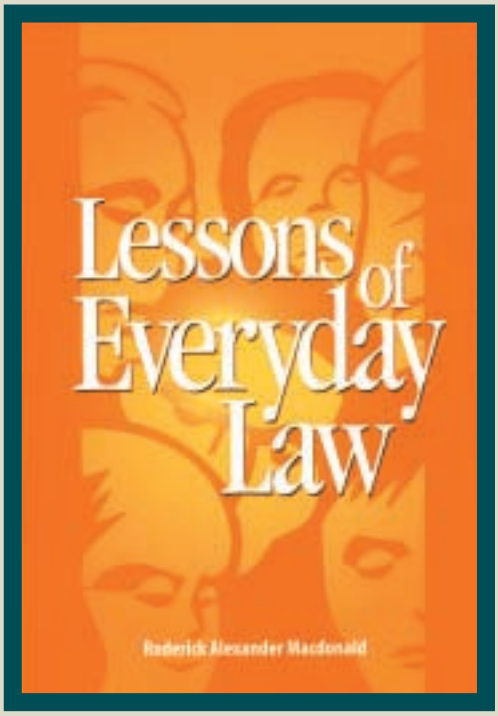
The Commission is looking at these issues in a project under the Commercial Law Strategy of the Uniform Law Conference of Canada (http://www.ulcc.ca/en/home).

Lessons of Everyday Law

The Law Commission of Canada is pleased to announce the publication of *Lessons of Everyday Law* by Roderick A. Macdonald.

Lessons of Everyday Law includes some 20 stories about the law. Professor Macdonald, the first president of the Law Commission of Canada, uses these short stories drawn from everyday life to illustrate the great dilemmas of law reform: Should we have more rules? Who should settle disputes and how? What are the functions of the law in our society?

Lessons of Everyday Law is published in partnership with McGill-Queen's University Press on behalf of the Law Commission of Canada and the School of Policy Studies at Queen's University.



Governance Relationships

Fiduciary Relationships

The relationship between the First Nations and the Crown represents more than 500 years of complex relations and tension. The Supreme Court of Canada has described this type of relationship as "fiduciary."

However, the use of the label "fiduciary" has not clarified the mutual obligations it implies, nor has it resulted in greater feelings of trust, optimism and satisfaction regarding this relationship for many First Nations communities.

A joint conference of the Association of Iroquois and Allied Indians and the Commission aimed to clarify the nature of this complex relationship, verify the relevance of its premises and propose a framework for the future. Several concentric lines of research provided direction for reflection: perspectives on the fiduciary report, the experience of this report and its future.

> "The capacity of citizens to participate meaningfully in the democratic process poses challenges for the design of public institutions. Increasingly, Canadians are disengaging from these institutions, and, in the process, becoming more sceptical about the government's capacity to respond to legitimate expectations."

Bijuralism

"Bijuralism invites creativity. In studying two legal traditions, one cannot help but be intrigued by the similarities and the differences between the systems. ... [Bijuralism] allows for [one] system to reveal itself as it is contrasted to the other. ... It is possible to imagine difference, difference in thinking, difference in solutions, difference in concepts. ... Bijuralism leads to transcending legal categories and a reflection on general principles.

In the end, this ability to think beyond the legal box is what all law schools seek to instil in their students: to know the limits of the box, what is in it, how it works, but also to reflect on what could be in it, how the box could be enlarged or its shape modified. Thinking outside of the box is helped by looking into different boxes..."

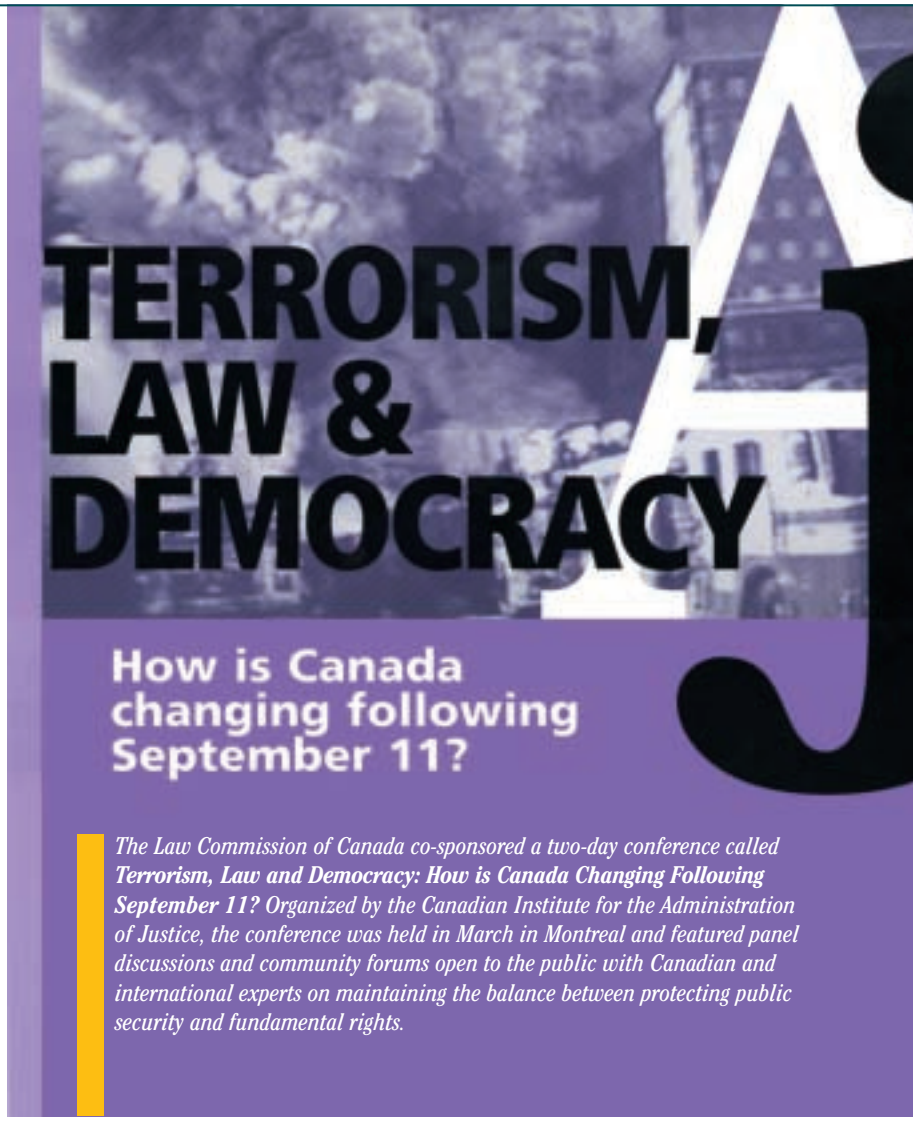
Nathalie Des Rosiers, *Reflections on Bijuralism and Law Reform*, speech at a seminar on bijuralism and the teaching of law at the Law Center, Lousiana State University, November 2, 2001.

Reform of Democratic Institutions

Canadians have less confidence than in the past in the capacity of the democratic process to meet their legitimate expectations, and they hesitate to become involved. Among other things, does the electoral process as experienced by Canadians meet their needs? Does it facilitate or hinder participation in public life? What do citizens expect of a voting system?

The Law Commission of Canada proposes to foster public dialogue on alternatives to the current voting system. It will offer citizens the opportunity to voice their opinions on the values that should serve as a vehicle for Canada's voting system and democratic institutions.

Interested Canadians can take part in the Commission's electoral reform project through the Commission's Web site (http://www.lcc.gc.ca/en/themes/gr/er/er_main.asp).

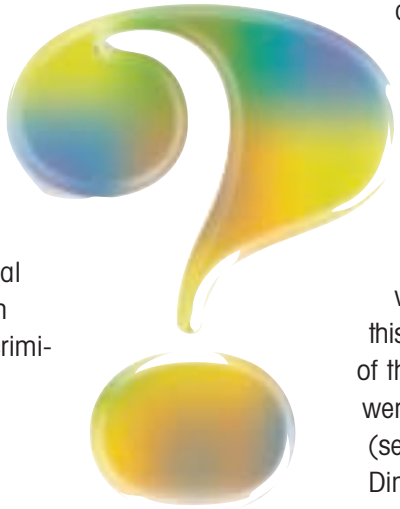


*The Law Commission of Canada co-sponsored a two-day conference called **Terrorism, Law and Democracy: How is Canada Changing Following September 11?** Organized by the Canadian Institute for the Administration of Justice, the conference was held in March in Montreal and featured panel discussions and community forums open to the public with Canadian and international experts on maintaining the balance between protecting public security and fundamental rights.*

What is a Crime?

Why do we view certain acts as criminal and not others? What are the legal, social and cultural factors that influence decisions about whether or not to criminalize undesirable behaviour? Why do certain actions appear to be a question of legality, health, education or lifestyle?

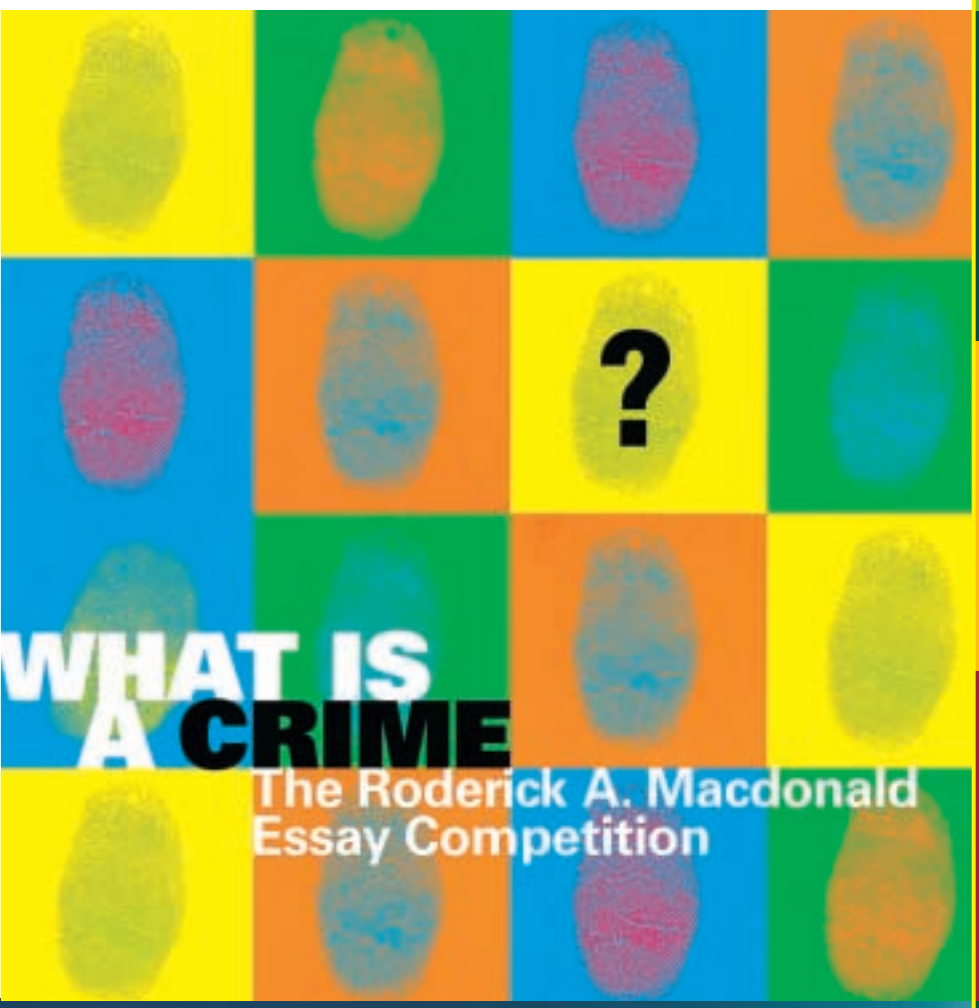
The objective of the project entitled "What is a Crime?" is to develop a conceptual framework to understand the processes surrounding and underlying our reaction to undesirable behaviour, including the consequences of choosing certain behaviours and control mechanisms (i.e. the official legal process, regulatory codes, health and education programs and decriminalization).



Criminal law is only one way to regulate behaviour. Labelling an act as a crime produces certain possibilities for reacting to this behaviour, while ruling out others. As a society, we have a range of options for dealing with undesirable behaviour that is not subject to any official sanction or regulatory process. For example, in our daily lives, we develop our own informal control strategies; we tolerate certain types of behaviour and avoid others that displease us. Occasionally, we confront those who irritate us, whereas at other times, we simply choose to do nothing.

The question "What is a crime?" cannot be examined without questioning what has and has not been designated as "criminal." The qualifier "criminal" is frequently applied to the faults and offences committed by young people, minorities and the less fortunate, whereas the more powerful in our society are immune from this epithet.

As part of the "What is a Crime?" project, legal scholars were asked to write a paper on this important question. The winners of the contest for legal scholars were announced in March 2001 (see Winners of the 2002 "Legal Dimensions" Contest).



In 2001, the Law Commission of Canada launched the Roderick A. Macdonald Essay Contest for high school students on the theme of "What is a Crime?" The winners of this contest will be announced in the fall of 2002.

Winners of the 2002 "Legal Dimensions" Contest

Jean-Paul Brodeur: *Is there a hard core to crime?*

Wendy Chan: *Undocumented Migrants and Bill C-11: The criminalization of race*

Richard V. Ericson and **Aaron Doyle**: *What is Fraud?*

Steven Penney: *Crime, Copyright, and the Digital Age*

Pierre Rainville: *From Prankster to Offender: Reflections on the Concept of "Crime"*

Laureen Snider: *Zero Tolerance Reversed: Constituting the Non-Culpable Subject in Walkerton*

Consultations, Meetings, Speeches and Conferences

St. John's (May 2001)

- Federal-Provincial Meeting
- Memorial University
- Law Society of Newfoundland
- Department of Justice

Halifax

- Legal Information Society of Nova Scotia, "Engaging Canadians in Law Reform" (April 2001)
- Speech: Biennial Convention of the Canadian Criminal Justice Association, "A Just Law for All: Equality and Law Reform" (June 2001)

Moncton

- *Facultés de droit et des sciences sociales, Université de Moncton* (February 2002)

Quebec City

- Humanities and Social Sciences Federation of Canada, *Congrès sur le forum juridique and* "Legal Dimensions" (May 2001)
- *Association des professeurs et professeures de droit du Québec* (April 2001)

Montreal

- National Judicial Institute Symposium on Courts of Appeal (April 2001)
- International Association of Young Lawyers Congress (August 2001)

Iqaluit (February 2002)

- Department of Justice
- Akitsiraq Law School

Ottawa

- Meeting: Criminalization and Panhandling (April 2001)
- National Law Day: Walk With Seniors, St. Laurent Shopping Centre (April 2001)
- Round Table: Social Relationships in Transition (May 2001)
- Speech: 2001 Conference of the *Association des juristes d'expression française de l'Ontario, "Devons-nous prendre en considération le concept de la conjugalité dans l'élaboration de politiques sociales?"* (June 2001)
- Speech: Restorative Justice Week, "The Promise of Restorative Justice" (November 2001)
- Seminar: Dr. Julie Macfarlane, "Culture Change? Commercial Litigators and the Ontario Mandatory Mediation Program" (November 2001)
- National Policy Research Conference: Speech to Commission Research Program (December 2001)

Kingston

- International Family Law Conference (June 2001)

Toronto

- Restorative Justice Symposium (May 2001)
- Dispute Resolution Conference (October 2001)
- Uniform Law Conference of Canada, Commissioner Roderick Wood (August 2001)
- Federation of Law Reform Agencies of Canada (August 2001)

Niagara Falls

- Meeting and Consultations Conference: Federation of Law Reform Agencies of Canada (May 2001)

London

- Fiduciary Relationships Forum (June 2001)
- Leveraging Knowledge Assets Conference (November 2001)

Winnipeg (September 2001)

- Speech: Conference on Restorative Justice, "Restorative Justice: Its Promise, Its Challenges, and Its Place in a Democratic Society"
- Meetings: Minister of Justice, University of Manitoba Faculty of Law, National Caucus and program directors of the Mennonite Central Committee, Executive Director of the Law Society of Manitoba, University of Manitoba Faculty of Social Science, *Association des juristes d'expression française du Manitoba*, Manitoba Association of Friendship Centres, and *Winnipeg Free Press* editorial committee

Calgary (October 2001)

- Workshop: "Democratic Reform: Next Steps" sponsored by the Canada West Foundation and the Institute for Research on Public Policy in cooperation with the Kahanoff Foundation
- Meetings: Members of the Administrative Justice Committee of the Canadian Bar Association (Calgary Section), faculties of Law and Arts of the University of Calgary, *Calgary Herald* and *Calgary Sun* editorial committees

Vancouver (October 2001)

- Inaugural address: Conference of the Indigenous Bar Association
- Presentation to the Faculty of Arts of the University of British Columbia
- Meetings: President and staff of the Canadian Bar Association (British Columbia Branch), the *Vancouver Sun* Editorial Committee and the Attorney General

Research Reports Completed this Year

Policing

- *Policing Fantasy City*, L. J. Huey, Richard V. Ericson and Kevin Haggerty
- *Policing Communities and Communities of Policing: A Comparative Case Study of Policing in Two Urban Communities*, Chris Murphy and Curtis Clarke
- *Policing in Canada in the Twenty-First Century: Directions for Law Reform*, Joe Hermer, Clifford Shearing, Philip Stenning, Michael Kempa, Jennifer Wood, Julia Gallo, Dawn Moore and Michael Mopas
- *Beyond Public-Private: A New Typology of Community Security*, George S. Rigakos
- *Policing for the Public Good: A Commentary*, Susan Eng

Communities

- *Law and Community: A Conceptual Analysis to Guide Research*, Audrey Armour and Rod Northey
- *The Language of Community in Canada*, Hannah Evans and Eric Advokaat
- *The Persistence and Transformation of Community: From Neighbourhood Groups to Social Networks*, Barry Wellman
- *The Concept of Community in the Social Sciences and its Juridical Relevance*, Isabelle Schulte-Tenckhoff

(At present, some of the reports are available only in the source language.)

Relationships in Transition 2000: Applying Restorative Justice in Areas Other Than Criminal Law

- *Exploring Transformative Justice in the Employment of Nurses: Toward Reconstructing Race Relations and the Dispute Process*, Rebecca Hagey, Lillie Lum, Robert MacKay, Jane Turrittin and Evelyn Brody
- *La* Loi canadienne sur l'équité en emploi *et la transformation des rapports sociaux : le cas des minorités visibles*, Lucie Lamarche and Francine Tougas
- *Culture Change? Commercial Litigators and the Ontario Mandatory Mediation Program*, Dr. Julie Macfarlane
- *Restorative Justice, Social Relationships and the Adjudication of Conflicts Arising From Complaints of Professional Misconduct and Harassment at Canadian Universities*, Augustine Brannigan, Erin Gibbs Van Brunschot and John A. Baker

Legal Dimensions 2001: New Perspectives on the Distinction Between Public and Private

- *Invasions of Publicity: Digital Networks and the Privatization of the Public Sphere*, Darin Barney
- *Private Needs and Public Space: Politics, Poverty and Anti-panhandling By-laws in Canadian Cities*, Nicholas Blomley and Damian Collins
- *Inequality and the Divisions Between Public and Private*, Nathan Brett
- *Emergence of 'Identity Associations' in Collective Labour Relations*, Christian Brunelle
- *There's Only One Worker: Toward the Legal Integration of Paid Employment and Unpaid Caregiving*, Lisa Philipps
- *Green Revolution Greenwash? Voluntary Environmental Standards, Public Law and Private Authority in Canada*, Stepan Wood

Community Participation in the Justice System

- *Aboriginal Restorative Justice Alternatives: Two Case Studies*, Joan Ryan and Brian Calliou
- *The Implications of Restorative Justice for Aboriginal Women and Children Survivors of Violence: A Comparative Overview of Five Communities in British Columbia*, Wendy Stewart, Audrey Huntley and Fay Blaney
- *Community Participation in Criminal Jury Trials and Restorative Justice Programs*, Gerry Ferguson

Beyond Conjugality

- *Spousal Testimony in Criminal Cases in Canada,* Allan Manson
- *Le contrat en contexte d'intimité*, A. Roy
- *Le traitement juridique des unions de fait en droit québécois*, B. Lefebvre
- *Adult Relationships Involving Disabled Persons in Canadian Statutory Law: Language and Meaning*, C. Frazee
- *Ascription of Spousal Status: Identifying Legislative Objectives in Ascribing Spousal Status to Cohabitants*, Winifred H. Holland

- *Compensation for Relational Harm*, S. Van Praagh
- *Determining Entitlement to Income Security*, G. Brodsky and S. Day
- *Reconsidering the Relevance of Relationships in Income Security Programs with Reference to Federal Income Support Programs*, Monica Townson
- *Registered Partnerships: A Model for Relationship Recognition*, Nicole LaViolette
- *The Impact of Legislation on First Nations Women*, C. Dieter

Restoring Dignity

- *Child Abuse in Community Institutions and Organizations: Improving Public and Professional Understanding*, Peter Jaffe and David Wolfe

Age as a Marker?

- *Unemplomentent Protection for Older Workers: A Case Study of Systemic Bias in a Statutory Regime*, Gaile McGregor
- *Using "Age" as a Fitness-to-Drive Criterion for Older Adults*, Holly Tuokko and Fiona Hunter

Fiduciary Relationships

- *Probing the Parameters of the Crown-Indian Fiduciary Relationship*, Mark Stevenson
- *Conceptualising the Crown-Native Fiduciary Relations*, Len Rotman
- *With Friends Like This ... A Double Perspective on Fiduciary Relationships*, Andrée Lajoie
- *Perspectives on Fiduciary Relationships: Comments*, Sakej Henderson and Gurston Dacks
- *The Fiduciary Relationship in New Zealand between the Maori Peoples and the Government of New Zealand*, Donna Hall
- *The Experience of Fiduciary Relationships: The First Nations and the Crown*, Patricia Monture-Angus
- *Fiduciary Obligation, Traditional Lands and Native Title in Australia: Comments*, Richard Bartlett
- *The Experience of Fiduciary Relationships, Comments*, Charles Pryce and Yan Lazor
- *The Future of International Indigenous Trust and Fiduciary Law: A Comparative Analysis of that Law in the United States, Canada*, Australia and New Zealand, Raymond Cross
- *Lacking Good Faith – Australia, Fiduciary Duties and the Lonely Place of Indigenous Rights*, Larissa Behrendt
- *Considering the Future of the Crown-Aboriginal Fiduciary Relationship*, Gordon Christie
- *The Future of Fiduciary Relationships, Comments*, Roberta Jamieson and Mr. Justice Harry LaForme

Leveraging Knowledge Assets

- *Security Interests in Intellectual Property: an International Comparative Approach*, Howard Knopf
- *The Quebec Civil Code Approach*, Louis Payette (note: this replaces unfinished work by David Lametti)
- *Commercial Law Perspective, Including Issues re: Licensing, Bankruptcy and Insolvency*, Gabor Takach and Wendy Adams (updated version of previous publication)
- *The Intellectual Property Perspective: Key Case Law and Issues From an Intellectual Property Practice Perspective*, Colleen Spring Zimmerman
- *Evolving Conceptions of "Property" and How it Can be Used as Collateral*, Jacqueline Lipton
- *The Societal Costs of Uncertainty*, Don McFetridge
- *Valuation Issues*, Gordon V. Smith
- *Business Practices Involving Secured Transactions*, David Rutenberg
- *Framework, Practices and Trends in the EU*, Alison Firth
- *Current Framework, Practice and Developments in Australia*, John Swinson
- *Current Framework, Practice and Developments in the U.K., Including Scotland*, David Townend
- *The USTPO Study*, W. Murphy and T. Ward
- *Security Interests in Intellectual Property: Rationalizing the Registries*, Roderick Wood
- *The Unique Canadian Framework*, Roderick MacDonald
- *Federal/Provincial and Governance Issues*, Roderick Wood

Staff and Advisory Council

Commission Staff

Bruno Bonneville, Executive Director
Lucie Gagné, Director of Communications
Lise Traversy, Communications Officer
Annie Di Palma, Communications Officer
Susan Zimmerman, Director of Research (April–August 2001)
Susan Alter, Research Officer (April–June 2001)
Dennis Cooley, Research Officer
Lorraine Pelot, Research Officer (September 2001)
Steven Bittle, Research Officer (October 2001)
Karen Jensen, Research Officer (February 2002)
Wade Deisman, Consultant
Jocelyne Geoffroy, Administration and Financial Services Officer (December 2001)
Suzanne Schryer-Belair, Administration and Financial Services Officer (April–November 2001)
Patricia Steele, Executive Secretary
Maryse St-Pierre, Administrative Assistant
Germaine Mallette, Executive Assistant
Gérald Brazeau, Records Management Clerk
Andrée Schingh, Librarian

Students

Meaghan Cunningham
Christine Duval
Cameron Gleadow
Kelly Ann Mahoney
Melanie Mallet
Peter McGrath
Tina Piper
Robert Poirier
Dawna Tong

Advisory Council Members

Jacques Auger, Sherbrooke, Quebec
Darin Barney, Ottawa, Ontario
June Callwood, Toronto, Ontario
Bradley Crawford, Toronto, Ontario
Ervan Cronk, Moncton, New Brunswick (January 2002)
Janet Dench, Montreal, Quebec
Margaret Denike, North Bay, Ontario
Irène d'Entremont, Yarmouth, Nova Scotia
Wilma Derksen, Winnipeg, Manitoba
Emerson Douyon, Ville Mont-Royal, Quebec
Leena Evic-Twerdin, Iqaluit, Nunavut
Dave Farthing, Ottawa, Ontario
Gerry Ferguson, Victoria, British Columbia
Richard Fuchs, Ottawa, Ontario (April 2001–January 2002)
Jean-Pierre Gariépy, Chomedey, Quebec
Mavis Henry, Sidney, British Columbia
Andrée Lajoie, Montreal, Quebec
Hans Mohr, Gananoque, Ontario
Michael Morrison, Charlottetown, Prince Edward Island
Katherine Peterson, Yellowknife, Northwest Territories
Alan Reynolds, Edmonton, Alberta
Morris Rosenberg, Ottawa, Ontario
Gillian Trumper, Port Alberni, British Columbia (April 2001–January 2002)
Mary-Ellen Turpel-Lafond, Saskatoon, Saskatchewan

Management Report

Statement of Management Responsibility

Responsibility for the integrity and objectivity of the accompanying financial statements for the year ended March 31, 2002 and all information contained in this report rests with management.

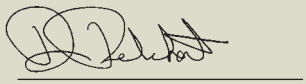
These statements have been prepared in accordance with Treasury Board Accounting Standards based upon generally accepted accounting principles, using management's best estimates and judgements where appropriate. Readers of these statements are cautioned that the financial statements are not necessarily complete; certain assets, liabilities and expenses are only recorded at a government-wide level at this time. These statements should be read within the context of the significant accounting policies set out in the Notes.

Management has developed and maintains books, records, internal controls and management practices, designed to provide reasonable assurance that the Government's assets are safeguarded and controlled, that resources are managed economically and efficiently in the attainment of corporate objectives, and that transactions are in accordance with the *Financial Administration Act* and regulations as well as the Commission policies and statutory requirements.

The transactions and financial statements of the Commission have not been audited.

Bruno Bonneville
Executive Director

May 31, 2002



Denis Pelchat
Senior Full-time Financial Officer

May 31, 2002

Statement of Financial Position

As at March 31	2002	2001
(in dollars)		
Assets		
Current Assets		
Cash	**0**	47
Receivables	**48,887**	3,866
Advances	**1,000**	1,000
	49,887	**4,913**
Liabilities		
Current Liabilities		
Accounts payable and accrued liabilities	**349,804**	93,235
Provision for vacation pay and accumulated overtime	**89,200**	59,010
	439,004	**152,245**
Net Assets		
Net assets, beginning of year	**(147,332)**	(147,332)
Net results	**(3,178,542)**	
Net cash provided by government	**2,936,757**	
Total Net Assets	**(389,117)**	**(147,332)**

Statement of Operations

For the year ended March 31	2002	2001
(in dollars)		
Revenues		
Miscellaneous revenues	**8,336**	4,861
Total revenues	**8,336**	**4,861**
Expenses		
Salaries and wages	1,008,846	982,911
Professional and special services	1,406,537	1,195,573
Information	342,677	435,700
Travel and relocation	246,590	280,863
Communication	74,973	56,665
Equipment rentals	44,533	43,214
Vacation pay and accumulated overtime	39,789	n/a
Repairs	27,486	27,607
Utilities, material and supplies	17,765	48,277
Equipment	11,332	39,209
Miscellaneous	(33,650)	(23,828)
Total Expenses	**3,186,878**	**3,086,191**
Net Cost of Operations	**(3,178,542)**	**(3,081,330)**

Statement of Cash Flow

For the year ended March 31	2002	2001
(in dollars)		
Operating activities		
Net results	**(3,178,542)**	(3,081,330)
Change in working capital (Note 5)	**241,785**	147,332
Net Cash Provided by Government	**(2,936,757)**	**(2,933,998)**

The accompanying notes are an integral part of the financial statements.

Notes to the Financial Statements

1. Authority and purpose

The mandate of the Law Commission of Canada is derived from the *Law Commission of Canada Act*, which came into force in 1997.

The Commission's expenditures are funded by an annual appropriation from Parliament.

2. Significant accounting policies

These financial statements have been prepared in accordance with Generally Accepted Accounting Principles to the extent that they are in accordance with Government policies and directives. Readers of these statements are cautioned that the introduction of accrual accounting at the departmental level is evolutionary. Not all assets, liabilities and expenses applicable to the department are recorded at this time thus the financial statements are not necessarily complete. All such assets, liabilities and expenses are recorded at a government-wide level in the financial statements of the Government of Canada. The accompanying notes provide additional detail and should be read with care.

The significant accounting policies include the following:

(a) Parliamentary appropriations

The Commission is primarily financed by the Government of Canada through Parliamentary appropriations. Appropriations provided to the Commission do not parallel financial reporting according to generally accepted accounting principles as they are, in a large part, based on cash flow requirements. Consequently, items recognized in the statement of operations and the statement of financial position are not necessarily the same as those provided through appropriations from Parliament. Note 7 to these financial statements provides information regarding the source and disposition of these authorities.

(b) Net cash provided by government

All departments including agencies and departmental corporations operate within the Consolidated Revenue Fund (CRF) which is administered by the Receiver General for Canada. All cash receipts are deposited to the CRF and all cash disbursements made by departments are paid from the CRF. Net cash provided by government is the difference between all cash receipts and all cash disbursements including transactions between departments.

(c) Use of estimates

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses reported in the financial statements. At the time of preparation of these statements, management believes the estimates and assumptions to be reasonable.

(d) Basis of financial reporting

All expense transactions and any related asset and liability accounts between sub-entities within the department have been eliminated.

(e) Expenses

Expenses are recorded when the underlying transaction or expense occurred subject to the following:

- Employee termination benefits are expensed by the Commission when paid. Estimated accruals are not recorded at the Commission level rather they are recognized in the consolidated financial statements of the Government of Canada.
- Vacation pay and overtime are expensed in the year that the entitlement occurs.
- Contributions to superannuation plans are recognized in the period that the contributions are made. Actuarial surpluses or deficiencies are not recorded in the Commission's books but are recognized in the consolidated financial statements of the Government of Canada.
- Services provided without charge by other government departments and agencies are not recorded as operating expenses rather, they are disclosed in a note to the statements. (See note 6)

(f) Foreign currency transactions

Transactions involving foreign currencies are translated into Canadian dollar equivalents using rates of exchange in effect at the time of those transactions.

3. Changes in accounting policies

In previous years, the Commission prepared its financial results in terms of source and disposition of appropriations. This is the first year that a set of financial statements including a Statement of Financial Position, a Statement of Operations and a Statement of Cash Flow has been prepared on a full-accrual accounting basis. Comparative amounts for vacation pay and accumulated overtime are not presented since the information is not available and any estimation would not be able to be substantiated with any degree of precision.

4. Related party transactions

The Commission is related in terms of common ownership to all Government of Canada departments, agencies, and Crown corporations. The Commission enters into transactions with these entities in the normal course of business. Certain of these transactions are on normal trade terms applicable to all individuals and enterprises, while others are services provided without charge to the Commission. (See note 6)

5. Change in working capital

(in dollars)	Current Year	Prior Year	Change
Current assets	49,887	4,913	**(44,974)**
Current liabilities	439,004	152,245	**286,759**
	488,891	157,158	**241,785**

6. Services provided without charge

During the year, the Commission received services that were obtained without charge from other government departments and agencies. These amounts are not recorded in the financial statements.

(in dollars)	Current Year	Prior Year
Accommodation provided by PWGSC	**65,600**	65,600
Contributions covering employer's share of employees' insurance premiums and expenditures paid by TBS	**57,000**	60,400
	122,600	126,000

7. Parliamentary appropriations

(in dollars)	Current Year	Prior Year
Operating expenditures – Vote 35	**2,870,000**	2,861,000
Supplementary Vote – 35a	**143,050**	143,050
Transfer from TB – Vote 15	**60,000**	46,000
	3,073,050	3,050,050
Lapsed	**33,248**	86,085
	3,039,802	2,963,965
Contributions to employee benefits plan	**148,000**	146,000
Use of Appropriations	**3,187,802**	3,109,965

8. Reconciliation net results to appropriations used

(in dollars)	Current Year	Prior Year
Net Results	**(3,178,542)**	(3,081,330)
Remove items not charged to Vote:		
Adjustment to previous year's expenditures	**(47,135)**	(28,635)
Other	**(15)**	
	(47,150)	(28,635)
Add items not charged to revenue/expense:		
Vacation pay and accumulated overtime	**37,890**	n/a
	37,890	
Total Appropriations Used	**(3,187,802)**	(3,109,965)