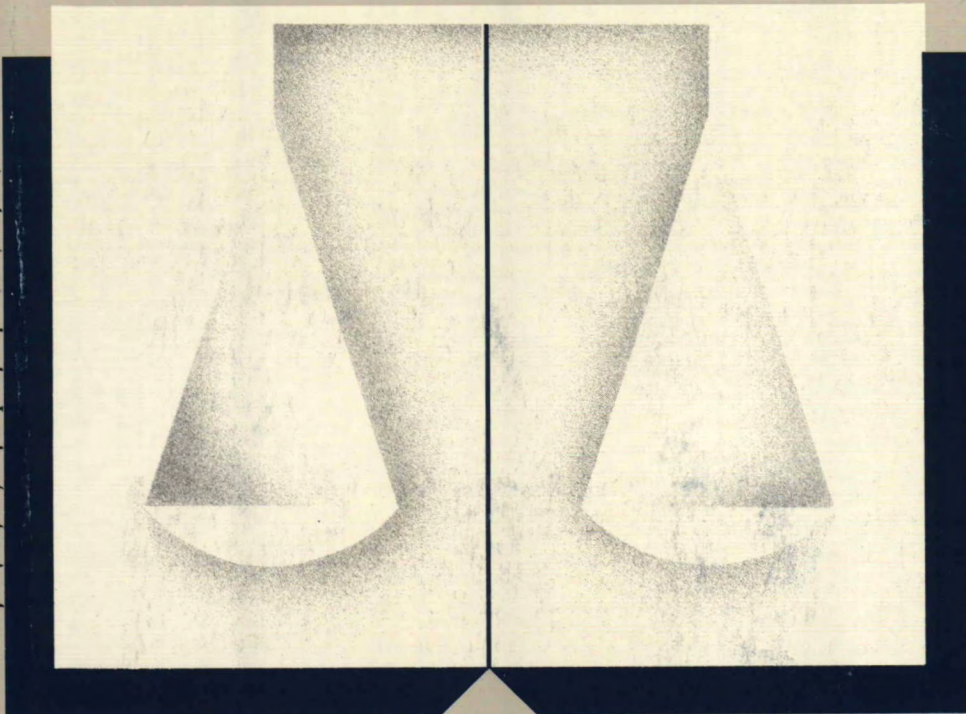




Department of Justice
Canada

Ministère de la Justice
Canada

Annual Report 1986-1987



Justice

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ANNUAL REPORT 1986/87
DEPARTMENT OF JUSTICE



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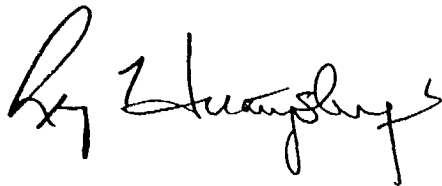
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To Her Excellency
The Right Honourable Jeanne Sauv 
Governor General of Canada

May it please Your Excellency:

I have the honour to submit to Your Excellency the annual report of the
Department of Justice for the fiscal year April 1, 1986, to March 31, 1987.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ray Hnatyshyn". The signature is fluid and cursive, with the first name "Ray" written in a stylized, abbreviated form.

Ray Hnatyshyn, P.C., Q.C., M.P.

The Hon. Ray Hnatyshyn, P.C., M.P.
Minister of Justice and Attorney General of Canada
House of Commons
Ottawa, Ontario
K1A 0A6

Mr. Minister:

I am pleased to submit the fifth annual report of the Department of Justice for the fiscal year ending March 31, 1987.

During the year, the Department was involved in the development and negotiation of proposals for major constitutional amendments dealing with conditions for Quebec's acceptance of the *Constitution Act, 1982*. These negotiations involved the federal government and all the provinces.

The Department also participated in preparatory work respecting a constitutional amendment dealing with aboriginal rights. The First Ministers' Conference on Aboriginal Constitutional Matters did not achieve the consensus necessary for such a constitutional amendment. However, the Department's work was useful in helping define the major issues of relevance.

Another major activity this year pertained to the release of the Report of the Commission on War Criminals, which was tabled on March 12, 1987. Consequent amendments to the *Criminal Code* to give Canadian courts jurisdiction to try war crimes or crimes against humanity in Canada were developed. The Department initiated the conduct of investigations with the R.C.M.P. and the review of recommendations to seek foreign evidence. The Department was also involved in proposals to amend the *Citizenship Act* to bar war criminals from entering Canada and becoming Canadian citizens.

The Report of the Canadian Sentencing Commission was tabled on March 25, 1987. The Report, the culmination of a three-year examination of sentencing, recommended fundamental changes in sentencing and the administration of justice in Canada. Consultations with the provinces, judicial authorities, members of the legal profession and voluntary sector organizations on the Commission's recommendations have already begun.

As well, the first volume of proposals by the Law Reform Commission to recodify the criminal law of Canada was tabled in Parliament on December 3, 1986. During the year, the proposals were examined in detail, in consultation with the provinces.

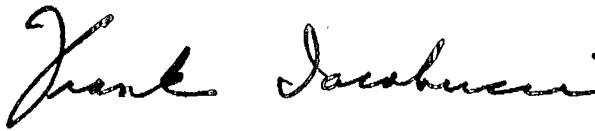
Particularly significant legislation introduced during the year included amendments to the *Criminal Code* and the *Canada Evidence Act* to protect children from sexual abuse and exploitation, and the *Revised Statutes of Canada, 1985*, which are intended to consolidate and update all federal statutes.

Other achievements included introduction of draft legislation to modernize and clarify *Criminal Code* provisions relating to mentally disordered offenders; introduction of legislative proposals to permit Parliament to implement the *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (the New York Convention); introduction of proposed legislative amendments to modify procedures for Supreme Court appeals; the proclamation into law of the *Divorce Act, 1985*; and introduction of legislative proposals to completely revise federal laws relating to pornography.

During the year, preparations continued for the transfer of responsibility for legislative policy and programs from the Ministry of the Solicitor General to the Department of Justice. These included policies and programs for young offenders, victims of crime, crime prevention, women and natives in the criminal justice system and international criminal justice.

In closing, I would like to emphasize that the Department's achievements this year would not have been possible without the dedication and effort displayed by all departmental employees, whether they work in legal services units, regional offices, or at headquarters. I particularly wish to thank each and every one for the high level of commitment consistently shown throughout the year.

Sincerely,

A handwritten signature in cursive script, reading "Frank Iacobucci". The signature is written in dark ink and is positioned above the printed name and title.

Frank Iacobucci
Deputy Minister of Justice and
Deputy Attorney General

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Mandate

Although the duties of the Attorney General and the Minister of Justice are distinct and separate in law, they are traditionally carried out by the same person. The Minister is the legal advisor to the Governor General and the legal member of Her Majesty's Privy Council for Canada. The Attorney General is the chief law officer of the Crown. The two roles lead to a complex and diverse mandate for the Department of Justice.

As Attorney General, the Minister represents the Crown in all litigation where rights of a public nature of concern to the federal government come into question. The Attorney General is legal counsel to government departments and agencies. These duties include the preparation of contracts, the collection of debts owing the Crown and the searching of property titles.

As the senior legal officer of the land, and the primary guardian of our system of law, the Attorney General must uphold the rule of law at all times, especially when exercising prosecutorial discretion.

While the Attorney General is responsible for the actual application of the law, the Minister of Justice is concerned with policy considerations underlying the law. The Minister must ensure that federal laws are fair and in compliance with our constitutional principles. This involves examining government bills and regulations to ensure that they do not interfere with fundamental human rights and freedoms. In addition, the Minister oversees all legal mechanisms used to achieve overall government objectives.

The Department's mandate reflects the dual roles of the Minister of Justice and the Attorney General. Under the authority of the *Department of Justice Act*, the Department:

- provides a wide variety of legal services to the Government of Canada and its departments and agencies which include legal advice, conducting litigation, drafting legislation and preparing legal documents;
- is responsible for seeing that public affairs are administered in accordance with the law;
- plans, develops and implements government policies in areas related to the federal administration of justice and other areas assigned by the Governor in Council.

In addition to the *Department of Justice Act*, four other statutes guide the Department in fulfilling its mandate. They are:

- the *Canadian Bill of Rights*, which requires that all government bills introduced in the House of Commons, and all regulations transmitted to the Clerk of the Privy Council for registration, be consistent with the *Bill of Rights*;
- the *Canadian Charter of Rights and Freedoms*, which requires that all existing statutes, government bills, and regulations comply with the *Charter*;
- the *Statutory Instruments Act*, which requires the Department to examine all regulations with respect to specific criteria established in the Act; and,
- the *Statute Revision Act*, which ensures that the general statutes and regulations of Canada be periodically revised and consolidated.

Statutes for which the Minister of Justice is responsible in whole or in part are listed in Appendix I.

Overview of the Year's Activities

Constitutional Accord

The Department participated in the development and negotiation of proposals for major constitutional amendments dealing with conditions for Quebec's acceptance of the *Constitution Act, 1982*. These proposals formed the basis for negotiations toward the Meech Lake accord, achieved in the 1987-1988 fiscal year.

Aboriginal Constitutional Discussions

As lead minister in the aboriginal constitutional process, the Minister of Justice chaired five multilateral meetings of his provincial and territorial counterparts and aboriginal leaders, leading to the final First Ministers' Conference in Ottawa on March 26-27, 1987.

Commission on War Criminals

On March 12, 1987, the report of the Deschênes Commission on War Criminals was tabled in the House of Commons. The government's response set out a number of specific undertakings, including:

- reviewing the case-by-case analysis of allegations undertaken by the Deschênes Commission;
- gathering information, largely in European countries, to determine whether prosecutions are justified by such evidence, and in appropriate cases, conducting criminal prosecutions in Canada;
- amending the *Criminal Code* to give Canadian courts jurisdiction to try war crimes or crimes against humanity in Canada;
- tightening the immigration screening process, and amending the *Citizenship Act* to bar war criminals from becoming Canadian citizens; and,
- undertaking proceedings under the *Citizenship Act* and the *Extradition Act*, where appropriate.

Treaty on Mutual Legal Assistance in Criminal Matters

Legislative proposals leading to the introduction of mutual legal assistance in criminal matters were finalized with a view to implementing the Canada - United States Treaty signed in Quebec City on March 18, 1985. The Treaty provides for cooperation and assistance between the two countries in the investigation and suppression of crime and law enforcement matters. The proposed legislation will enable the implementation in Canada of the Canada - United States Treaty and any other treaties to which Canada may become a signatory.

Child Sexual Abuse (Bill C-15)

The Minister introduced legislation on child sexual abuse (Bill C-15) which would provide strong penalties for those who solicit, procure or live off the avails of juvenile prostitutes. Prospective customers of a prostitute under the age of 18 would receive up to five years in prison. The legislation would also permit children under the age of 14 to appear as witnesses in sexual abuse cases without the need for corroboration. The bill was before the House of Commons at the end of the fiscal year.

Proceeds of Crime

The Department developed legislative proposals which, if implemented, would facilitate investigations, prevent the disposal of illegally obtained assets before a trial, and permit courts to deprive criminals of their illicit proceeds.

Wrongfully Convicted and Imprisoned Persons

The Department worked on a set of proposals to implement a system for compensating persons wrongfully convicted and imprisoned. These proposals, based on a federal-provincial task force report, were the subject of ongoing discussions between the Department and the provinces.

Supreme Court of Canada Amendments

A bill (C-105) that proposed amendments to the appeal procedures of the Supreme Court of Canada was introduced in the House of Commons during the year, but died on the Order Paper.

Sentencing Commission

On March 25, 1987, the Minister of Justice tabled in the House of Commons the final report of the Canadian Sentencing Commission on the Reform of the Canadian Sentencing System. The Commission was established under the *Inquiries Act* in May 1984 to advise on the feasibility and use of sentencing guidelines in Canada, as well as to investigate and develop model guidelines. The report made recommendations on the relationship between sentencing guidelines and other aspects of the criminal justice system, such as prosecutorial discretion. At the end of the fiscal year, the Department was involved in consultations regarding the report.

Criminal Code

On December 3, 1986, the Minister of Justice tabled in Parliament the first volume of proposals by the Law Reform Commission to recodify the criminal law of Canada. Examination of the proposals, in consultation with the provinces, will continue into the next fiscal year.

Victims of Crime

The treatment and care afforded to victims of crime were considered priority issues in the social policy area in the October 1986 Speech from the Throne. During the year in review, departmental officials participated in extensive discussions with their provincial counterparts regarding these victims. The consultations considered several initiatives on proposed amendments to the *Criminal Code*, including a victim fine surcharge, improvements to the criminal injuries compensation programs, and a Statement of Basic Principles of Justice for Victims of Crime.

Bill C-28

Bill C-28, *An Act to amend the Criminal Code*, developed by the Department, was introduced in the House of Commons on December 10, 1986. It was passed on March 27, 1987. The legislation implements several provisions of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Family Law

On June 1, 1986, the new *Divorce Act, 1985* was proclaimed. The Act provides a single ground for divorce: marriage breakdown, provable by evidence of adultery or mental or physical cruelty or by separation of at least one year.

Work continued on implementing the *Family Orders and Agreements Enforcement Assistance Act* passed in February 1986. Specifically, agreement in principle was reached on the federal-provincial agreements to be signed under Part I of the Act, to govern the release of information from federal information banks.

This Act provides services to help enforce support and custody/access orders and agreements. To enforce a support order, the Act will allow designated information banks to release information in order to trace a missing person. It will also permit the garnishment of designated federal monies, such as income tax funds.

Federal Statutes Compliance Project

The principles for encouraging compliance with federal regulatory legislation, developed by this Project before 1986-87, were incorporated into the government's Citizen's Code of Regulatory Fairness. The Project now focuses on improvements to regulatory remedies to ensure fair, effective and efficient implementation of federal policy objectives.

La Bretagne

Together with the departments of External Affairs and Fisheries and Oceans, this Department prepared Canada's pleadings and participated in oral proceedings in the arbitration with France concerning filleting on board French vessels fishing in the Gulf of St. Lawrence.

New York Convention

The Department coordinated the preparation of federal and provincial legislation required to permit Canada to implement the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Canada acceded to the Convention on August 10, 1986.

Canada-France Boundary and Fishery Issues

The Department participated with the departments of External Affairs and Fisheries and Oceans to help resolve boundary matters relating to fishing rights and other issues off St. Pierre and Miquelon.

Organization

The Department of Justice employed 1,523 persons in 1986-87. The two major occupational groups — 704 lawyers and 349 secretaries — constituted approximately 70 per cent of all personnel. Turn-over for lawyers over this period was 3.5 per cent, slightly higher than the previous year.

Departmental staff are divided among regional offices, legal services units and headquarters. The Department's nine regional offices had a total staff of 505 during the year, including 251 lawyers. These offices undertake all forms of litigation and prosecutions on behalf of the Attorney General of Canada and provide legal services to federal departments and agencies in the regions.

The Department had 39 legal services units in the National Capital Region and one in Charlottetown, P.E.I., which provided assistance to federal departments and agencies. The size of these units varied from one to 30 employees. In total, departmental legal services units employed 217 lawyers and 27 administrative support staff. In most cases, client departments or agencies provided administrative support staff.

Headquarters staff in Ottawa totalled 774, including 236 lawyers. Branches representing specialized fields of law and central services such as public law, policy development, programs and research, legislative programming and administration are located at headquarters.

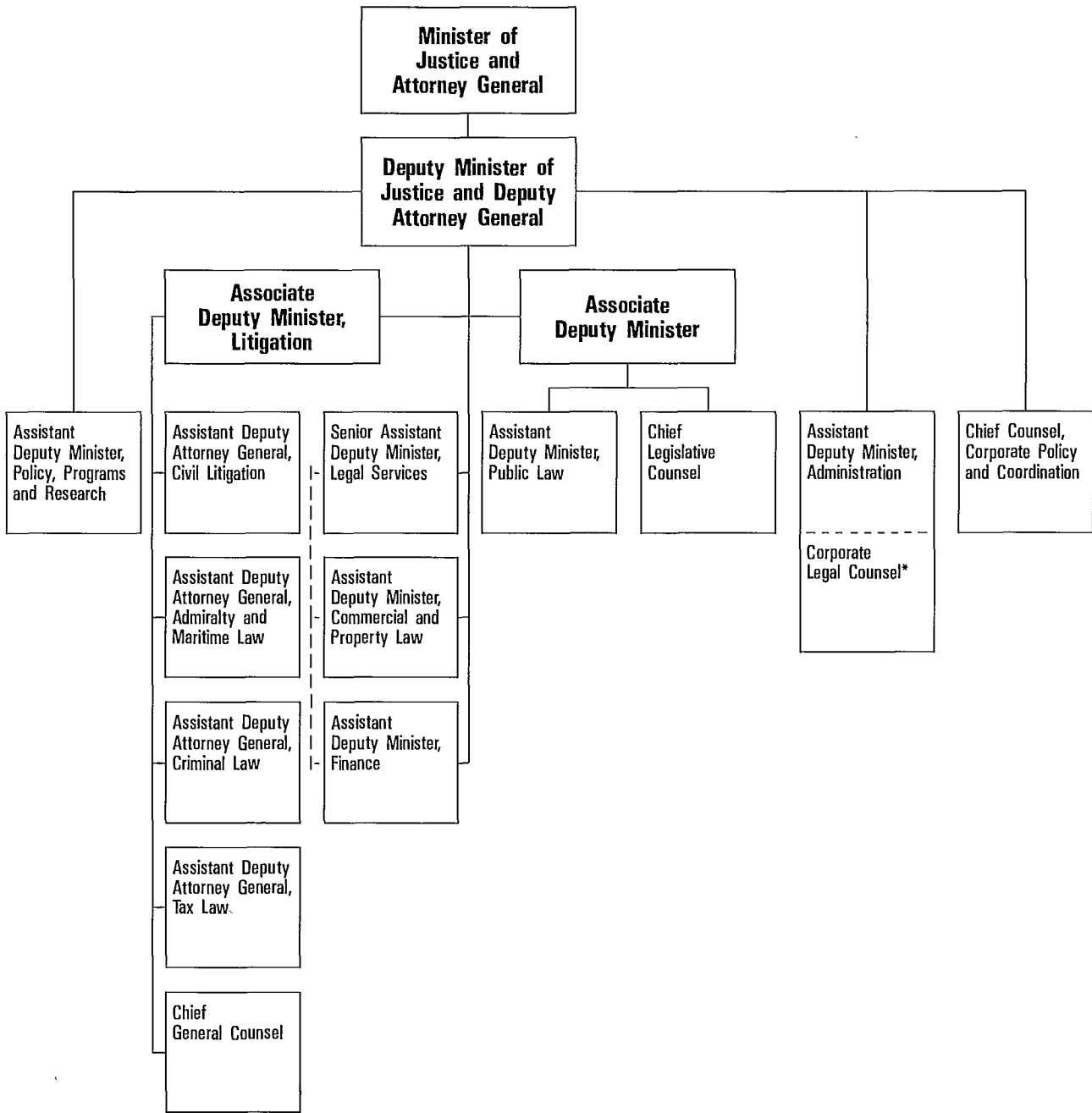
At headquarters, Civil Litigation, Criminal Law and Tax Litigation, employing 20, 15, and 16 lawyers respectively, are responsible for Crown litigation and prosecutions in the National Capital Region.

The Department had a budget of more than \$177 million during the year. For a detailed breakdown, refer to the Department of Justice Expenditures chart on page 48.

Personnel

	1982-83	1983-84	1984-85	1985-86	1986-87
Headquarters	618	715	744	692	774
Regional Offices	420	502	504	487	505
Legal Services Units	280	253	242	230	244
Total Department	1,318	1,470	1,490	1,409	1,523

Organization Chart



* The duties of Assistant Deputy Minister, Administration, are carried out by the Corporate Legal Counsel

Committees

In many instances, departmental activities require the concerted efforts of several branches, each contributing its own expertise and perspective. A number of committees assist in the administration and coordination of departmental resources and programs, including the following:

☐ Executive Committee

The Executive Committee is the senior management committee of the Department. It is chaired by the Deputy Minister, and includes all the Assistant Deputy Ministers, the Assistant Deputy Attorneys General, the Chief Legislative Counsel, the Chief General Counsel, and the Chief Counsel, Corporate Policy and Coordination. It meets regularly every second week.

Its responsibilities are to consider major issues in the Department, including substantive legal matters, and managerial, personnel and administrative matters.

The Committee is responsible for strategic and budgetary planning processes in the Department. It also addresses departmental priorities and considers the overall impact upon the Department of policy and legislative initiatives, of major litigation involving the federal government, and of important events and developments in the field of justice. The Committee considers all major departmental policies and reviews all senior appointments. It is the primary basis of the departmental processes of consultation and coordination and a very important decision-making forum in the Department.

☐ Deputy Minister's Advisory Committee

This Committee includes senior managers from each departmental sector and is chaired by the Deputy Minister. It considers topics that will ultimately be brought before the Executive Committee in addition to discussing broad strategic issues and certain personnel matters.

☐ Management Committee

The Management Committee, chaired by the Deputy Minister, meets twice a year to discuss management issues, policies and practices, as well as legal matters that have government-wide implications.

During the past year, committee members participated in seminars covering government policies on free trade, aboriginal issues and labour law, legal trends in environmental law, competition law and access to information. Performance review and evaluation assessment, internal communications, career planning, the role of managers and law office management were also discussed.

☐ Charter Committee

This Committee oversees the conduct of litigation and other matters arising from issues under the *Canadian Charter of Rights and Freedoms*. It makes policy recommendations to the Minister and advises on interventions by the Attorney General in actions in which the government is not already a party.

In the past year, the Committee dealt with a wide variety of *Charter* cases relating to provisions of the *Criminal Code*, delays in the processing of criminal trials, freedom of expression, and the jurisdiction of administrative tribunals.

☐ Litigation Committee

The Litigation Committee supervises all litigation involving the Department including criminal prosecutions, civil law cases, and tax cases. It also advises the Minister and the Deputy Minister on litigation and prosecution matters.

☐ Legal Officers Advisory Committee

This Committee advises senior management with respect to the role, status, and working conditions of lawyers within the Department. During the year under review, it examined matters pertaining to staffing, career planning and development, promotion opportunities, salaries and benefits, and personnel requirements. Also, members were involved in the identification of new criteria for the performance review system and assisted in developing departmental submissions to Treasury Board on terms and conditions of employment.

☐ **Affirmative Action Committees**

Three advisory committees support the Department's Affirmative Action Program: Equal Opportunities for Women, Disabled Persons and Indigenous People. They recommend policies and procedures to the Deputy Minister and monitor the implementation of all departmental policies respecting affirmative action. Overall program coordination is the responsibility of a steering committee on Affirmative Action.

During 1986-87, the Advisory Committee on Equal Opportunities for Women recommended a policy for the Department on part-time work, changes to the existing Women on Selections Boards policy, and proposals to assist in meeting numerical objectives respecting the participation of women. The Advisory Committee on Disabled Persons achieved progress on making the Justice Building more accessible for disabled persons and held several awareness sessions for managers on the employment of disabled persons. The Advisory Committee on Indigenous People developed a Native Legal Careers Information Package for native organizations and associations and university campuses across Canada in order to increase the number of native applicants to the Department.

☐ **Official Languages Committee**

This Committee monitors the implementation of the Official Languages Program within the Department. It approves the linguistic designation plan, and monitors proficiency levels, access to the language training program and translation procedures.

☐ **Other Committees**

There are a number of other committees responsible for specific functions within the Department. The Information Policy and Systems Committee reviews and coordinates policy and projects related to information systems and computer technology. This year, the Committee adopted policies and processes for system development projects, equipment acquisition and computer standards. The Performance Review and Employee Appraisal Committee oversees the performance review system. This year, it developed a new policy on performance review, assisted in the establishment of a new employee assessment cycle, and prepared performance rating guidelines. The Lawyers' Compensation Committee periodically reviews salaries and general compensation. This year, the Committee considered pay and benefits for departmental lawyers and notaries and prepared submissions to Treasury Board in this regard.

Deputy Minister's Office

The Deputy Minister, who is also *ex officio* the Deputy Attorney General of Canada, is appointed by the Governor in Council pursuant to sub-section 3(1) of the *Department of Justice Act*.

The Deputy Minister's Office provides essential support services to the Deputy Minister. In conjunction with all the branches and acting closely with the Corporate Policy and Coordination Branch, it liaises with the Minister's Office, other sectors of the Department as well as with other government departments and agencies.

☐ Associate Deputy Ministers

Two Associate Deputy Ministers assist the Deputy Minister in providing senior management leadership. One Associate Deputy Minister is responsible for the Public Law Branch, the Legislative Programming Branch and the Human Rights Section, and the supervision of all civil law matters involving the Department in Quebec. She is the Department's primary legal advisor in the field of Quebec civil law with administrative responsibility for the Civil Litigation and Real Property (Quebec) Section, and for all litigation of the Montreal Regional Office.

The Associate Deputy Minister, Litigation, has general responsibility for all litigation involving the federal government in the common law provinces. He chairs the Department's Litigation Committee and has administrative responsibility for the regional offices (with the exception of Montreal).

In addition to chairing several departmental committees, the Deputy Minister chairs the Justice Information Council, a federal-provincial committee of deputy ministers of justice who provide policy direction to the Canadian Centre for Justice Statistics.

The Deputy Minister also chairs federal-provincial meetings of deputy ministers. These forums for discussion of broad issues in the justice system are held as often as required in preparation for, or as follow-up to, ministerial conferences. As a result of the meetings, working groups of federal and provincial officials are established to study particular issues. This year, they examined issues concerning victims of crime, impaired driving, proceeds of crime, compensation for wrongfully convicted and imprisoned persons, missing children, and drug enforcement.

Corporate Policy and Coordination Branch

Function

This newly established Branch provides services to the Department related to such areas as corporate planning and policy development, program evaluation and internal audit, communications and public affairs, federal-provincial relations, liaison with external associations and groups, and various corporate services. The Branch performs a substantive function in areas that do not fall within the specialized responsibilities of the other branches. It is also involved in the coordination of departmental activities and programs.

Organization

☐ Corporate Services Directorate

This Directorate provides legal, policy and support services to the Minister, Deputy Minister and departmental officials. Its four sections are responsible for the coordination of activities and the provision of services relating to departmental activities.

The Ministerial Briefing and Parliamentary Unit coordinates the preparation of material for the Minister and Deputy Minister for meetings, conferences, parliamentary activities and other events.

The Ministerial Correspondence Unit receives and directs all correspondence addressed to the Minister of Justice and replies to routine correspondence.

The Access to Information and Privacy Unit processes requests, monitors departmental compliance with the legislation and is responsible for the maintenance of related records.

The Cabinet Liaison Office is responsible for liaising with the Privy Council Office. It is involved in scheduling departmental items for discussion at various committees of Cabinet as well as reviewing and coordinating departmental submissions. It also prepares briefing materials.

In 1986-87, the Corporate Services Directorate helped prepare the government response to the Report of the Commission of Inquiry on War Criminals. The Directorate's Access to Information and Privacy Unit coped with a more than fourfold increase in the volume of requests received.

☐ Corporate Planning Directorate

The Corporate Planning Directorate develops and manages internal planning processes and advises managers on management practices. It integrates strategic, budgeting and work planning processes. The management practices area includes advisory services and special projects concerning organizational and managerial issues. The Directorate liaises with other federal departments and agencies about planning and management issues.

This year, the Directorate coordinated the preparation of the Program Expenditure Plan and the development of the Multi-Year Operational Plan. Corporate Planning also coordinated an internal departmental review of programs and activities. Other activities involved providing continuing support in the information systems and technology area, and undertaking special projects such as a review of the litigation costs policy and the articling student program.

☐ The Bureau of Programme Evaluation and Internal Audit

The Bureau conducts periodic evaluations and internal audits of departmental activities, programs and services.

In accordance with a five-year evaluation and audit plan, the Bureau has completed several evaluation assessments, evaluation studies and internal audits. Findings in these studies have, in several respects, helped to define and modify policies of the Department.

One of the two sections of the Bureau, Programme Evaluation, completed evaluation assessments and began evaluations of the Public Legal Education and Information Program, the Native Courtworkers Program in British Columbia and the Legal Aid Program in Saskatchewan. Work continued on the evaluation of provincial legal aid plans, the *Divorce Act*, and the Family Orders and Agreement Enforcement Assistance Program.

The Internal Audit Section carried out audits of Administrative Services, the Classification Section of the Personnel Branch, Grants and Contributions, and the Case Management Information System. It also performed a preliminary review of the Family Law Enforcement Assistance System as well as a special study on discretionary spending and staffing.

☐ **Liaison and Federal-Provincial Relations Directorate**

The Liaison and Federal-Provincial Relations Directorate has both internal and external liaison responsibilities and offers direct support services to the Executive Committee and the Management Committee. It assists departmental groups or *ad hoc* committees in their advisory role to the Deputy Minister. It also coordinates the activities of departmental committees and advises with respect to the mandate and membership of these committees.

The Directorate coordinates and directs departmental interactions with national and international associations and bodies such as the Canadian Bar Association, the Canadian Association of Chiefs of Police, the National Associations Active in Criminal Justice, the Uniform Law Conference, the Council of Europe, and the Commonwealth Conferences.

In the area of federal-provincial relations, the Directorate develops and implements departmental policies and procedures respecting federal-provincial relations.

☐ **Communications and Public Affairs Directorate**

The Department has an ongoing obligation to inform a variety of publics about its activities. These publics include parliamentarians, the legal profession, the media and all Canadians.

Each year, the Directorate develops a global communications plan, helps define the Department's communications goals and prepares a number of specific program-related communications plans. The Directorate is the chief advisor to the Department and its officials on all communications and public affairs issues. It works in close cooperation with the Minister's Office.

A large part of the annual workload is devoted to public information and education programs, including nation-wide public and media relations projects. The Directorate participates in the Department's public legal information efforts. In addition, it responds to public enquiries, publishes and distributes a wide range of written material.

A major project handled by the Directorate during the year was the development and publication of material on the new *Divorce Act*, proclaimed on June 1, 1986. As well as working on a guide to the new law written for the general public, the Directorate assisted in the development of a more detailed version for social workers, mediators and other professionals.

Publications issued by the Directorate included the *Annual Report 1985-86*; a series on victims of crime; *Divorce Law: Questions and Answers*; *Divorce Law for Counsellors*; a summary of the *Report of the Canadian Sentencing Commission*; a series on access to justice; *Criminal Injuries Compensation in Canada, 1985*; the annual report on *Access to Information and Privacy Acts*; a report on trade secrets; *Report of Proceedings of National Forum on Youth and the Law*; a pamphlet, *International Child Abduction*; and the *Report and Recommendations of the 1986 Commission on Judges' Salaries and Benefits*.

The Directorate distributed more than 227,000 copies of printed material during the year, and responded to approximately 3,800 written requests for information and to more than 9,000 telephone enquiries from the public.

Litigation Sector

Civil Litigation Branch

Function

The primary responsibility of the Civil Litigation Branch is to represent the Attorney General of Canada in civil litigation taken by or against the federal government in the common law provinces and in the territories. The Branch comprises civil litigation groups at headquarters and in the regional offices.

Legal officers of the Branch are involved in all phases of litigation, from the initiation of proceedings at the trial level to appeals before the Supreme Court of Canada. Cases range from simple contract and tort matters arising out of the ordinary course of government business to public law matters involving constitutional and jurisdictional questions. As well, there are many specialized actions in fields such as industrial property, bankruptcy, international and commercial law.

Counsel appear before all levels of provincial and federal courts. In addition, departmental counsel are regularly involved in hearings before federal boards, commissions and tribunals on issues involving the administration and enforcement of federal statutes. On occasion, they also appear before provincial or international tribunals.

The Branch also provides legal advice and assistance to the government on issues of potential litigation. Counsel must often give an opinion on the potential liability of a proposed course of conduct or the validity of legislative provisions that may be challenged. Civil Litigation lawyers also play a role in the development of policy and legislative proposals, particularly in relation to government positions on *Charter* issues.

The *Canadian Charter of Rights and Freedoms* has increased the volume of litigation and added a new dimension of complexity to much of the litigation. A similar development is occurring in relation to access to information and privacy litigation.

Organization

The Assistant Deputy Attorney General, Civil Litigation, supervises and coordinates all civil litigation, excluding income tax and admiralty matters, affecting the common law provinces. The Associate Deputy Minister, responsible for the Civil Litigation and Real Property Law (Quebec) Section, supervises and coordinates all similar litigation affecting the Province of Quebec. The Chief General Counsel's Group at headquarters and in the regional offices handles the particularly complex civil litigation cases.

Litigation sections exist both at headquarters and in the regional offices. Generally, each regional office conducts litigation arising within its own territorial area of responsibility. However, other arrangements are often made where counsel having special expertise reside outside of the region or if the close involvement of a client department's headquarters makes it desirable to have the litigation handled directly from Ottawa.

This litigation is conducted by approximately 83 lawyers in the regional offices and at headquarters, who are assisted by para-legal, clerical and secretarial support staff. The Attorney General may also be represented by private-sector lawyers acting as agents under the instruction of lawyers in the Civil Litigation Branch.

Activities

During the year under review, the Civil Litigation Branch was involved in *Charter*-based challenges to the ban on penitentiary inmates voting in federal elections (*Sauve v. The Queen*, *Gould v. The Queen*), to the compulsory licensing provisions for prescription drugs found in the *Patent Act* (*Smith, Kline and French v. Attorney General of Canada*), to the refusal to grant a civil servant a particular security classification for employment purposes (*Gold v. The Queen*), and to newly enacted parole legislation depriving certain inmates of early release from prison (*Evans v. The Queen*, *Ross v. Warden of Kent Institution*). Important *Charter* judgments rendered during the year under review include the ruling of the Federal Court, Trial Division, that legislative limits on partisan political activity by public servants are reasonable in order to ensure a neutral Public Service (*Miller v. The Queen*, *Osborne v. The Queen*, *Cassidy v. The Queen*). Appeals on many of these cases were pending at the end of the year.

An equally large and varied area of work that occupies the Civil Litigation Branch is traditional "division of powers" litigation. Such cases challenge the constitutional authority of provincial or federal governments to enact legislation relating to particular subject-matters on the ground that it is not within their jurisdiction. Often, these cases have far-reaching effects on the daily lives of citizens and on the responsibilities of different levels of government.

An interesting question related to the division of powers was raised in *The Queen v. Regional Municipality of Peel*. The question here was whether the municipality could recoup monies expended pursuant to unconstitutional federal legislation. Another issue relating to constitutional litigation arose out of *The Minister of Finance of Canada v. Finlay* in which the Supreme Court of Canada held that a welfare recipient had standing to sue the federal government based on a federal-provincial funding agreement.

Another distinct and wide-ranging area of work for the Civil Litigation Branch arises from challenges to statutory schemes and specific provisions in federal legislation. Trial courts in various provinces are currently faced with actions arising from a federal grant program that assisted homeowners who insulated their homes with, among other materials, urea formaldehyde foam insulation (UFFI). UFFI was subsequently banned under the federal *Hazardous Products Act* thus spawning claims by those who, believing UFFI was safe and effective, had used it. Similarly, the case of *Auditor General of Canada v. The Minister of Energy, Mines and Resources* required the Federal Court of Appeal to construe the statutory mandate of the Auditor General and the application to the Auditor General of legislation governing access to Cabinet documents.

The matter of access to information held by the federal government also generated much litigation. The *Access to Information Act* and *Privacy Act* assure continued prominence of such litigation, which requires the courts to balance individual privacy and the need for confidentiality in certain spheres of governmental decision-making with the public's right to know.

Counsel from the Civil Litigation Branch appear before a wide variety of tribunals every day. These include the Tariff Board, Public Service Commission Appeal Boards and Canadian Human Rights Tribunals. An ongoing case before one of the latter tribunals is *In Re Gauthier*. This case involves five complaints that relate to the policy of the Canadian Armed Forces prohibiting women from performing certain combat-related occupations on the basis of impairment of operational effectiveness. Another case before a Canadian Human Rights Tribunal was *In Re Hazel Jones* which raised the matter of female guards for male inmates.

Civil litigation counsel are more frequently called upon to appear before public inquiries. A notable series of hearings in the spring and summer of 1986 dealt with whether Monsanto Canada Inc. ought to be permitted to register and sell a herbicide containing the chemical alachlor, in view of health and environmental considerations. Other public inquiries included the Estey Commission on banking in Canada, and the Deschênes Commission on war criminals in Canada.

Criminal Law Branch

Function

The Criminal Law Branch's responsibilities derive from the obligations and duties imposed upon the Attorney General and the Minister of Justice pursuant to legislation, treaties and the common law.

The Branch prosecutes offences and conspiracies to commit offences under most federal legislation, except the *Criminal Code*, over which the provincial Attorneys General exercise authority. In the Yukon and the Northwest Territories, the Attorney General of Canada prosecutes all offences under federal legislation, including the *Criminal Code*. The majority of federal prosecutions are under the *Narcotic Control Act*, the *Food and Drugs Act* and the *Income Tax Act*.

The Branch reviews applications to the Minister of Justice for the mercy of the Crown for persons convicted of a crime or sentenced to a prison term. It deals with all extradition matters under the *Extradition Act* and rendition requests under the *Fugitive Offenders Act*, including the negotiation of extradition treaties. It deals with requests for legal assistance to gather evidence abroad for Canadian investigations and evidence in Canada for foreign investigations. Finally, the Branch is responsible for criminal law policy in extradition, rendition and mutual legal assistance.

The Attorney General of Canada must grant consent prior to certain proceedings under the *Criminal Code* and other federal legislation. The Branch reviews these applications as well as those for the transfer of charges and probation orders from one jurisdiction to another.

Branch counsel are consulted on amendments to the *Criminal Code*, on legislative proposals in the criminal law area and on the development of criminal law policy and programs.

Organization

The Assistant Deputy Attorney General, Criminal Law, directs the Criminal Law Branch. Criminal prosecution sections in the Department's nine regional offices and at headquarters in Ottawa employ about 100 lawyers. These sections conduct all federal prosecutions and litigation arising in their jurisdictions. In areas not served by regional offices, approximately 550 private lawyers, appointed as standing agents, are responsible for prosecutions.

In addition, the Assistant Deputy Attorney General, Criminal Law, has functional responsibility for all departmental activities respecting prosecutions arising under federal statutes administered by other government departments and agencies.

Activities

☐ Applications for Mercy

The Branch received 30 applications for mercy under the *Criminal Code* during the year. All were denied.

☐ Extradition and Renditions

Canada filed 46 requests for extradition with the United States in 1986-87 and nine requests with other countries. Canada received 47 requests from the United States and 16 from other countries. Three requests were made by Canada for the rendition of fugitives from Commonwealth countries and one such request was made to Canada. During the year, 24 fugitives were returned to Canada and 21 were returned to other countries.

☐ Mutual Legal Assistance

On March 18, 1985, a treaty was signed by Prime Minister Mulroney and President Reagan to provide for mutual legal assistance in the investigation and prosecution of criminal matters between Canada and the United States. During the year, officials from the Criminal Prosecutions Section at headquarters assisted with the development of legislation to implement this treaty and others to be negotiated with other countries.

In addition, discussions were held with provincial officials to develop a framework for federal-provincial cooperation in implementing mutual legal assistance. Once the legislation is enacted, the treaty with the United States can be ratified and Canada's ability to gather evidence to assist American criminal investigations and receive similar assistance in return will be enhanced.

Canada filed 33 requests for assistance to gather evidence with foreign countries, 15 of which required judicial assistance. Canada received 43 requests for assistance to gather evidence in Canada from foreign countries, 30 of which required judicial assistance. Of the 76 requests for assistance either made to or by Canada, 56 were completed in the year, three were abandoned and 17 were carried over to the next year.

☐ Northern Flying Squad

Members of the Branch's Northern Flying Squad supplemented the work of Crown Counsel assigned to northern regional offices in Yellowknife and Whitehorse. The Flying Squad comprises more than

20 experienced prosecutors from regional offices and headquarters. More than 35 circuits in the Northwest Territories and 20 in the Yukon Territory, both territorial and supreme courts, were handled by Flying Squad members. Several jury trials were conducted in Iqaluit and Yellowknife by Squad members from the Montreal Regional Office. The Edmonton Regional Office assisted with cases before the Court of Appeal of the Northwest Territories heard at Calgary and Edmonton.

☐ **Criminal Code Part IV.1**

Specially designated staff at headquarters and in the regions, as well as certain standing agents, were authorized to apply to the courts for permission to intercept private communications in support of special investigations.

☐ **Special Prosecutions**

The Branch prosecuted 130 tax evasion cases in 1986-87, of which 127 resulted in convictions.

The Criminal Law Branch argued a number of cases before the Supreme Court of Canada this year, including the following:

In *Ruby Collins v. The Queen*, the accused alleged that her *Charter* right to be secure against unreasonable search and seizure had been infringed. The trial judge held that the arresting policeman, who had grabbed the suspect's throat to prevent her from swallowing drugs, did not have reasonable grounds for a search. A balloon containing heroin was seized from her hand. The Court of Appeal unanimously dismissed Collins's appeal from conviction. The Supreme Court of Canada ordered a new trial so that the officer could explain his

actions. The ruling provided guidance on the circumstances in which the admission of evidence, obtained in violation of the *Charter*, would bring the administration of justice into disrepute.

In *Lawrence Wilburn Corbett v. The Queen*, the issue was whether the Crown's right to cross-examine an accused as to his criminal record offends his right to a fair trial under the *Charter*. Corbett, charged with murder, had been convicted of a previous murder. After his *Charter* argument failed, he was convicted of the second murder. He was unsuccessful in the Court of Appeal. Judgment in the Supreme Court was reserved.

In *Carl Rahey v. The Queen*, the issue was whether the Court should dismiss serious charges of tax evasion on the basis that the accused's right to trial within a reasonable time had been infringed. The trial judge had reserved his decision on a non-suit motion for 11 months. The judge who entertained the *Charter* application had dismissed the charges, but the Court of Appeal held unanimously that the judge had erred. The Supreme Court of Canada overturned the decision of the Court of Appeal and reaffirmed the dismissal of the charges.

In *Wigglesworth v. The Queen*, the issue was whether the prosecution of a Royal Canadian Mounted Policeman for common assault under the *Criminal Code* infringed the *Charter* guarantee against double jeopardy. The officer had already been convicted on the same facts of a service offence by a tribunal constituted under the *R.C.M.P. Act*. The Saskatchewan Court of Appeal held unanimously that the *Code* prosecution did not infringe the *Charter*. Judgment in the Supreme Court of Canada was reserved.

Selected Criminal Law Branch Activities 1984-87

	1984-85	1985-86	1986-87
Applications for Mercy	35	34	30
Extraditions and Rendition Requests			
■ by Canada to other countries	57	56	55
■ by other countries to Canada	56	83	63
Requests for Mutual Assistance			
■ by Canada to other countries			33
■ by other countries to Canada			43
Special Prosecutions (Tax Evasion)	163	148	130

Tax Law Branch

Function

The Tax Law Branch provides legal advice on behalf of the Attorney General of Canada in all matters relating to taxation, and conducts litigation in all civil appeals from income tax assessment. The Branch also handles certain appeals under the Canada Pension Plan and the *Unemployment Insurance Act*.

Organization

This Branch comprises three sections and is headed by the Assistant Deputy Attorney General, Tax Law. The Tax Litigation Section is composed of approximately 60 lawyers working in headquarters and in the regions and is responsible, on behalf of the Minister of National Revenue, for all civil appeals from income tax assessments. The Tax Counsel Section provides legal advice to the Department of Finance. Legal advice is provided to the Department of National Revenue – Taxation and the Department of National Revenue – Customs and Excise by two distinct legal services units located within the client department.

Activities

The volume of income tax appeals before the Tax Court and the Federal Court remained high during 1986-87. About four fifths of these appeals were before the Tax Court.

In *The Queen v. Bronfman Trust*, the Supreme Court of Canada reviewed the conditions required to deduct interest pursuant to the *Income Tax Act*. The Court found that a direct relationship must exist between borrowed funds and income earned. This decision narrows considerably the extent to which interest can be deducted for the purposes of the *Income Tax Act*.

In *Ensate Limited v. The Queen* and *Canadian Marconi Company v. The Queen*, the Supreme Court of Canada examined the distinction between “business income” and “investment income” under the *Income Tax Act*. In the *Ensate* case, income from business was determined to be dependent upon whether funds were employed and risked in the commercial operation. In *Marconi*, the decision rested upon the degree of activity expended by the taxpayer in managing company funds.

Consolidated Bathurst Limited v. The Queen called upon the Federal Court of Appeal to decide whether insurance premiums paid by the Appellant to a subsidiary corporation were deductible under the *Income Tax Act*. The principal issue was whether the premiums were expenses that would unduly or artificially reduce income within the meaning of Section 245(1) of the legislation. A decision was pending at year end.

In *Indalex v. The Queen*, the Federal Court was asked to decide the appropriate transfer price between affiliated companies within a multinational group of companies. The decision was appealed to the Court of Appeal.

The Tax Law Branch also participated in the work relating to tax reform.

Assistant Deputy Attorney General, Admiralty and Maritime Law

Function

The Assistant Deputy Attorney General, Admiralty and Maritime Law, is responsible for the Department's activities in the following areas:

☐ Admiralty Litigation

Actions in the admiralty and maritime law fields commenced by or against the federal government or its agents in both federal and provincial courts often raise complex issues and involve substantial claims.

☐ Maritime Commercial Law

Legal services are provided on a variety of specialized matters relating generally to maritime commercial documentation and transactions.

☐ Maritime Legislation

Specialized legal advice is required from time to time on the *Canada Shipping Act* and Regulations amendments.

☐ Investigation of Marine Casualties

The Assistant Deputy Attorney General, Admiralty and Maritime Law, provides advice and specialized services for the investigation of shipping casualties and makes recommendations concerning the appointment of commissioners and commission counsel to act in formal investigations under the *Canada Shipping Act*.

☐ Marine International Law

The Assistant Deputy Attorney General, Admiralty and Maritime Law, advises the Department of Transport on maritime law. This ADAG is active in diplomatic conferences on proposed international conventions involving such topics as maritime liens and mortgages.

Organization

The Assistant Deputy Attorney General, Admiralty and Maritime Law, supervises the Department's increasing admiralty and maritime law work, assisted by counsel with special skills in these fields. Counsel in the Civil Litigation and Real Property Law (Quebec) Section, other departmental lawyers in headquarters, legal services units and regional offices, and agents of the Minister of Justice also provide assistance.

Activities

During 1986-87, the major responsibilities of the Assistant Deputy Attorney General, Admiralty and Maritime Law, included:

- developing a coordinated legal opinion on issues raised by the Department of Energy, Mines and Resources stemming from the recommendations of the Royal Commission into the *Ocean Ranger* marine disaster;
- coordinating litigation involving some \$25 million of ship claims against the St. Lawrence Seaway Authority and the Crown in the Federal Court of Canada and in the Quebec Superior Court arising from the temporary closure of the Valleyfield Bridge in November 1984;
- supervising defence of legal proceedings brought against the St. Lawrence Seaway Authority and the Crown in the Supreme Court of Ontario and the Federal Court of Canada. This also involves some \$25 million of claims, and arises from the Lock 7 incident in the Welland Canal in October 1985;
- advising the Cape Breton Development Corporation (Devco) and supervising a major piece of marine litigation in the High Court in England and in the Federal Court of Canada and the Supreme Court of Nova Scotia arising from an explosion on a ship carrying a Devco cargo; and,
- advising the Canadian Coast Guard about the potential recovery of costs incurred as a result of oil pollution from shipping casualties.

Chief General Counsel

Function

The General Counsel Group conducts, on behalf of the Attorney General of Canada, complex and high-profile litigation that requires counsel of particular seniority and expertise.

Organization

The group consists of senior lawyers experienced in the constitutional, civil, criminal and tax litigation fields. It is headed by a Chief General Counsel and consists of three Senior General Counsel and one General Counsel, all of whom are located at headquarters. The Chief General Counsel has Department-wide responsibilities relating to native litigation issues.

Activities

During the year under review, the group conducted major constitutional cases, including several concerning the interpretation of various sections of the *Canadian Charter of Rights and Freedoms*. Other major cases involved various administrative law issues, income tax appeals and issues of liability in tort and contract. Many significant cases involving native issues were handled by the General Counsel Group, including: *Big Plume v. The Queen*, *Cardinal v. The Queen*, *Chief Chonkolay v. The Queen*, *Harry Chingee v. A.G.'s of B.C. and Canada et al*, *Kaska Dena Council et al v. The Queen*, *Lubicon Lake Band v. The Queen*, *Manitoba Métis Federation v. The Queen*, *Nelson Small Legs v. The Queen*, *Peigan Indian Band v. The Queen*, and *Potts v. The Queen*.

London Life Insurance Co. v. The Queen involved complex questions on the application of the *Income Tax Act* to life insurance companies carrying on business outside the country. Judgment was under reserve at the end of the fiscal year.

In *Consolidated Bathurst Ltd. v. The Queen*, the Federal Court of Appeal substantially upheld a judgment of the Trial Division dealing with tax avoidance principles relating to the use of captive insurance subsidiary corporations in off-shore, tax-haven countries.

In *The Queen v. Trimarchi*, the Supreme Court of Ontario upheld the jurisdiction of Provincial Court judges to try serious offences. An appeal was pending before the Ontario Court of Appeal.

Smith Kline and French v. Attorney General of Canada raised many complex issues involving the constitutional validity of the compulsory licence provisions of the *Patent Act*. The Federal Court of Appeal affirmed the judgment of the Trial Division, which upheld the validity of these provisions. The Supreme Court of Canada refused leave to appeal.

The validity of the *Criminal Code* provisions dealing with dangerous offenders was considered by the Supreme Court of Canada in *Milne v. The Queen* and *Lyons v. The Queen*.

Hufsky v. The Queen, *Cornell v. The Queen* and *Thomsen v. The Queen* raised 13 separate constitutional challenges to provisions of the *Criminal Code* authorizing the use of roadside breath-testing devices. These cases were heard by the Supreme Court of Canada in February and were awaiting judgment at the end of the fiscal year.

Associate Deputy Minister's Sector

Public Law Branch

Function

This Branch provides advice on legal and policy issues in the public law field, on constitutional, international, native and administrative law, and on the machinery and operation of government. The Branch works closely with many other government departments and agencies. It also examines proposed regulations to ensure they comply with the *Statutory Instruments Act*.

Organization

Constitutional and International Law Section

This Section offers advice on legal and policy matters affecting constitutional and international law. It is involved in negotiating and drafting federal-provincial accords as well as developing and implementing instruments in both private and public law and in litigation involving questions of constitutional and international law.

The Section also advises the government on its obligations and rights under international law and on the constitutional implications of trade negotiations. The Section is concerned with litigation affecting the relationship between domestic and international law. It represents Canada in various international organizations which develop international law, particularly private international law.

Advisory and Administrative Law Section

This Section is particularly concerned with areas of law relating to the machinery and operation of government. For example, it assists other branches of the Department on such subjects as amendments to the *Federal Court Act* and in providing legal policy advice on legislative and other policy proposals to departments and agencies of government. It also has responsibility for developing proposals for administrative law reform. Another major responsibility is working in conjunction with Departmental Legal Services in the preparation of legal opinions requested by federal departments, agencies, boards and Crown corporations on a variety of administrative law and other legal issues.

Privy Council Office Legal Section

This Section carries out the duties of the Deputy Minister of Justice under the *Statutory Instruments Act*. This Act requires that all proposed regulations be examined to ensure that they meet specified criteria. Advice is provided on correcting legal ambiguities, inconsistencies and technical errors in proposed regulations. The Section also ensures that regulations do not contravene the *Canadian Charter of Rights and Freedoms* and the International Convention on Human Rights and it examines all statutory instruments that are required to be published in Part II of the *Canada Gazette*. The Section examines, pursuant to the *Canadian Bill of Rights*, all regulations that are not examined pursuant to the *Statutory Instruments Act*.

Counsel in this Section serve as legal advisors to officers of the Privy Council Office, particularly to the Assistant Clerk of the Privy Council (Orders in Council). The Section prepares proclamations as well as commissions and other instruments issued under the Great Seal, including those for the appointment of judges.

The Privy Council Office Legal Section also provides legal and policy advice to the Regulatory Affairs Branch of the Treasury Board on the implementation of the Federal Regulatory Plan.

Native Law Section

This Section provides legal and policy advice on native affairs, especially on the development of Indian and Métis self-government and in support of native litigation issues. It also advises on constitutional and international issues affecting natives, carries out legal and policy research on a wide range of native issues, and acts as a specialist resource to the Minister and the Department.

Federal-Provincial Relations Office Section

This Section provides legal and policy advice to the Federal-Provincial Relations Office, primarily in the areas of constitutional and native affairs. In particular, it is involved in constitutional reform discussions with the provinces, constitutional discussions with aboriginal peoples and tripartite discussions on Métis self-government.

Activities

☐ Trade Negotiations

The Constitutional and International Law Section advised the government on the constitutional implications of the Canada-United States trade negotiations.

☐ La Bretagne Arbitration

Following the issuance of a fishing licence for La Bretagne, a French fishing vessel registered in St. Pierre and Miquelon, a dispute arose when France objected to a condition on the licence prohibiting filleting on board while operating in the Gulf of St. Lawrence.

On October 23, 1985, Canada and France signed an agreement to submit the dispute to binding arbitration. The arbitration agreement provided for two stages of written proceedings followed by oral proceedings in Geneva in June 1986. The tribunal rendered its decision on July 17, 1986, indicating that filleting at sea in the Gulf of St. Lawrence by French trawlers registered in St. Pierre and Miquelon should be allowed.

☐ Offshore Legislation

The *Canadian Laws Offshore Application Act* (Bill C-104) was introduced in the House of Commons on April 11, 1986. It died on the Order Paper at the end of the first session of the 23rd Parliament.

☐ International Criminal Matters

The Constitutional and International Law Section participated in the work and negotiations that led to the signing of a mutual legal assistance treaty with the United States in 1985. In 1986, discussions continued respecting the enactment of implementing legislation at both the federal and provincial levels.

☐ UNCITRAL

The Constitutional and International Law Section was an active participant in the work of UNCITRAL (United Nations Commission on International Trade Law) including participation in the following:

- the Working Group on International Negotiable Instruments, which is finalizing a draft Convention on International Bills of Exchange and International Promissory Notes;
- the Study Group on International Payments, which has prepared a legal guide on the electronic transfer of funds;

- a Working Group that is producing a legal guide on international construction contracts;
- a Working Group that is producing a draft Convention on the Liability of Operators of International Transport Terminals; and,
- assisting the UNCITRAL Secretariat in the preparation of a study on barter and barter-like transactions.

☐ Federal-Provincial Matters

The Constitutional and International Law Section advised the government on constitutional proposals suggested by the Government of Quebec, including the recognition of Quebec specificity, the amending formula, the Supreme Court of Canada, spending powers and immigration.

It also guided the drafting of constitutional resolutions concerning the drawing of boundaries between Manitoba and Saskatchewan and between Alberta and British Columbia.

☐ International Commercial Arbitration

The Constitutional and International Law Section developed federal legislation, the *Commercial Arbitration Act*, to implement the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which came into force for Canada on August 10, 1986. This legislation established an Arbitration Procedural Code that governs commercial arbitration and admiralty matters in Canada involving the federal government or Crown corporations. It was enacted by Parliament in June 1986.

☐ Aboriginal Constitutional Matters

The Public Law Branch supported five multilateral meetings chaired by the Minister, in preparation for the final First Ministers' Conference on Aboriginal Constitutional Matters, held in Ottawa March 26-27, 1987.

☐ Federal Court Act Amendments

During 1986-87, the Department examined proposals to amend the jurisdiction of the Federal Court of Canada and to improve the present provisions of the *Federal Court Act*.

Human Rights

☐ Federal Regulatory Plan

The primary objective of the Federal Regulatory Plan, which came into force September 1986, is to ensure better rationalization and public consultation on regulatory proposals. The Privy Council Office Section provided advice on legal and policy issues related to implementation of the Plan. The Section also organized, in cooperation with the Regulatory Affairs Branch, a seminar on the Regulatory Process in June 1986 to assist lawyers and officials involved in the regulation-making process.

☐ Other Activities

The Public Law Branch also

- organized the Fourth International Trade Law Seminar, October 16, 1986, in Ottawa;
- assisted in implementing the Canada - United States Agreement on softwood lumber;
- advised on constitutional issues relating to reform of federal legislation governing banks and other financial institutions;
- retained solicitors to defend Canada's interests in the litigation commenced in London by the creditors of the International Tin Council;
- provided written and oral submissions before the GATT panel in Geneva investigating a complaint by the European Economic Community that certain liquor board activities contravene Canada's GATT obligations, and advised on related constitutional and trade issues;
- promoted the development within the International Civil Aviation Organization of a new instrument to suppress acts of violence at international airports; and,
- held its third annual Administrative Law Seminar for Justice and other government lawyers.

Function

This Section provides advice on legal and policy issues concerning human rights, especially as they relate to the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act*. It is also responsible for legal advice and policy development on official languages and judicial affairs. It advises the government on international human rights issues, including existing treaty obligations, and responds to complaints brought against Canada under the Optional Protocol to the International Covenant on Civil and Political Rights. The Judicial Affairs Unit provides legal and policy support to the Minister and the Department. The Section works closely with many other government departments and agencies in matters relating to the judiciary.

Activities

☐ Official Languages

In cooperation with the Treasury Board, the Department of the Secretary of State, and the Federal-Provincial Relations Office, this Section conducted an in-depth review of the *Official Languages Act*. The goal was to formulate a renewed Official Languages Policy.

☐ Toward Equality

Action was taken on several commitments made in the government's response to the report of the Parliamentary Subcommittee on Equality, tabled in the House of Commons in the previous fiscal year. One of these was action on mandatory retirement in federal institutions. Effective July 2, 1986, section 28 of the Public Service Superannuation Regulations was abolished. The section specified a mandatory retirement age of 65 for contributors under the *Public Service Superannuation Act*.

☐ Canadian Human Rights Act

Consultations were held with more than 60 groups and individuals in a review of the *Canadian Human Rights Act*, announced by the Minister at the end of the 1985-86 fiscal year. The review is being done in response to recommendations from several parliamentary committees and concerns expressed by the Human Rights Commission.

Civil Litigation and Real Property Law (Quebec) Section

☐ **Judges Act**

The *Judges Act* was amended early in the fiscal year, chiefly in order to accommodate court reorganizations in Newfoundland and Prince Edward Island. Further amendments to this Act and related legislation were proposed in Bill C-41, which was prepared and given first reading during the year.

☐ **Judicial Affairs**

The Judicial Affairs Unit participated in several projects, including a review of the judicial appointments process, consideration of the feasibility of establishing a Canadian Judicial Centre, and a study of the administrative independence of the Canadian Judicial Council.

☐ **Human Rights Law Fund**

During the year under review, the priorities of the Human Rights Law Fund were reassessed. The priorities included equality rights, language rights, human rights legislation, international human rights and comparative human rights between Canada and other nations.

Under the supervision and coordination of the Associate Deputy Minister, the Civil Litigation and Real Property Law (Quebec) Section represents the Attorney General of Canada in civil litigation taken by or against the federal government and its agents in the Province of Quebec. (For civil litigation conducted elsewhere in the country, see p. 13, Civil Litigation Branch.)

Six lawyers, three notaries and one legal secretary in the Civil Litigation and Real Property Law (Quebec) Section handle civil litigation and property matters. The Section generally serves all regions of Quebec, except the Montreal area, and is responsible for all public and private law matters except criminal litigation, tax litigation and immigration. From time to time, cases require the involvement of counsel from both the civil and common law sections.

During the year, the (Quebec) *Commission de la santé et de la sécurité du travail* brought proceedings in the Federal Court of Canada by way of subrogation. It sought damages for more than \$500,000, as compensation to victims of the acts of violence committed in the National Assembly buildings in Quebec in May 1984.

Statements of claims totalling more than \$25 million have been issued against the St. Lawrence Seaway by various ship claimants for losses allegedly suffered during the 20 days that navigation was interrupted because of the collapse of the shaft of the Valleyfield Lift Bridge over the Seaway. Residents in the bridge area also sought to launch a class action against the Seaway. The Crown brought legal proceedings against those who designed and built the bridge to compel them to pay damages and repair the bridge and related works.

The Section was involved in the sale by Transport Canada of the Cartierville airport to Canadair. The transaction involved opinions, title searches and corrections. The Section prepared orders in council, letters patent, and an agreement reflecting all the terms and conditions of the letter of intent signed by the parties on August 18, 1986.

The Section, along with the Real Estate Services of the Department of National Defence and the Department of Public Works, helped prepare regulations under new provisions of the *Aeronautics Act* concerning airport zoning. The purpose was to prevent any use or incompatible development of real estate on or near the Bagotville airport.

In *Grand Council of Crees of Quebec v. Canada*, the Grand Council brought an action in the Federal Court, Trial Division, in their own name and on behalf of the eight Cree bands in Quebec. They alleged nonpayment of \$31 million they claim is owed them under the provisions of a Statement of Understanding signed in 1984. The plaintiffs also sought other remedies, including a declaratory judgment.

Canadian Broadcasting Corporation et al v. Attorney General of Canada et al involved a motion for *certiorari*, whereby the CBC sought to have set aside the decision of a Justice of the Peace who issued a search warrant at the request of the Quebec Police Force. As a result of the search, police seized video cassettes made by CBC employees during the Manoir Richelieu dispute.

This case raised the question of whether a Justice of the Peace has jurisdiction to issue a search warrant in cases where the freedom of the press is involved. It also threw into doubt the admissibility of the evidence before the Justice of the Peace in *certiorari* proceedings, when such evidence adds to the content of the information.

In cooperation with the Department of Communications Legal Services, the Section completed the acquisition by the National Museums of Canada, by way of a *gift inter vivos*, of the "Rosie O'Grady balloon of peace". An American aviator had made the first solo crossing of the Atlantic in this gas balloon in 1984. The contractual arrangements in the circumstances proved to be quite complex.

Legislative Programming Branch

Function

The Legislative Programming Branch prepares all government bills and motions to amend those bills. The Branch periodically revises and consolidates statutes and regulations. It also prepares the Table of Public Statutes and oversees printing of annual volumes of statutes and Part III of the *Canada Gazette*.

Organization

The Branch, headed by an Associate Deputy Minister, consists of the Legislation Section and the Statute Revision Commission.

☐ Legislation Section

This Section, under the direction of the Chief Legislative Counsel, consists of two General Counsel (Legislation), three senior counsel and 11 legislative drafters. In addition, four drafters are attached to the Tax Counsel Unit in the Department of Finance to draft and review amendments to the *Income Tax Act* and regulations under that Act.

Under delegation from the Deputy Minister of Justice, the Chief Legislative Counsel examines all bills introduced by ministers into the House of Commons. This is required under the *Department of Justice Act* in order to ascertain whether any provisions are inconsistent with the *Canadian Charter of Rights and Freedoms* or the *Canadian Bill of Rights*.

☐ Statute Revision Commission

The Statute Revision Commission revises and consolidates the statutes of Canada. It maintains data bases for all federal statutes and regulations of general public interest. Chaired by the Assistant Deputy Minister (Public Law), the Commission comprises the Chief Legislative Counsel and one General Counsel (Legislation). The Secretary of the Commission, also a General Counsel, supervised a staff of 12 persons during the year, including two lawyers.

Activities

The Legislation Section drafted a wide range of bills for the government in 1986-87, including transportation legislation related to the government's "freedom to move" policies. The largest of these bills was the *National Transportation Act*.

Other bills of major importance drafted during the year included the *Superannuation Amendment Act, 1986* and bills providing for the privatization of Canadair and Teleglobe Canada as well as the assets of the Northern Canada Power Commission.

On December 17, 1986, the Minister of Justice tabled in Parliament the 17 volumes of the draft *Revised Statutes of Canada, 1985*, prepared by the Statute Revision Commission.

Also, under the auspices of the Legislative Programming Branch, a first report of the French Constitutional Drafting Committee was prepared. This committee is responsible for providing the Minister with a draft of the official version of certain constitutional acts. The report was tabled in Parliament by the Minister on December 17, 1986.

In addition, the Department made its annual contribution to the University of Ottawa to help meet the costs of the legislative drafting program given in both the Common Law and Civil Law faculties. Up to eight fellowships in legislative drafting are given annually to Canadian law graduates, enabling them to take the program, which is the main source for legislative drafters to the government. The program has provided legislative drafters to a number of provincial governments as well.

Legal Services Sector

Function

The departmental Legal Services Sector provides a variety of in-house legal services to federal departments and agencies as well as specialized legal advice on property, commercial, access to information and privacy law. It is also responsible for the monitoring and development of policy in relation to access to information, privacy and related issues.

Organization

During 1986-87, the Sector comprised 277 lawyers and support staff. It consists of four branches headed, respectively, by the Senior Assistant Deputy Minister, Legal Services; the Assistant Deputy Minister, Commercial and Property Law; the Assistant Deputy Minister, Finance; and the General Counsel, Legal Services.

The Senior Assistant Deputy Minister, Legal Services, is responsible for the overall direction of the Sector, the management of the Information Law and Privacy Section, and the departmental legal services units in the following departments and agencies:

- Communications Security Establishment
- Employment and Immigration
- Health and Welfare
- Indian Affairs and Northern Development
- Revenue Canada (Taxation)
- Solicitor General
 - Canadian Security Intelligence Service
 - Correctional Service of Canada
 - National Parole Board
 - Royal Canadian Mounted Police
- Trade Negotiations Office
- Treasury Board Secretariat

The Assistant Deputy Minister, Commercial and Property Law, has functional responsibility for all commercial and property law matters handled by the Department. He also manages the Commercial Law and Property Law sections and the departmental legal services units serving the following departments and agencies:

- Consumer and Corporate Affairs
- Energy, Mines and Resources
- Public Works
- Regional Industrial Expansion
- Supply and Services
- Transport
- Canadian Commercial Corporation
- Canadian Dairy Commission
- Canadian International Development Agency
- National Capital Commission
- Investment Canada
- National Research Council
- the Royal Canadian Mint
- Privatization and Regulatory Affairs

The Assistant Deputy Minister, Finance, is chief counsel to the Department of Finance, the office of the Inspector General of Banks and the Department of Insurance. He manages two departmental legal services units serving these clients.

The General Counsel, Legal Services, manages the departmental legal services units serving the following departments and agencies:

- Agriculture
- Communications
- Environment
- External Affairs
- Fisheries and Oceans
- Labour
- National Defence
- Revenue Canada (Customs and Excise)
- Secretary of State
- Veterans Affairs
 - Canadian Pension Commission
 - War Veterans Allowance Board
- Atomic Energy Control Board
- Public Service Commission

Activities

The Sector provides legal advice to the government for virtually all of its activities. In 1986-87, this included in particular:

- the February 1987 budget and the resulting legislation;
- the tax reform proposals;
- legislation concerning federal financial institutions and financial regulatory controls;
- softwood lumber negotiations between Canada and the United States and the consequent legislation;
- the privatization of Canadair and Teleglobe;
- amendments to the Canada Pension Plan;
- amendments to the *Duties Relief Act*, the *Customs Tariff* and the *Federal Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977*;
- environmental legislation concerning toxic substances and the environmental review process;
- new national transportation legislation;
- new competition legislation;
- the development of new legislation dealing with young offenders;
- the free trade and GATT negotiations;
- major industrial development agreements with private firms;
- major Crown projects including the Canadian Patrol Frigate Program, Small Arms Replacement Program, Tribal Class Update Project, the North Warning System, and the Icebreaker Program; and,
- the Noranda project in relation to the Acid Rain Abatement Program.

Policy, Programs and Research Branch

Function

The Policy, Programs and Research Branch is responsible for the planning, development and implementation of government justice policies and the administration of programs, three of which are cost-shared with the provinces. Its major functions are to:

- identify new directions in law at the national level;
- review the reports and recommendations of the Law Reform Commission of Canada in criminal law, family law and the protection of life;
- analyze significant legal issues in the administration of justice and develop policies to address them;
- review federal laws for which the Minister of Justice is responsible;
- consult with other federal departments, provincial governments, professional organizations, private-sector associations and the public on the administration of justice;
- assume primary responsibility for amendments to the *Criminal Code* and certain federal statutes not falling within the specific responsibility of other government branches or departments;
- develop and administer most of the Department's grants and contributions programs, including federal-provincial cost-shared programs;
- define, undertake or oversee socio-legal research in support of policy analysis and development;
- respond to internal requests for legal information; and,
- maintain liaison with research and statistics units in other departments, provincial governments and international agencies.

Organization

■ Criminal Law Policy and Amendments Section

This Section identifies and analyzes emerging criminal law issues and develops policies to address them. It monitors the development of the law, participates in many committees concerned with criminal law issues, and reviews recommendations of the Law Reform Commission of Canada and many other bodies. The Section also develops amendments to the *Criminal Code* and other federal statutes involving criminal law.

■ Family Law Policy and Amendments Unit

This Unit develops and implements policies relating to the *Divorce Act*, the *Family Orders and Agreements Enforcement Assistance Act*, the *Garnishment, Attachment and Pension Diversion Act*, the *Marriage Act*, as well as to common-law spouses, civil legal aid and the status of women. It provides policy advice to other sections of the Department and to other departments on family law matters.

■ Programs and Research Section

This Section monitors federal laws and policies to improve the access to justice, especially for disadvantaged persons. It is responsible for cost-shared criminal legal aid programs, compensation to victims of crime and native courtworker services. It conducts the public legal information program and is responsible for public information on departmental law reforms. In addition, the Section reviews and coordinates proposals and requests for funds submitted to the Department. This Section oversees the Department's policy-related socio-legal research. It monitors and assesses programs, conducts research for other branches and maintains liaison with similar units in other departments, in provincial governments and in international agencies.

■ The Criminal Law Review Group

Since 1981, the Criminal Law Review Group has been engaged in a fundamental Review of Criminal Law. The Group examines all proposals of the Law Reform Commission related to criminal law and makes recommendations on their implementation.

The Review is directed by two interdepartmental committees. The Executive Committee of the Criminal Law Review, chaired by the Deputy Minister of Justice, includes the Deputy Solicitor General. The Committee establishes priorities and oversees the Review's progress. The Program Management Group, chaired by the Assistant Deputy Minister, Policy, Programs and Research, directs individual projects and approves reform proposals.

Activities

There are approximately 50 projects in the Criminal Law Review. During the year in review, activities centred principally on mental disorder, police powers, hate propaganda, arson, vandalism, theft and fraud, and pre-trial procedure. Consultations were held with respect to these projects with other federal departments, provincial governments, the bench, the bar, law faculties, police and numerous interested groups and individuals.

Work also progressed on defamatory libel, contempt of court and the jury. The Review provided advice and assistance to the Law Reform Commission in the preparation of its proposed draft *Criminal Code*, and with the publication of Volume I of the draft *Code* by the Commission. The Review began the process of consulting on the draft.

☐ Canada-Yukon and Canada - Northwest Territories Fine Option Agreements

These agreements were concluded during 1986, permitting territorial Fine Option legislation to be applied to *Criminal Code* prosecutions in Yukon and Northwest Territories.

☐ Uniform Law Conference

The Branch participated in the organization and discussions of the Criminal Law Section of the Uniform Law Conference of Canada at Winnipeg in August 1986.

☐ Amendments to Part II.1 of the *Criminal Code*

A review of the firearms and weapons control provisions of the *Criminal Code* was conducted during the year. Included in this process were consultations with the provinces and other interested government departments.

☐ Pre-Trial Conferences

The Branch assisted the Canadian Judicial Council Committee on Pre-Trial Conference Rules to develop those Rules and arranged for their publication in the *Canada Gazette* in French and English. It prepared an amendment to the French version of a related section of the *Criminal Code* to bring it in line with the English version.

☐ Mutual Legal Assistance in Criminal Matters

On the international scene, Branch officials participated in developing such instruments as the Final Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth and the European Convention on Mutual Assistance in Criminal Matters sponsored by the Council of Europe.

Further work was done this year on the proposed *Mutual Legal Assistance in Criminal Matters Act*. This legislation would implement the Canada-U.S. treaty that was signed on March 18, 1985, as well as any other similar treaties that Canada may sign.

Negotiations with the provinces have continued with respect to the implementation in Canada of foreign requests for assistance.

☐ Ticketing

A paper on ticketing was developed and consultation undertaken with client departments, departmental regional offices, provincial representatives and the RCMP.

☐ Consultations With Other Departments

Members of the Branch are regularly consulted by other departments concerning the criminal law provisions contained in legislative initiatives falling under their responsibilities. This year, the Branch reviewed extensively the search and seizure provisions as well as the sentencing provisions of the proposed *Environmental Protection Act*.

☐ Child Sexual Abuse and Pornography

The Branch developed legislation on child sexual abuse (Bill C-113) and pornography (Bill C-114), introduced on June 10, 1986, in the House of Commons by the Minister of Justice. These bills died on the Order Paper with the prorogation of the previous session of Parliament. The Branch further assisted in the process of reintroducing legislation on child sexual abuse (now Bill C-15). This bill aims at ensuring protection of young Canadians from all forms of sexual abuse and exploitation.

Branch officials also represented the Department on the Interdepartmental Committee on Child Abuse established under the leadership of Health and Welfare Canada.

☐ **Proceeds of Crime**

Legislative proposals, based on recommendations of the 1983 Enterprise Crime Study Report, were prepared this year. If implemented, the proposals would provide law enforcement officers with more effective investigative mechanisms, prevent the accused from disposing of illegally obtained assets before trial, and provide the court with the means of depriving criminals of their illicit proceeds.

☐ **Wrongfully Convicted and Imprisoned Persons**

A set of proposals was developed to implement a system for compensation for persons wrongfully convicted and imprisoned. It was based on a federal-provincial task force report that examined the issue of compensation for wrongfully convicted and imprisoned persons. These proposals were being discussed by federal and provincial officials at the end of the year under review.

☐ **Supreme Court of Canada Act Amendments**

Bill C-105, which proposed amendments to the appeal procedures of the Supreme Court of Canada, was introduced. Some of the proposed amendments resulted from discussions that date to 1977. The bill eventually died on the Order Paper.

☐ **Canadian Sentencing Commission**

The Criminal Law Policy and Amendments Section served as the Department's liaison with the Canadian Sentencing Commission. The final report of the Commission was tabled in the House of Commons by the Minister on March 25, 1987.

☐ **The Proposed *Environmental Protection Act***

During the fiscal year, the Branch participated in consultations and discussions with Environment Canada on the new offence and penalty provisions of the proposed *Environmental Protection Act*. Advice supplied by the Branch helped ensure that these provisions were consistent with the *Charter*, criminal law policy, and basic notions of substantive and procedural fairness.

☐ **Ministry of Solicitor General's Correctional Law Review**

During the year under review, the Branch participated with the Correctional Law Review's Working Group in the development, clarification and articulation of a new policy direction for the Canadian Correctional System.

☐ **Young Offenders**

Together with officers of the Ministry of the Solicitor General, the Branch developed amendments to the *Young Offenders Act* (Bill C-106) this year. These amendments were passed by Parliament and proclaimed in force in the fall of 1986.

The Branch continued to participate in New Brunswick's reference to its Court of Appeal on the constitutional validity of the court structure established in the province under the *Young Offenders Act*.

The federal contributions for adult criminal legal aid and the third year of the young offenders legal aid agreements were approximately \$48 million and \$6.3 million, respectively.

In 1986-87, the Department concluded a two-year cost-sharing arrangement with the provinces with respect to both agreements. The agreements provided for an increased federal contribution for both 1985-86 and 1986-87.

☐ **Victims of Crime**

During the year, departmental officials participated in extensive consultations with their provincial counterparts regarding crime victims, a priority in the social policy area. Consultations considered the following initiatives: proposed amendments to the *Criminal Code*, making allowance for a victim fine surcharge to be imposed on those convicted; improvements to criminal injuries compensation programs; and, a Statement of Basic Principles of Justice for Victims of Crime.

☐ **Torture (Bill C-28)**

Bill C-28, *An Act to amend the Criminal Code (torture)*, was introduced into the House of Commons on December 10, 1986, and was adopted March 27, 1987. The bill would implement a number of provisions of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

☐ **Trade Secrets**

The Federal-Provincial Working Party and the Institute of Law Research and Reform of Alberta prepared a federal-provincial report on Trade Secrets. This report, released by the Minister of Justice on February 4, 1987, recommended amendments to both federal and provincial law to better protect trade secrets and commercial information.

☐ **Lotteries and Gaming**

The Branch advised the Department of Indian Affairs and Northern Development about gaming on reserves, and advised the Department of Agriculture concerning the interpretation and operation of the *Criminal Code* in relation to pari-mutuel betting on horse racing. The Branch also consulted the provinces concerning a number of items about gaming, including lotteries and gaming in stocks.

☐ **Computer Crime**

The Branch was involved in a study on computer-related crime undertaken by the Council of Europe. It also advised other departments, as well as officials of other countries, with respect to various aspects of computer-related crime.

☐ **Council of Europe**

The Branch represented Canada on committees at the Council of Europe concerning criminal justice issues important to Canada. Advice and materials were prepared for the Minister of Justice regarding the Fifteenth Conference of European Ministers of Justice.

☐ **United Nations**

The Branch advised the Department of External Affairs on a number of issues concerning criminal justice and human rights that were discussed at various United Nations meetings.

☐ **Extradition**

The Branch prepared a workplan and issues study for the purpose of drafting a policy on Canadian extradition and rendition law. It also assisted in developing the Canadian position on various issues discussed at the Meeting of Commonwealth Law Ministers.

☐ **War Crimes**

Work began on the government's draft legislation to deal with war criminals and crimes against humanity.

☐ **Impaired Driving**

Issues such as penalties and the taking of blood samples were addressed in view of the implementation and operation of 1985 amendments to the *Criminal Code* concerning impaired driving. Assistance was also provided to develop impaired driving programs.

☐ **Family Law**

On June 1, 1986, the new *Divorce Act, 1985* was proclaimed. The *Divorce Act* provides a single ground for divorce: marriage breakdown, provable by evidence of adultery or mental or physical cruelty or by separation of at least one year. Factors and objectives relating to child support and custody are provided.

Work continued on the development of a complex and unique administrative system needed to implement the *Family Orders and Agreements Enforcement Assistance Act* passed in February 1986. Agreement in principle was reached with the provinces and the territories on the federal-provincial agreements to be signed under Part I of the Act, to govern the release of information from federal information banks.

The *Family Orders and Agreements Enforcement Assistance Act* will provide services to help enforce support and custody/access orders and agreements. To enforce support and custody/access provisions, the Act allows the release of information from designated information banks to trace a missing person and also permits the garnishment of designated federal monies, such as income tax refunds.

The Branch continued to fund Family Mediation Canada, an independent national association to promote mediation. This year, funding included monies to develop a Code of Practice for Mediators and national training standards, as well as for the first national mediation conference.

☐ **Proposed New Canada Evidence Act**

Building on the legislative proposals in Bill S-33 (1982), the Branch continued to work on developing a new *Canada Evidence Act*. During the year, draft proposals containing amendments to Bill S-33 were circulated to the provinces, the Canadian Bar Association and to experts on evidence.

☐ **Protection of Life Project**

The Protection of Life Project comprises projects on Medical Law and Environmental Law. It considers recommendations by the Law Reform Commission and others on medical-legal and environmental issues, carries out additional research, analysis and comparison and develops responses to recommendations.

Medical issues examined during the year included organ and tissue transplantation, determination of pediatric death, human experimentation and withholding medical treatment.

At the request of Health and Welfare Canada, the medical law project chief assisted on committees dealing with medical law, including the Review Committee on AIDS, National Health Research and Development Program, and the Expert Interdisciplinary Advisory Committee on Sexually Transmitted Diseases in Children and Youths.

The environmental law project chief, on a World Health Organization Fellowship, met with experts from the United States, France, the United Kingdom, the Federal Republic of Germany, Japan, the Commission of the European Economic Communities (Brussels) and the Food and Agriculture Organization (Rome).

During the year, the Branch completed the first phase of consultations with governments, organizations and individuals on the impact of the Law Reform Commission's recommendations on environmental issues. The Branch also coordinated Justice input to the Department of the Environment in the preparation of legislative proposals for a draft *Environmental Protection Act*.

☐ **Federal Statutes Compliance Project**

The principles for encouraging compliance with federal regulatory legislation, developed before 1986-87, were incorporated into the Citizen's Code of Regulatory Fairness. The Project now aims to improve regulatory remedies to ensure that federal policy objectives are implemented in a fair, effective and efficient manner.

Direct advice was provided to those line departments reviewing their compliance/enforcement strategies. As well, departmental officials participated in the development of a compliance policy for the proposed new *Environmental Protection Act*.

☐ **Law Information Initiatives**

The Law Information program developed three publications during 1986-87, including two booklets explaining the provisions of the *Divorce Act, 1985*. These include *Divorce Law: Questions and Answers* and *Divorce Law for Counsellors*. The latter was sent to social workers, mediators, clergy and others who work with families in crisis. The third booklet, . . . *after sexual assault . . . Your guide to the criminal justice system*, is meant to inform victims of assault about police procedures and courtroom practice.

Research

The Access to Justice Section carried out research projects and administered departmental contribution funds related to access to justice and criminal law. Some reports, along with the demonstration projects supported by the Department, are listed here. Others appear in Appendices III and IV.

☐ **Legal Aid**

In connection with the renegotiation of the federal-provincial legal aid cost-sharing agreements, this Section analyzed the costs of criminal legal aid as well as the demand for services and projections of future costs. In close cooperation with the Canadian Centre for Justice Statistics, the Section took part in a review of the national statistical information requirements for legal aid in Canada. A report: *Bibliography of Legal Aid Literature Related to the Management of Canadian Legal Aid Services*, was released.

☐ **Public Legal Education**

A three-year program of research into Public Legal Education was completed. The series included a survey of public legal education organizations across Canada; an evaluation of the public legal education program of the civil rights league of Montreal; an evaluation of the public legal education at the community level in Nova Scotia; evaluations of provincial-territorial programs in Manitoba, Newfoundland and Yukon; and a synthesis report of all pertinent research findings.

☐ **Natives**

Research was conducted on the needs of native people in New Brunswick, and on the needs of young native offenders. A report on the data base developed for the Amerindian Police of Quebec was completed.

☐ **Victims and Witnesses of Criminal Acts**

Research continued on pilot projects concerning various models for submitting victim impact statements in court. Work continued on the annual report on Criminal Injuries Compensation in Canada.

☐ **Sexual Assault**

As part of the research program for the evaluation of the 1983 legislative reform, studies were begun into sexual assault in six Canadian cities. These studies will document the experiences of victims with the criminal justice system and determine the impact of these reforms on the practices and procedures of the various agencies and institutions involved.

☐ **Child Sexual Abuse**

To support the implementation of Bill C-15, a number of studies are under way that will provide a better understanding of the complex question of child sexual abuse. These studies will suggest certain avenues for pilot projects, evaluate projects supported by the Department and collect data with respect to the evaluation of Bill C-15. Several evaluations of projects sponsored by the Criminal Law Reform Fund were being done during the year, including an evaluation of the Child Victim/Witness Project in Vancouver, an evaluation of the Child Advocacy Project in Winnipeg, and an evaluation of the Videotaping Project in Winnipeg.

☐ **Pornography**

A statistical study was being carried out on the contents of certain sexually explicit magazines. A more exhaustive research plan was being developed in preparation for the evaluation of the proposed legislation.

☐ **Sentencing**

A national study on sentencing practices and trends in Canada was conducted to assist the Canadian Sentencing Commission in preparing its final report. A feasibility study on the collection of data on dispositions of *Criminal Code* offences in Toronto-area courts was completed, as was a three-year initiative to help provinces and territories implement community-based alternatives to imprisonment. This latter project included a study of fines, community service and restitution programs.

☐ **Divorce Mediation**

Studies were conducted to determine the effectiveness of court-based mediation services in divorce cases in St. John's, Montreal, Winnipeg and Saskatoon. A continuing study to determine the cost-effectiveness and social benefit of mediation as part of a legal aid program was jointly sponsored by the Department, the Laidlaw Foundation and the Ontario Ministry of the Attorney General. An Inventory of Divorce Mediation and Reconciliation Services was prepared.

☐ **Impaired Driving**

Research was conducted to support the implementation of the 1985 legislation on impaired driving, including young drivers and alcohol, public opinion, and international legislative comparisons.

Studies completed during the year were *Alcohol and Fatal Road Accidents in Canada: A Statistical Look at its Magnitude and Persistence; Characteristics of Drinking Drivers; Motor Vehicle Related Offences: Custodial and Probation Sentences 1984-85; Canadian Data on Alcohol-Impaired Driving: An Inventory and an Assessment; An Inventory of Government Sponsored Drinking-Driving Programmes; A Survey of Community groups concerned with Impaired Driving*. A public opinion poll on impaired driving was also conducted.

☐ **Mental Disorders**

In support of the Criminal Law Review's Mental Disorders Project, research was conducted on hospital orders and persons held on warrants of the Lieutenant Governor. A feasibility study was completed on establishing a data base for persons held on warrant. Studies completed were: *Persons Held on Warrants of the Lieutenant Governor in Canada; Feasibility of Establishing a Canadian Data Base for Forensic Psychiatric Patients Held Under a Warrant of the Lieutenant Governor; Criminal Recidivism of a Cohort of Persons Found Unfit to Stand Trial and/or Not Guilty By Reason of Insanity in the Province of Quebec; and Federal-Provincial Working Group on the Implications of the Proposed Criminal Code Amendments on Mental Disorder*.

Grants and Contributions

The Policy, Programs and Research Branch administers most of the Department's grants and contributions programs.

☐ Adult Criminal Legal Aid

This program ensures that a modicum of legal aid is available in criminal matters across Canada. Provincial and territorial governments provide legal aid to all eligible persons for indictable offences, some summary conviction offences and some federal statutes. The federal contribution in 1986-87 remained at approximately 50 per cent of national shareable criminal legal aid costs.

☐ Young Offenders Legal Aid

A cost-sharing arrangement with the provinces under the Young Offenders Legal Aid Program provides for a federal contribution of 50 per cent of provincial expenditures (90 per cent in the Atlantic Provinces) or 40 cents per capita, whichever is less. The estimated contribution for 1986-87 was \$6.3 million.

☐ Compensation to Victims of Crime

This program compensates innocent victims, particularly of violent crime. Agreements exist between the federal government and all provinces (except Prince Edward Island) and territories to cost-share the program. The federal contribution in 1986-87 was approximately \$2.6 million.

☐ Native Courtworkers

The program is cost-shared with the provinces and territories on an equal basis. It assists status and non-status Indians, Inuit and Métis in understanding their legal rights and obtaining legal assistance. (New Brunswick, Nova Scotia and Prince Edward Island do not participate in this program). In 1986-87, the federal share of the budget was \$3.3 million.

☐ Civil Law/Common Law Exchange

The program fosters a better knowledge of the civil law and common law systems through a law student exchange involving 48 students from across Canada. It promotes bilingualism by holding the civil law course in French at the University of Sherbrooke and the common law course in English at Dalhousie University. The budget for 1986-87 was \$242,000.

Federal Contributions to Native Courtworker Program

	1984-85	1985-86 (\$ '000)	1986-87
British Columbia	591.6	698.8	575.0
Alberta	742.3	888.9	784.8
Saskatchewan	411.7	459.8	418.1
Manitoba	221.5	237.1	242.4
Ontario	420.0	493.7	460.1
Quebec	273.2	454.9	459.9
Newfoundland	70.2	77.1	74.3
Northwest Territories	245.5	320.8	309.5
Yukon	52.8	69.3	79.4
Prince Edward Island	—	—	—
Nova Scotia	—	—	—
New Brunswick	—	—	—
Total	3,028.8	3,700.4	3,403.5

☐ **Duff-Rinfret Scholarship**

The Duff-Rinfret Scholarship offered seven scholarships to Canadian law graduates for study at the Master's level in Canadian law schools. Scholars must complete a thesis on an area of law within federal jurisdiction. Total budget in 1986-87 was \$95,500.

☐ **Legal Studies for Aboriginal People**

This program encourages native students to enter the legal profession by defraying the costs of obtaining a degree or gaining admission to a provincial or territorial bar. It is granted to 10 Métis or non-status Indian students annually. The budget for 1986-87 was \$312,600.

☐ **The Criminal Law Reform Fund**

This fund encourages activities that evaluate the effects of criminal law legislation. With a budget of more than \$1 million in 1986-87, the fund permitted the Department to consult with a large variety of specialists and associations on law reform issues. The fund provided financial support for conferences and seminars, along with the publication of legal information with respect to criminal justice issues in which the Department had a particular interest. Major projects in 1986-87 were Victim Impact Statements, Sentencing Alternatives and pilot projects on Child Sexual Abuse.

☐ **Special Projects – Legal Aid**

This program, which encourages research and pilot projects in legal aid, provided \$122,277 in 1986-87. The Section entered into other contribution agreements on projects in British Columbia, Manitoba and New Brunswick.

☐ **Consultation and Development Fund**

This fund provides financial assistance to individuals and organizations for research projects and legal publications, conferences, consultations in civil and administrative law, and public legal education. The budget for 1986-87 was \$283,000.

☐ **Access to Legal Information Fund**

This fund provides financial support to organizations whose primary concern is public legal education in the provinces and territories where such services do not yet exist. During 1986-87, the Department concluded agreements for such support with Newfoundland, Prince Edward Island, New Brunswick, Manitoba, the Yukon and the Northwest Territories. The fund provides support to organizations that provide legal information to special groups and to the public at large. For 1986-87, some \$697,000 was available in the fund.

☐ **Family Provisions Enforcement Assistance Fund**

Contributions from this fund support the establishment and improvement of provincial enforcement services for support and custody orders, including provincial registration and interprovincial information exchange systems. Funding began April 1, 1986, and will be available for a three-year period. In 1986-87, projects were approved for a total of \$667,514 for Alberta, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario and Saskatchewan.

Aboriginal Affairs

The Department of Justice provides legal and constitutional advice to the government on aboriginal matters. As a result, the Department is involved in constitutional discussions, proposals for Indian and Métis self-government, and land claims negotiations and litigation. It also conducts research and administers programs to ensure that Canada's justice system has a clear perspective of the special circumstances of aboriginal peoples.

Departmental lawyers provide advice on self-government-related issues to a number of government departments, particularly to Indian Affairs and Northern Development and the Federal-Provincial Relations Office. Departmental officials are involved in both the constitutional process and the legal policy aspects of self-government proposals for Indians and Métis.

The Department also assists Indian Affairs and Northern Development in negotiations on specific and comprehensive land claims. Departmental lawyers research and help define legal obligations pertaining to land claims and assess related historic findings. In some cases, claim settlements require the drafting of specific legislation.

Native law and policy matters are handled at headquarters, primarily by the Native Law Section of the Public Law Branch. The Senior Counsel, Federal-Provincial Relations Office (FPRO), provides a range of legal services to FPRO and helps formulate policy for the Office of Aboriginal Constitutional Affairs. The Civil Litigation Section is responsible for all litigation involving native issues. The Chief General Counsel handles all civil and tax litigation involving native issues while the Assistant Deputy Attorney General, Criminal Law, supervises criminal prosecutions involving native rights. The Legal Services Unit at the Department of Indian Affairs and Northern Development provides legal advice on all aspects of its client's programs and activities, including the application of the *Indian Act*, the administration of Indian programs, and the negotiation of native claims.

An important activity this year was the First Ministers' Conference on aboriginal constitutional matters, held March 26-27, 1987, in Ottawa. This was the fourth conference since 1982 and the final one held pursuant to section 37.1 of the *Constitution Act, 1982*. Having been assigned special responsibilities for aboriginal constitutional matters by the Prime Minister, the Minister of Justice chaired five multilateral meetings with his provincial and territorial counterparts and aboriginal leaders during the year.

Land claims negotiations are often influenced by the outcome of litigation concerning Indian lands and hunting, fishing and other wildlife harvesting rights. The Department's General Counsel Group and the Civil Litigation and Criminal Law branches have, at any given time, more than 100 active native litigation cases on file. These consist of civil claims against the federal government and criminal prosecutions arising from the enforcement of federal statutes such as the *Fisheries Act* and the *Migratory Birds Convention Act*. The Civil Litigation Branch, in concert with the Legal Services Unit at the Department of Indian Affairs and Northern Development, also analyzes and negotiates land claims based on the alleged failures of the Crown to fulfill or discharge its treaty and other legal obligations toward the native peoples of Canada.

Native issues and their litigation continued to make great demands on the resources of the litigation sections across the country, especially in British Columbia, Alberta, Ontario and Quebec. At year's end, there were more than 75 cases of civil and tax litigation against the federal government that involved aboriginal title and native rights. The constitutional protection of the *Constitution Act, 1982*, raised major new issues in most of the cases handled during 1986-87.

The Department administers programs and conducts studies in aboriginal affairs through the Policy, Programs and Research Branch. The Branch continues to administer the Native Courtworker Program and the Program of Legal Studies for Aboriginal People. During the year, a study was completed on the needs of aboriginal offenders, witnesses and victims.

Regional Offices

Nine regional offices, located in cities across the country, perform a crucial function in the day-to-day operation of the Department of Justice.

These offices conduct all forms of litigation on behalf of the Attorney General of Canada and provide legal advice to the regional offices of federal departments and agencies. In areas not served by these offices, the Department hires private-sector lawyers to handle its cases and these agents receive direction from the regional offices.

The regional offices employed 251 lawyers and 254 support staff in 1986-87. The offices are organized in much the same fashion as headquarters, with sections for civil, criminal and tax law, and commercial and real property in most regions. Offices vary in size from a few lawyers to staffs in Montreal, Toronto and Vancouver that are comparable to large private law firms.

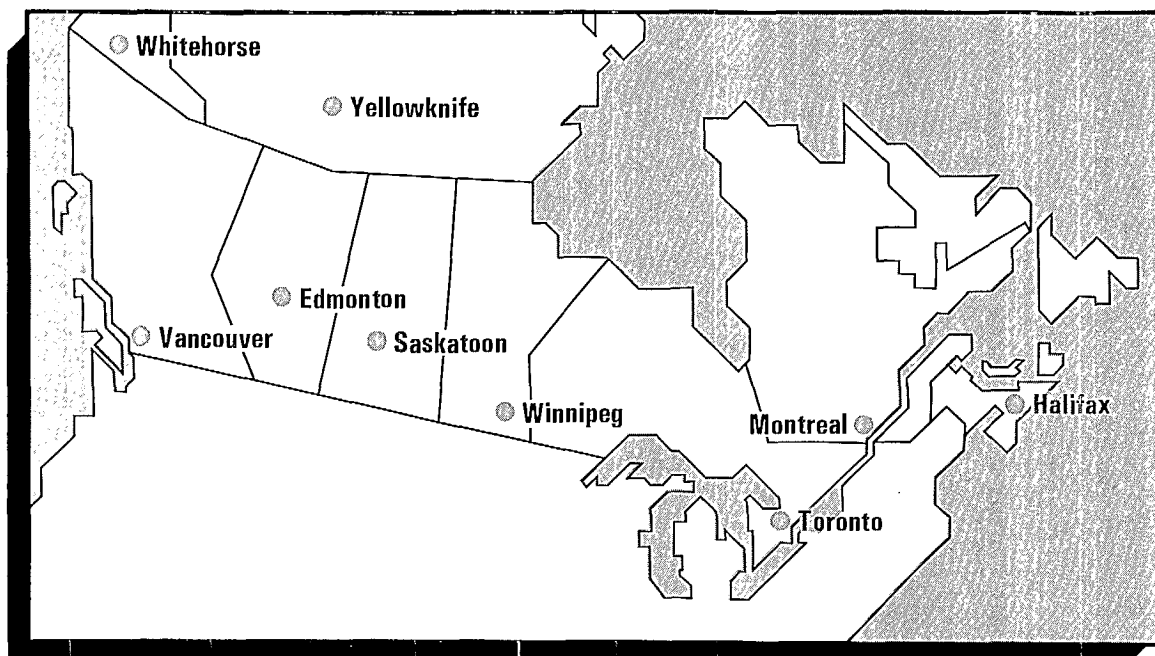
The responsibilities and activities of each regional office are detailed below, accompanied by selected cases handled by each office during the year. It should be noted that the regional offices handle much of the Department's litigation and prosecution, which is discussed in the Civil Litigation, Criminal Law and Tax Litigation sections of this report.

Halifax Regional Office

The Halifax Regional Office provides legal services to the departments and agencies of the federal government in the four Atlantic Provinces. It has a staff of 22, including 12 lawyers and two paralegals. Of the 12 lawyers employed in 1986-87, four conducted civil litigation, four handled criminal prosecutions, two litigated tax matters and one was responsible for commercial and property law. Agents, instructed by Halifax legal staff, are employed across the region as required to supplement the resources of the Office.

In 1986-87, the Civil Litigation Section handled a large volume of contract, tort and administrative cases, arising from defence construction contracts, marine losses and activities and personal injury claims. Among these cases is *Dywidag Systems International Canada Ltd. and Zutphen Brothers Construction Ltd. v. Her Majesty the Queen* which resulted from a wharf construction project in Glace Bay, Nova Scotia. Actions were commenced in both the Federal Court and the Nova Scotia Supreme Court.

In *MacKinnon v. The Queen*, it was alleged that the Department of Fisheries and Oceans' "sector management plan", which restricted the plaintiff's fishing activity to a zone off the Nova Scotia coast, was unconstitutional. The Federal Court, Trial Division, dismissed the plaintiff's claim.



Another case of interest was the *Attorney General of Canada v. Maclaren and War Veterans Allowance Board*. The issue concerned whether veterans who were recruited in one province and travelled to another for formal enlistment were serving in the armed forces during the period of travel. The decision will affect the eligibility of many applicants for pension benefits under the *War Veterans Allowance Act*.

The Criminal Prosecutions Section continued to be busy, especially in the area of drug prosecutions, tax evasion prosecutions and appeals involving the *Canadian Charter of Rights and Freedoms*. Since the coastline along the Atlantic Region is used to offload many large drug shipments, a number of major conspiracy cases are handled by the Office. *Regina v. Boyer, Deschenes et al* involved the prosecution of 15 persons for importing more than 16 tonnes of cannabis resin from Pakistan. *Regina v. Sunila* arose from the seizure of more than 13 tonnes of cannabis resin. An appeal of the accused's conviction following a two-month jury trial focused generally on ministerial delegation of authority. The case was appealed to the Supreme Court of Canada.

The Office was involved in a number of prosecutions of American fishermen encroaching into the fishing waters off George's Bank. Canada and the United States disputed these waters and they were finally awarded to Canada by the International Court at The Hague.

Montreal Regional Office

This Office covers all judicial districts under the jurisdiction of the Court of Appeal in Montreal, including outlying areas. Within this area, the Office prosecutes criminal cases on behalf of the Attorney General of Canada, takes part in civil proceedings to which the Crown is a party, and represents the Minister of National Revenue in Quebec tax matters. The Office also provides legal advice and consultation to federal departments and agencies in Quebec.

The Office has 95 employees, including 48 legal counsel, 21 of whom are in the Civil Litigation Section, 13 in the Criminal Prosecutions Section, 11 in the Tax Litigation Section, and three are General Counsel conducting specialized litigation.

During 1986-87, the Civil Litigation Section handled more than 5,000 cases, most involving administrative law and civil actions on behalf of the federal government. The actions against the federal government exceeded \$70 million and those on its behalf totalled \$44 million.

Among the cases handled was *Roger Côté v. Employment and Immigration Commission* which questioned whether the Commission had the authority to amend an Unemployment Insurance Regulation to include pension income in the amounts deductible from unemployment insurance benefits. This case also questioned whether the regulation was discriminatory and contrary to the concept of equal benefit of the law defined in section 15 of the *Charter*.

The Federal Court of Appeal decided that the Commission had a regulatory power and not a decision-making power, allowing the Commission to treat the pension received by the applicant as earnings. The Court declined to rule on the concept of benefit of the law defined in section 15 of the *Charter*. The Supreme Court of Canada dismissed the applicant's motion for leave.

Committee for the Commonwealth of Canada v. Her Majesty the Queen concerned the expulsion of members of the Committee for the Commonwealth of Canada from Dorval Airport. The Federal Court ruled that the Crown had not observed the freedom of expression guaranteed by the *Charter* and that the plaintiffs had the right to engage in political propaganda at Dorval Airport. A motion for leave to appeal to the Supreme Court was planned.

The plaintiff in *Dion v. Attorney General of Canada* represented inmates of Cowansville Institution who sought a declaration from the Supreme Court that certain sections of the Penitentiary Service Regulations were inconsistent with their *Charter* rights. One section prohibits the consumption of hallucinogenic substances by inmates while the other requires that an inmate provide a urine sample to members of the Service. On August 14, 1986, the Superior Court allowed the plaintiff's action and declared that both sections infringed rights guaranteed by the *Charter*. The judgment was appealed to the Quebec Court of Appeal.

Brière et al v. Canada Mortgage and Housing Corporation was one of many tort actions instituted by owners of houses insulated with urea formaldehyde foam. Most of these actions were brought either against the federal Crown in the Federal Court or against the Canada Mortgage and Housing Corporation in the ordinary courts. The plaintiffs decided for legal reasons to sue the Corporation directly in the Federal Court, Trial Division. The Court of Appeal decided that the cause of action was based, at least in part, on federal law and that the Federal Court had jurisdiction to hear the action.

In 1986-87, the work of counsel for the Criminal Prosecutions Section involved economic crimes, applications for search warrants, extraditions, and interception of private communications as well as narcotics and food and drugs prosecutions. Also handled were prison law cases involving judicial review of actions of penitentiary and National Parole Board representatives. The major cases handled during the year include the following:

In *Regina v. Bujold et al*, an *ex parte* wiretap application was made by a permanent deputy of the Attorney General of Quebec for the specific purpose of a narcotics investigation. The Quebec Court of Appeal decided that the wiretap authorization had been lawfully obtained.

In *Alfred Albert Berthelotte v. Institut Leclerc et al*, the Court of Appeal held that the appellant's statement was part of the documentary evidence entered in the record and could be adduced in evidence, even in the absence of a *voir dire*, owing to its authentication pursuant to the Extradition Treaty with the United States.

In *Attorney General of Canada v. Maurice Thibault et al*, the Quebec Police Force obtained a search warrant under the *Criminal Code* in order to seize Department of National Revenue documents. The warrant was challenged in a motion for *certiorari* based on the confidentiality provided for in the *Income Tax Act*. The Superior Court ruled that the search warrant was part of the criminal proceedings. This decision was upheld by the Quebec Court of Appeal.

In *Multiform Mfg Co Ltd. et al v. Attorney General of Canada et al*, RCMP officers obtained a search warrant under Section 443 of the *Criminal Code* for the purpose of obtaining documents pertaining to an offence under the *Bankruptcy Act*. The Quebec Superior Court concluded that the provisions of the *Criminal Code* as amended by the *Criminal Law Amendment Act, 1985*, could be used in the prosecution of an offence under any act of the Parliament of Canada. The decision was appealed.

In *Attorney General of Canada v. Gisèle Bélanger et al*, the Attorney General of Canada challenged a search warrant by means of a motion for *certiorari* based on privilege under the *Old Age Security Act*. The Quebec Superior Court ruled that the privilege could not be upheld in the face of allegations of a crime. The decision was appealed.

In *Michel Gauthier v. The Queen*, a search warrant, duly issued on June 26, 1983, under section 10(2) of the *Narcotics Control Act*, named an RCMP officer as the person authorized to enter the appellant's

residence and conduct a search. Since the authorized officer was busy with another search, one of his colleagues conducted the search and a quantity of drugs and other objects adduced in evidence at the trial were seized. The appellant argued that the trial judge should have refused to allow the objects to be adduced in evidence. The Court held that this was a procedural irregularity that did not justify exclusion of the evidence.

In *The Queen v. Vincent Zito*, the police intercepted private communications of the accused using electromagnetic devices installed in a business premises pursuant to a "basket clause" in the judicial authorization to intercept private communications. The Court of Sessions of the Peace ruled that Part IV of the *Criminal Code* does not offend the *Canadian Charter of Rights and Freedoms*.

In *The Queen v. Carrie Mancuso and Patrick Lee*, the accused were charged and convicted of conspiracy to manufacture metamphetamine, conspiracy to traffic in cocaine and trafficking in cocaine. The Crown sought a ruling as to the admissibility of four conversations, two recorded with a "body pack" and two recorded telephone conversations. The Court agreed with the Crown that the body pack conversations were not "interceptions", as defined in the *Criminal Code*. The Court also agreed with the Crown that the telephone interceptions did not violate the *Charter* and were admissible as evidence. The accused appealed their convictions.

In *Michael Adrian Van Russel and P.M. Cummings et al*, an RCMP officer obtained confidential documents on a suspect from the U.S. Drug Enforcement Agency. The officer was subsequently arrested in the United States and indicted on three counts of breaches of the United States Code. He was acquitted in the United States. He was later charged in Canada under similar provisions of the *Criminal Code* and acquitted on the basis of the doctrine of *res judicata* (settled matter). He was then charged, under disciplinary provisions of the *Royal Canadian Mounted Police Act*, with discreditable conduct. The officer applied to prohibit the service inquiry on the basis of *res judicata* and a section of the *Charter* dealing with the right not to be tried twice for the same offence. The Federal Court of Canada refused to grant the prohibition order. The petitioner appealed this decision.

In *Claude Dubois v. Pierre Goulem et al*, the Superior Court of Quebec ruled that placement of the prisoner in a special handling unit without prior notice was procedurally sound, given the presence of urgency. However, the Court held that permanent placement in the special handling unit without his knowledge of the confidential information (indicating he was a dangerous inmate), violated his *Charter* rights. The decision was appealed.

In *Desormeaux v. Le Directeur de l'Institut Laval et al.*, an inmate incarcerated since 1970 as a habitual criminal sought to have his confinement ended because the "dangerous offender" provisions of the *Criminal Code* violated his right to freedom from cruel and unusual punishment. The Superior Court of Quebec ruled that, since the petitioner failed to establish that he no longer represented a danger to the public, the detention could not be classified as cruel and unusual. The petitioner appealed the decision.

Toronto Regional Office

The Toronto Regional Office, which opened in 1967 with six employees, employed 65 lawyers during the fiscal year under review, almost 10 per cent of departmental staff. In addition to its salaried employees, the Office manages the work of more than 300 Crown agents. The Office has four legal sectors, representing the government's legal interests in southwestern Ontario. In a continuing move toward automation, the Office appointed a person to coordinate the development of information systems, used for internal management and administration, as well as litigation. A full-time trainer was appointed during the year to instruct staff in automated equipment.

The Advisory, Commercial and Property Law Section dealt with bankruptcy and insolvency cases with both national and international ramifications. The Section also handled a number of disputes which could have disrupted airport operations at Toronto and Ottawa. As part of its mandate to provide legal services to government departments and agencies, the Section negotiated and drafted commercial agreements and leases, and was involved with litigation concerning Indian land claims, provided legal advice in the administration of Indian estates, and was involved in both litigation and opinion work with respect to scientific research tax credits under the *Income Tax Act*.

In response to government downsizing, the Civil Litigation Section reorganized its resources by continuing to develop legal assistants. A team approach helped the Section deal with a wide range of complex litigation matters. Among these cases was *Sevidal v. AECEB*, involving Crown liability for negligent misrepresentation concerning the location of radioactive soil in a large Toronto suburb. *Dempsey v. Her Majesty the Queen*, under appeal to the Federal Court of Appeal, contained a challenge to the mandatory supervision provisions of the *Parole Act*. It alleged a violation of section 15 of the *Canadian Charter of Rights and Freedoms*.

Other cases included a claim by the Regional Municipality of Peel seeking restitution for its payments to group homes. The issues centred on the responsibility of the federal government and the constitutionality of federal legislation.

In *Apotex v. The Minister of National Health and Welfare*, which involved complex issues of administrative and intellectual property law, the conduct of the Minister of National Health and Welfare in issuing Notices of Compliance was at issue.

In addition, litigation support was provided to counsel for the government throughout the Sinclair Stevens Inquiry.

The Criminal Litigation Section conducts prosecutions on behalf of the Attorney General throughout southern Ontario as well as criminal appeals, wiretap and search warrant applications, extraditions and advice to investigative agencies. Cases involving the *Canadian Charter of Rights and Freedoms* occupied an increasingly large proportion of the Section's time.

There were many challenges to the *Income Tax Act*. In *Regina v. McKinlay Transport*, defence counsel argued that section 232(3) (now 231.2), which permits the issuance of a Ministerial requirement, infringes s. 8 of the *Charter*. While this position was accepted at trial, a Crown appeal was successful. The Court concluded that the provisions in s. 231(3) do not amount to a "seizure". Challenges to s. 231(1)(d) (now repealed) were also brought to the Court of Appeal in *Regina v. Dzagic* and *Regina v. James* and while the Court decided both cases on a retrospectivity basis, leave was granted to the Supreme Court in the *James* matter.

Other significant *Charter* decisions handled by the Section include *Regina v. Hunter* where the Court of Appeal established a procedure to govern the editing of informations filed in support of search warrants. This would permit disclosure and protect informers at the same time. In *Regina v. J.M.G.*, the Court of Appeal decided it was not unreasonable within the meaning of s. 8 for a school principal to search a student on suspicion of possession of drugs.

Two of the largest and most complex tax evasion cases ever undertaken continued during the year. In *Joseph Burnett et al.*, the Crown's case, which commenced in October 1984, was completed in early December. The defence evidence was expected to carry the case into the fall of 1987. In *Regina v. Mauro*, the defence unsuccessfully attempted to quash Commission Evidence Orders following the taking of evidence in the United States, Italy, Germany, Great Britain, and Belgium. The preliminary hearing was scheduled to resume in June.

Once again, major narcotic cases were prosecuted out of the Toronto office. In *Regina v. Marsh et al* (the Outlaws case), 11 of 12 accused were convicted in the Supreme Court. Sentences imposed ranged from three and one half to 13 years. Twenty-one remaining accused are still outstanding and were scheduled to be tried in District Court in 1987-88. In *Regina v. Bushet et al*, 14 of 16 accused were ordered to stand trial for importing 700 pounds of hash oil from Jamaica to Florida to Canada.

In *Regina v. Sunoco Ltd.*, it was alleged that Sunoco insisted, as a condition of supplying gasoline, that retailers market the product at a price Sunoco deemed to match similar and like competition. The Court found Sunoco guilty of vertical price fixing and imposed a fine of \$200,000.

The Tax Litigation Section advises and appears on behalf of the Minister of National Revenue in taxation matters. Members of the Section also appear before the Pension Appeals Board and the Tax Court on pension and unemployment insurance matters.

This year, the Section handled *Ensate Limited v. The Queen* in which the Supreme Court of Canada concluded that deposits of U.S. dollars with banks constituted property employed and risked in Ensate's business. These deposits were found to be property used or held in Ensate's business and the interest earned on them was excluded from the definition of foreign investment income. In *Canadian Marconi v. The Queen*, the Court, in concluding that interest earned on short-term investments was income from an active business, rather than income from property, affirmed the rebuttable presumption that income received from, or generated by, an activity in pursuit of an object set out in a corporation's constating documents is income from a business.

The Section was involved in assessing Scientific Research Tax Credits. One case of interest, before the Federal Court of Appeal, was *Optical Recording Corporation v. The Queen et al* where the validity of the Part VIII assessment and its jurisdiction to deal with this matter by way of prerogative writ was in issue.

☐ Winnipeg Regional Office

The Winnipeg Regional Office represents the Attorney General of Canada in Manitoba and has recourse to agents in appropriate circumstances. The Office employed 11 lawyers in 1986-87: four in Criminal Prosecutions, five in Civil Litigation, one in Property and Commercial Law, and General Counsel responsible for administration and litigation.

Among the more important cases were the following:

Regina v. Canadian Tire Corporation Ltd. involved the prosecution of Canadian Tire in Winnipeg for false advertising relating to advertisements appearing in both a local newspaper and the corporation's catalogue. The corporation was convicted in Provincial Court and fined a total of \$100,000. Both conviction and sentence were under appeal to the Manitoba Court of Appeal to be heard in May 1987.

In *Regina v. Canadian Newspapers Co. Ltd.*, a challenge to section 443.2 of the *Criminal Code* based on violation of section 2(b) of the *Charter* was heard. The Court held that the interest being protected by the section justified placing a limitation on the freedom of the press, but it also held the legislation to be invalid because it was too broad. An appeal was filed that was subsequently abandoned based on a decision to rewrite the legislation.

In *Knockaert v. The Commissioner of Corrections et al*, section 11 of the *Charter* was raised with respect to the word "offence" and double punishment for the purposes of section 11(h) of the *Charter*. At the Federal Court, Trial Division, and Court of Appeal, the decision was rendered in favour of the Crown. An application was made for leave to the Supreme Court of Canada but was dismissed.

In *Cartlidge v. Smith et al*, the Manitoba Court of Appeal dealt with the determination of priorities to funds realized from judgment sale proceedings. It ultimately found deficiencies in both conveyancing practice and the quality of titles issued in the Province of Manitoba. The decision resulted in special meetings of the Law Society, major lending institutions and the Provincial Attorney General's Department. In the end, special practice directives issued by the Law Society and the Attorney General of Manitoba led to legislative amendments that restored the integrity of the Land Titles system.

Collins v. The Director, Veterans' Land Act involved a trustee in bankruptcy of a veteran who argued that the veteran's interest under an agreement of sale with the Director formed either a part of the estate or that the trustee could pay out the balance owing and compel the Director to convey the property to the veteran. The Manitoba Court of Appeal held that the veteran's right or interest was personal and statutory in nature, could only be exercised by him, and could not become vested, transferred or assigned in bankruptcy proceedings.

In *Layden et al v. The Queen and Howarth v. The Queen*, the Federal Court, Trial Division, dealt with an alleged breach of statutory duty and negligence against servants of the Canadian Grain Com-

mission. The claims arose out of the financial failure of a grain elevator licensed under the *Canada Grain Act*.

In *Howard v. Stony Mountain Penitentiary*, the issue was whether the *Charter* guarantees an inmate legal representation at inmate disciplinary proceedings. The Federal Court of Appeal decided that the *Charter* guaranteed legal representation at inmate disciplinary proceedings whenever a loss of remission on his sentence could potentially be forfeited. The case was scheduled to be heard by the Supreme Court of Canada.

Saskatoon Regional Office

The Saskatoon Regional Office provides legal services to all federal departments and to many agencies for their Saskatchewan operations and conducts both civil and criminal litigation throughout the province. In 1986-87, the Office employed nine lawyers: two in civil litigation, two in property and commercial law, four in criminal prosecutions and a Regional General Counsel. The Office also employed two articling students and eight support staff. A sub-office in Regina is manned for two days each week by members of the Property and Commercial Law Group. Prosecuting agents of the Attorney General of Canada in Saskatchewan are supervised by the Saskatoon Office.

Members of the Office were involved in several important cases during the year. In *Regina v. Nelson*, the Provincial Court dismissed income tax evasion charges because it found that a search, which occurred before the *Charter* came into force, was unreasonable under section 8 of the *Charter*. It also found that the admission of the documentary evidence obtained pursuant to the unreasonable search would bring the administration of justice into disrepute. The Attorney General's appeal to the Court of Queen's Bench was dismissed. Upon appeal to the Court of Appeal the decision of the trial court was reversed on the ground that the *Charter* applies only to events that occurred since it came into effect. The accused applied for leave to appeal to the Supreme Court of Canada.

In *Regina v. Pastro*, the accused was charged with possession of a narcotic for the purpose of trafficking. The Court of Queen's Bench refused to admit the evidence obtained pursuant to a search warrant and acquitted the accused. The Court quashed the search warrant because there were not sufficient facts before the justice of the peace who issued the warrant to determine whether it should have been issued. The Attorney General of Canada appealed to the Court of Appeal on the ground that

since the search warrant was valid until it was set aside by the Court of Queen's Bench, the evidence obtained by its use was obtained in good faith and should be admitted pursuant to 24(2) of the *Charter*. The Court reserved its decision.

In *Regina v. Baylis*, the accused was convicted at trial of possession of a narcotic for the purpose of trafficking. On appeal he argued that the evidence obtained pursuant to a search warrant should not have been admitted because the justice of the peace who issued the warrant was subject to control by the police and there was a likelihood of bias on his part. The decision of the Court of Appeal was reserved.

In *Regina v. Nipawin District and Satellite T.V. Inc. and Sylvester Zanyk*, the accused non-profit company and its president were charged pursuant to section 29(3) of the *Broadcasting Act* for carrying on a "broadcasting undertaking" without a license, and under section 11(1) of the *Radio Act* for operating radio apparatus without the necessary certificates. The Provincial Court acquitted the accused on the ground that since they were not in business for profit, their service was not a "broadcasting undertaking". The Attorney General appealed the decision to the Court of Queen's Bench.

In *Bassett v. Her Majesty the Queen*, a physician applied to quash a decision of the Director of the Bureau of Dangerous Drugs that restricted his ability to prescribe narcotics. The physician claimed that the regulations made pursuant to the *Food and Drugs Act* were invalid. The Crown successfully opposed the application in the Saskatchewan Court of Appeal.

The Property and Commercial Law Section was involved in several non-litigious matters, including the C.N./C.P. rail abandonment program which was nearing completion in Saskatchewan; the negotiations toward establishment of the Last Mountain National Wildlife Area; and the completion of negotiations for an easement across the Fond du Lac Reserve for a hydro-electric transmission line.

Edmonton Regional Office

The 30 lawyers in the Edmonton Regional Office represent the federal government in Alberta in civil litigation and provide both litigation services and solicitor's advice on property and commercial matters to most government departments and agencies within the province. The Office also handles a variety of tax litigation and related advisory work in

Alberta, as well as in Saskatchewan and the Northwest Territories. Most criminal litigation in the Edmonton area, as well as all Court of Appeal appearances involving criminal law issues, are handled by lawyers in the Prosecution Group. In addition, the Office manages the work of private-sector agents retained to assist with criminal prosecutions and civil litigation throughout the province.

In common with most other regional offices, the lawyers are divided functionally into four separate groups: nine are engaged in criminal prosecutions, with a like number in tax litigation, five are in civil litigation, four are in property, commercial and advisory, and one General Counsel (Litigation) concentrates on the most complex litigation as well as constitutional interventions. The Office employed five bilingual lawyers and five bilingual support staff.

The Property, Commercial and Advisory Group provided advice on a number of controversial leasing arrangements, property transfers, native issues and bankruptcies. Notable among these was the preparation of agreements relating to the 1988 Winter Olympics at Calgary. The Section also represented the Department of National Defence as it attempted to purchase an 8,000 acre ranch near Calgary at a proposed price of \$7 million. The agreement was not concluded due in part to controversies surrounding the use National Defence intended for the land.

The Civil Litigation Section handled a number of significant cases in contract, tort and administrative law. The most important was its involvement with headquarters staff in *Winterhaven Stables Limited v. Attorney General of Canada*. In this case, the plaintiff sought a declaration that the *Income Tax Act* was *ultra vires* the Parliament of Canada on the ground, *inter alia*, that it imposes a direct tax to raise revenue in the provinces. In addition, the plaintiff challenged the constitutional validity of several other federal statutes. The Court of Queen's Bench of Alberta upheld the constitutional validity of the impugned legislation. *Winterhaven Stables Limited* appealed to the Alberta Court of Appeal, which reserved judgment.

In *Bitumar Inc. v. the Minister of Energy, Mines and Resources and the Attorney General of Canada*, Bitumar Inc. sought a remission of petroleum levies in excess of \$3 million. The Federal Court of Appeal ruled on several legal issues in this case and directed it back to the Trial Division to determine the specific amount of the claim.

As in previous years, a substantial proportion of the work completed by the Criminal Prosecution Section in 1986-87 involved prosecutions respecting drug trafficking and drug importation. Two of the more significant prosecutions of this nature were *Saikaly et al* and *Echeverria et al*. The first case involved an international organization that smuggled approximately \$2 million of cannabis resin into Canada. The second involved the importation of approximately \$4 million worth of cocaine into Canada. In both cases, the defendants were committed to trials that were to be held in the fall of 1987.

The Section also acted on behalf of the Government of the United States in a number of significant extradition cases. Principal among these was *State of Wisconsin v. Blythe*. The alleged fugitive, a former member of the Alberta bar, was accused by American authorities of participating in a multi-million dollar scheme to defraud a Wisconsin bank. Having been committed for extradition, a review brought by Blythe was dismissed. The matter was pending before the Alberta Court of Appeal.

The number of prosecutions for major tax evasion cases rose during 1986-87. Significant cases referred by Revenue Canada included *Regina v. Yesmaniski and Yes Holdings*. The accused was charged with income tax evasion and was also reassessed civilly for the same amounts. He argued unsuccessfully that this constituted punishment twice for the same offence contrary to the *Charter*. The accused appealed the decision and it was pending before the Alberta Court of Appeal.

The Tax Litigation Section was responsible for *Skyline Cabs Ltd. v. Her Majesty the Queen* which concerned a subsection of the *Unemployment Insurance Regulations*. The Crown's application under section 28 of the *Federal Court Act* was allowed and an application for leave to appeal to the Supreme Court of Canada was successfully resisted. In *Canterra Energy Ltd. v. The Queen*, the deduction by the taxpayer of \$1.2 million in frontier exploration allowances was allowed in the Federal Court of Appeal.

The Section's tax litigation component dealt with several challenges to provisions of the *Income Tax Act* as they related to provisions of the *Charter of Rights*. Other cases involved the taxability of income within the context of several provisions of the *Indian Act*. Two appeals under the *Petroleum and Gas Revenue Tax Act*, including one involving a *Charter of Rights* challenge to the legislation, were pending at the end of the year under review. Other oil and gas tax litigation included a series of files in which several million dollars in Canadian development expenses were at issue between Revenue Canada and the taxpayers.

Vancouver Regional Office

The Vancouver Regional Office provides a full range of legal advice and services to federal departments and agencies in British Columbia.

Twenty-two of the Office's 58 lawyers were prosecuting violations of federal laws. Most prosecutions concerned illegal narcotic drug dealings. Almost 3,100 cases of possession, trafficking and possession for the purpose of trafficking or importation were handled this year. Lawyers from the Office travelled throughout the Yukon and the Northwest Territories assisting the Whitehorse and Yellowknife Offices in prosecuting federal, territorial and *Criminal Code* offences.

Ten tax lawyers handled more than 540 income tax assessments in British Columbia and the Yukon Territory, as well as excise tax and unemployment insurance cases.

Thirteen civil litigation lawyers handled more than 1,000 cases involving a broad range of civil disputes related to activities of the federal Crown. Many files involved litigation resulting from changes in federal law in areas such as law enforcement, civil rights and judicial review of administrative actions. Expanded jurisdiction in immigration, corrections, taxation and access to information and privacy laws led to many of these proceedings. There was a substantial increase in constitutional cases and native rights litigation. Claims in Indian land cases assert jurisdiction over, and ownership of, thousands of square miles of land and demand hundreds of millions of dollars in compensation.

The Office's 13 property and commercial law lawyers conducted the government's real estate development and commercial transactions in British Columbia, including the purchase and sale of federal Crown properties valued at more than \$5 million. Lawyers in this group were also involved in preparing and negotiating tenders, contracts and the ground lease of land at Vancouver International airport. Other major projects undertaken by this group included negotiation of a lease between Canada and Alaska for Alaska's use of the Prince Rupert ferry terminal. The group also handled the acquisition of a majority of the lands necessary to establish Pacific Rim National Park on Vancouver Island.

Civil litigation lawyers argued the case of *Apsassin v. The Queen*, a claim by Indians of the Peace River area for \$300 million compensation for lost mineral rights associated with the alienation of their reserve in the 1940s. Although judgment was not handed down, the decision will help to delineate the legal relationship between the Crown and the

Indian people in dealings with reserve land. Another landmark case, *Gulf Trollers Association v. Minister of Fisheries*, decided that the Minister had the power to take into account the social and economic impact of management initiatives in allocating fish stocks among various classes of sport and commercial fishermen.

Tax lawyers argued the case of *Prior v. Minister of National Revenue*, a case in which a member of the Conscience of Canada Movement claimed that her tax assessment violated her religious beliefs in that a certain portion of tax collected is used for military purposes. Although the taxpayer was unsuccessful, the case illustrates a growing tendency toward the use of arguments based on the *Charter of Rights and Freedoms* to challenge tax assessment law and practices.

Vancouver's prosecutors handled the case of *Regina v. Awla*, a prosecution involving one of the largest seizures of heroin in British Columbia history. The street value of the heroin seized totalled almost \$35 million. The investigation involved the undercover purchase of heroin for \$1.8 million. The principal offender was sentenced to 17 years in prison and a co-conspirator to 11 years.

The prosecution of *Regina v. Pac Stainless* resulted in a fine of \$246,000, the largest fine in western Canadian history. This was a case under the anti-dumping provisions of the *Customs Act* against a Canadian corporation that moved steel products through the American border and back into Canada. The case produced amendments to the *Customs Act* to remove the incentive to dump products on the Canadian market.

The Supreme Court of Canada decisions in *Hamill v. Regina* and *Sieben v. Regina* helped to define the circumstances in which the *Charter of Rights and Freedoms* can be used to exclude evidence in prosecutions. The Court held that evidence collected in good faith could be used notwithstanding the fact that the law relating to the collection of the evidence was changed before the evidence was tendered in court.

Whitehorse Regional Office

The Whitehorse Regional Office, together with the Yellowknife Regional Office, has unique responsibilities within the Department since s. 2 of the *Criminal Code* defines the Attorney General of the Yukon Territory as the Attorney General of Canada. The Office conducts all prosecutions under the *Criminal Code* and other federal statutes as well as under many territorial ordinances. Finally, the Office conducts all prosecutions under the *Young Offenders Act* (*Criminal Code* and other federal statute offences) and the *Children's Act* (territorial offences).

The former Whitehorse Crown Attorney's Office attained Regional Office status when responsibility for all civil litigation was transferred from the Vancouver Regional Office in 1984. The Whitehorse Regional Office now has one full-time lawyer handling all civil litigation and providing legal services and advice to federal departments and agencies in Yukon.

During 1986-87, the civil side of the Office was chiefly involved in providing legal advice to the Commissioner of the Yukon Territory and the Department of Indian and Northern Affairs with respect to mining claims pursuant to the *Yukon Quartz Mining Act* and the *Yukon Placer Mining Act*. The Office was also legal advisor to Health and Welfare Canada in relation to applications under the *Mental Health Act* and continued to provide legal services to federal departments, commissions and agencies in the Yukon Territory.

The Office comprises six lawyers and five support staff. Four of the lawyers and the Director are involved in circuit court work, and travel to each of 12 Yukon communities approximately six times a year.

One of the Office counsel sits on the Board of Directors of Yukon Public Legal Education. The Regional Director is involved in the Ad Hoc Committee on Child Sexual Abuse, the New Courthouse Users' Committee, the Justice Steering Committee and the Court Liaison Committee. Members of the Office also participate in training programs for justices of the peace and in community-based diversion programs for young offenders.

In *Regina v. Edgar*, the accused was convicted by a judge and jury on two counts of second degree murder for the execution-style killing of the accused's estranged wife and her sister. The accused was sentenced to life imprisonment without eligibility for parole for 15 years. A defence appeal against both conviction and sentence was pending.

In *Regina v. Mazur and Taylor*, the defence brought an application before the Territorial Court to join two separately charged accused in one Information. The Court of Appeal ruled that this could not be done and leave to appeal to the Supreme Court of Canada was denied.

In *Regina v. Darlene McGinty*, an aggravated assault case, the defence argued that the victim, the accused's spouse, was a competent but not a compellable witness for the Crown. The Court of Appeal upheld the Territorial Court decision by stating that at common law, competence denotes compellability. The decision was based on "the interest of society in securing proper prosecutions of persons who commit crimes of violence against their spouses".

In *Regina v. Nowlan et al*, seven accused were tried on multiple counts of conspiracy to commit indictable offences contrary to the federal *Export and Import Permits Act* and the Yukon Territory's *Wildlife Ordinance*. These charges were the result of an international investigation. The judge declared a mistrial on the second day of the case because one of the jurors had been excused from duty prior to the accused being put in charge of the jury. No appeal was taken following the acquittals.

Yellowknife Regional Office

This Office comprises nine lawyers who provide legal services to federal departments, agencies and commissions in the Northwest Territories, prosecute all offences under the *Criminal Code*, federal and territorial statutes, and conduct inquests under the *Coroner's Act*. Seven lawyers, one of whom is President of the Law Society of the Northwest Territories, and the Senior Counsel travel with the circuit courts throughout the four time zones and 3.2 million square kilometres of the territories. One lawyer provides civil litigation, property and advisory services from Yellowknife.

In 1985-86, the Northwest Territories Supreme Court struck down section 561 of the *Criminal Code*, which provides for a jury of six persons in the territories, as unconstitutional (*Regina v. Punch*). The basis for the decision was section 15 of the *Charter*. There was eventually a stay of proceedings for unrelated reasons. In June 1986, a different Supreme Court justice in *Regina v. Fatt* ruled section 561 to be inconsistent with the *Charter* only insofar as a six-person jury is mandatory. The Court decided that, in the Northwest Territories, an accused can opt for either a six- or a 12-person jury.

In *Regina v. Horne*, the Northwest Territories Supreme Court sentenced a convicted sex offender to six years' imprisonment for 10 counts of sex offences committed on an Inuit youth in a remote settlement. The sentence was not appealed.

The Northwest Territories Court of Appeal has increased its sittings in the territories to four each year, which will permit the Court to sit in a number of communities.

Administration Branch

Function

The Administration Branch provides administrative support services related to finance, personnel, library, legal information retrieval, accommodation, security, telecommunications, computer systems and all other logistical elements common to government departments.

Organization

The Personnel Administration Section deals with staffing, staff relations, pay and benefits, training and development and human resources planning. The Section administers the Department's law student articling program and has special administrative responsibilities relating to affirmative action.

Financial Services is responsible for the financial administration of the Department. In this role, the Section assists program managers and ensures that departmental policies, practices and controls for the administration of financial resources fully adhere to federal legislation and regulations.

General accounting services and financial advice and guidance are provided to all levels of management. Annual and special departmental plans, reports and other submissions required by central agencies of the government are also produced.

The Security Section is responsible for the safety and security of employees, offices, materiel and information at the Department of Justice.

Administrative Services is responsible for providing policy advice and services to the Department in the areas of materiel management, property management, telecommunication services, and records and mail management.

Records Management provides an essential service to the Department. Files dating from 1868, when the Department was established, are used by legal officers preparing for court and providing legal advice.

The Legal Contracts Support Unit was established in 1984 to administer contracts with outside legal practitioners engaged to provide legal services on behalf of the Crown.

The Central Divorce Registry administers a computerized register of all petitions for divorce in Canada, to ensure that courts in different jurisdictions are not dealing with the same matter concurrently. The Central Divorce Registry provides data on divorce to Statistics Canada.

The branch maintains an extensive library service to meet the special requirements of the Department. Libraries in the regional offices and working satellite collections throughout the Department complement the main library. In addition to traditional legal research methods, the library offers a wide range of on-line information systems.

The Official Languages Program ensures conformity in the implementation of government policy in this area. It is also responsible for translation, identification of language requirements, language training, and second-language testing.

The Informatics Directorate plans and manages the computerization of the various programs, as well as the installation of telecommunication equipment and networks. It is also responsible for managing corporate information resources, supporting all users of computer and telecommunication equipment, and providing expertise on the use of appropriate technology.

Activities

The Branch continued to be concerned with restraint in spending and reduction of overhead. All staffing and spending requests were subjected to a critical review.

☐ Personnel Administration

The Personnel Administration Section received more than 700 applications for legal employment during the year; 91 lawyers were hired. Approximately 50 per cent of the officers appointed were women and 27 per cent were francophone. Thirty students served articles of clerkship in the Department in 1986-87.

The Section was reorganized in 1986-87 to improve the level of service to managers. The Department has implemented most of the Administrative Reform on Staffing, which the Public Service Commission recommended in 1985-86. A two-week management training program, introduced this year, has so far trained 28 per cent of Justice managers. Following an Affirmative Action Plan recommendation, a departmental career counselling service, set up this year, serviced the nine regional offices and the National Capital Region.

☐ Official Languages

The principal activity of this Section was the linguistic review of each position in the Department. This review resulted in an increase in the language requirements of many positions, thereby increasing the number of public servants on language training. The Department has designated as bilingual 886 of its 1,671 positions, or 53 per cent. Of occupied positions 92.1 per cent have a bilingual incumbent, and 28.5 per cent of these incumbents now have C-level skill in both official languages, compared with 17 per cent last year.

Data are being gathered on francophone students in all law faculties in Canada to ultimately increase the participation of francophones in the regional offices outside Quebec.

☐ Administrative Services

The number of automated work stations in the Materiel Management Division increased from 150 to 700 during the fiscal year.

The Records Management Division completed the installation of a computer system and continued work on automating the records index system. The Division worked with the Informatics Directorate to develop a software package for the legal services' records operations. This package, designed to work on personal computers, was installed in 10 legal services units. The use of contracted personnel greatly accelerated records disposal at headquarters and departmental legal services units, as well as in the regional offices.

☐ Library

In August, the Library appointed legal officers to index, abstract and search legal opinions written by departmental counsel. This in-house system was expected to be fully accessible to all legal services units and regional offices in the near future.

Department of Justice Expenditures* Fiscal Year 1986-87

	Personnel Costs \$	Operating Costs \$	Grants and Contributions \$	Total** \$
Minister's Office	907,430	513,015	0	1,420,445
Deputy Minister	456,687	105,565	0	562,252
Corporate Policy and Coordination Branch	2,247,690	1,079,738	0	3,327,428
Associate Deputy Minister	14,229,188	3,834,014	1,058,669	19,121,871
Associate Deputy Minister, Litigation	23,559,515	7,099,326	0	30,658,841
Senior Assistant Deputy Minister, Legal Services	15,822,826	401,981	0	16,224,807
Assistant Deputy Minister, Policy, Programs and Research	4,736,598	4,346,840	83,713,290	92,796,728
Assistant Deputy Minister, Administration	7,123,025	5,359,831	0	12,482,856
Total	69,082,959	22,740,310	84,771,959	176,595,228
Canadian Sentencing Commission				715,651
				177,310,879

* Figures from Public Accounts 1986-87

** Totals Rounded

Appendix I

Statutes for which the Minister of Justice is Responsible in Whole or in Part

Access to Information Act, S.C. 1980-81-82-83, c. 111 (Schedule I)

Annulment of Marriages (Ontario) Act, R.S.C. 1970, c. A-14

Anti-Inflation Act, S.C. 1974-75-76, c. 75

Bills of Lading Act, R.S.C. 1970, c. B-6

Canada Evidence Act, R.S.C. 1970, c. E-10

Canada Prize Act, R.S.C. 1970, c. P-24

Canada-United Kingdom Civil and Commercial Judgments Convention Act, 1984, S.C. 1984, c. 32

Canadian Bill of Rights, S.C. 1960, c. 44

Canadian Human Rights Act, S.C. 1976-77, c. 33

Commercial Arbitration Act, S.C. 1986, c. 22

Criminal Code, R.S.C. 1970, c. C-34

Crown Liability Act, R.S.C. 1970, c. C-38

Department of Justice Act, R.S.C. 1970, c. J-2

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

Escheats Act, R.S.C. 1970, c. E-7

Extradition Act, R.S.C. 1970, c. E-21

Family Orders and Agreements Enforcement Assistance Act, S.C. 1986, c. 5

Federal Court Act, R.S.C. 1970, c. 10 (2nd Supp.)

Food and Drugs Act, R.S.C. 1970, c. F-27

Foreign Enlistment Act, R.S.C. 1970, c. F-29

Foreign Extraterritorial Measures Act, S.C. 1984, c. 49

Fugitive Offenders Act, R.S.C. 1970, c. F-32

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

Identification of Criminals Act, R.S.C. 1970, c. I-1

Interpretation Act, R.S.C. 1970, c. I-23

Judges Act, R.S.C. 1970, c. J-1

Law Reform Commission Act, R.S.C. 1970, c. 23 (1st Supp.)

Marriage Act, R.S.C. 1970, c. M-5

Narcotic Control Act, R.S.C. 1970, c. N-1

Official Secrets Act, R.S.C. 1970, c. O-3

Permanent Court of International Justice Act, S.C. 1921, c. 46

Postal Services Interruption Relief Act, R.S.C. 1970, c. P-15

Privacy Act, S.C. 1980-81-82-83, c. 111 (Schedule II)

State Immunity Act, S.C. 1980-81-82-83, c. 95

Statute Revision Act, S.C. 1974-75-76, c. 20

Statutory Instruments Act, S.C. 1970-71-72, c. 38

Supreme Court Act, R.S.C. 1970, c. S-19

Tax Court of Canada Act, S.C. 1980-81-82-83, c. 158 (Part I)

Tobacco Restraint Act, R.S.C. 1970, c. T-9

United Nations Foreign Arbitral Awards Convention Act, S.C. 1986, c. 21

War Measures Act, R.S.C. 1970, c. W-2

Appendix II

Departments, Agencies and Other Bodies Served by the Departmental Legal Services Branch

Agricultural Products Board	Merchant Seamen Compensation Board
Agricultural Stabilization Board	Ministry of State for Multiculturalism
Agriculture	Ministry of State for Science and Technology
Atomic Energy Control Board	Ministry of State for Youth
Canadian Commercial Corporation	National Battlefields Commission
Canadian Dairy Commission	National Capital Commission
Canadian Grain Commission	National Defence
Canadian International Development Agency	National Farm Products Marketing Council
Canadian Pension Commission	National Film Board
Canadian Security Intelligence Service	National Library
Canagrex	National Museums of Canada
Communications	National Parole Board
Communications Security Establishment	National Research Council
Consumer and Corporate Affairs	National Sciences and Engineering Research Council
Correctional Service Canada	Northern Canada Power Commission
Defence Construction (1951) Limited	Northern Pipeline Agency
Employment and Immigration Commission	Prairie Farm Rehabilitation Administration
Energy, Mines and Resources	Public Archives
Environment	Public Service Commission
External Affairs	Public Works
Finance	Regional Industrial Expansion
Fish Prices Support Board	Revenue Canada (Customs and Excise)
Fisheries and Oceans	Revenue Canada (Taxation)
Fishing Vessels Insurance Plan	Royal Canadian Mint
Fitness and Amateur Sport	Royal Canadian Mounted Police
Fresh Fish Marketing Board	Secretary of State
Health and Welfare	Solicitor General
Indian Affairs and Northern Development	Statistics Canada
Insurance	Status of Women
Inspector General of Banks	Supply and Services
Investment Canada	Textile and Clothing Board
Labour	Trade Negotiations Office
Labour Adjustment Review Board	Transport
Livestock Feed Board	Treasury Board
Medical Research Council	Veterans Affairs
	War Veterans Allowance Board

Appendix III

Grants and Contributions — 1986-87

Recipient	Project	Contribution
<input type="checkbox"/> Human Rights Law Fund		
Institut International des droits de l'homme	Support for annual activities	\$ 2,675
University of Calgary Faculty of Law	Conference on the socialization of judges to equality issues	\$ 25,000
Canadian Community Law Journal	Publication of Volume 9 of the Journal	\$ 9,800
Université d'Ottawa	Translation of "Les Droits Linguistiques au Canada" from French into English	\$ 37,500
Canadian Human Rights	Human rights and indigenous self-government	\$ 36,050
University of Western Ontario	Examination of the public's view about individual rights and the administration of justice under various situations	\$ 33,375
Canadian Bar Association (Montreal)	Seminar on how to prepare a <i>Charter</i> case	\$ 15,000
Diane Guillemette	Contribution for travel expenses to attend a special session on International Humanitarian Law in The Hague	\$ 1,000
Maliganik Tukisiniakvik Legal Services	Conference on human rights in the Baffin region	\$ 22,250
Law Related Education Group, University of B.C.	<i>Charter</i> Watch Project — Phase III	\$ 12,408
Canadian Human Rights Foundation	International recourses for the protection of human rights	\$ 24,910
International Commission of Jurists	Contribution for francophone program	\$ 5,000
Canadian Human Rights Foundation (University of P.E.I.)	Eighth annual summer course on human rights to be held July 1987	\$ 50,000
University of Ottawa, Human Rights Research and Education	Translation of the " <i>Canadian Charter of Rights and Freedoms</i> Commentary" from English to French	\$ 41,000
International Conferences in Constitutional Law	Law of the Environment	\$ 6,000
Number of Approved Projects	15	Total \$321,968

Recipient	Project	Contribution
<input type="checkbox"/> Consultation and Development Fund – General		
Canadian Institute for Advanced Legal Studies	Stanford Lectures 1986, Stanford University	\$ 5,000
Family Mediation Canada	Training, Information, Standards and Ethics in Family Law	\$ 20,160
Family Mediation Canada	National Conference on Family Mediation, October 1986	\$ 20,000
Association Henri Capitant	Annual meeting to be held May 17-24, 1987	\$ 15,000
York University	A 10-month research study entitled "Quality of Life: The Impact of Lawyering Styles and Mediation"	\$ 12,700
Université du Québec à Montréal	Seminar: Legal training and social practice of law	\$ 2,500
Canadian Bar Association	Law Day — 1986	\$ 15,000
Sub-total:		\$ 90,360
<input type="checkbox"/> Consultation and Development Fund – Public Law		
University of Toronto	Faculty of Law's Constitutional Litigation Program	\$ 6,000
University of Ottawa Law School (Ottawa)	Publication of the proceedings of the Supreme Court of Canada conference held October 2-4, 1985	\$ 3,600
University of Ottawa	Conference on International Trade, May 8-9, 1986	\$ 6,000
Université de Montréal (Faculté de droit)	Third legal seminar, "Access to Justice", March 6-7, 1987	\$ 3,500
Canadian Council on International Law	Fifteenth annual conference, October 1986	\$ 4,000
Canadian Council on International Law	Research project into issues of extraterritoriality in the field of securities law	\$ 23,000
Supreme Court of Canada Historical Society	Publication of annual volume on the history of the Court	\$ 12,500
Canadian Bar Association	Canadian Law Day activities	\$ 18,000
Sub-total:		\$ 76,600
<input type="checkbox"/> Special Contributions		
Family Mediation Canada	Start-up Funding	\$ 60,000
Canadian Law Information Council	Public Legal Education and Information	\$ 71,250
Sub-total:		\$131,250
Number of Approved Projects	17	Total \$298,210

Recipient	Project	Contribution
<input type="checkbox"/> Criminal Law Reform Fund		
The John Howard Society of Canada	Conference on violence in contemporary Canadian society	\$ 20,000
Société de criminologie du Québec	Thirteenth biennial conference on criminology, justice and intervention	\$ 5,000
International Journal of Law and Psychiatry/International Academy of Law and Mental Health (Montreal)	Twelfth International Congress on Law and Mental Health	\$ 3,000
Community Justice Initiatives of Waterloo Region (Waterloo)	National Network for Community Justice and Conflict Resolution — Year II	\$ 36,711
Salvation Army Correctional Services (Kingston)	Needs assessment for non-reporting victims of crime	\$ 12,258
The Federation of Law Societies of Canada (St. John's)	1986 National Criminal Law Program Conference	\$ 7,500
Ontario Provincial Police	Enterprise Crime Conference	\$ 5,000
National Association of Women and the Law (Winnipeg)	National Conference	\$ 10,000
Number of Approved Projects	8	Total \$ 99,469
<input type="checkbox"/> Criminal Law Reform Fund — Impaired Driving		
Public Legal Education Society (The People's Law School)	Justice Theatre 1986	\$ 40,000
Traffic Injury Research Foundation of Canada	Survey of Community Groups in Canada concerned with impaired driving	\$ 23,100
Traffic Injury Research Foundation of Canada	Informational services to support impaired driving initiatives	\$231,637
New Brunswick Alcoholism and Drug Dependency Commission	T.E.D. Program Team to Eliminate Drinking and Driving	\$ 73,077
Commission on Drug Dependency in Nova Scotia	The Server Intervention Program Resource Development Project	\$ 11,860
Alcohol and Drug Dependency Commission of Newfoundland and Labrador	Treatment and Education Program for those convicted of impaired driving	\$ 66,731
PAID/REID (People Against Impaired Drivers)	Theme Day — "If you Drink — Think"	\$ 50,000
Drinking/Driving Counter-Attack	Reserve/auxiliary police training conference on drinking and driving issues and enforcement	\$ 50,000
Saskatchewan Education and Carlton Alcohol and Drug Abuse Council	DWI — The Door Way In, a National Symposium on Alcohol, Drugs and You	\$ 6,400
Northerners Against Impaired Driving	A two-day workshop entitled "Impaired Driving — Let's Fight it"	\$ 49,700
Canadian Society of Forensic Science	Drugs and Driving Committee Meeting	\$ 4,060
Number of Approved Projects	11	Total \$606,565

Recipient	Project	Contribution
<input type="checkbox"/> Criminal Law Reform Fund — Sentencing		
Services correctionnels du Québec	Research proposal: amendments to the <i>Summary Conviction Act</i> and the fine option program	\$ 66,800
R.F. Sloan	Manitoba Fine Option Evaluation	\$ 75,450
Theresa F. Doorly	Ontario: Program Design — Fine Option	\$ 24,000
Theresa F. Doorly	Ontario: Feasibility Study — Fine Option	\$ 22,000
Julie Dodd	Prince Edward Island — Fine Option Pilot Program	\$ 24,500
Canadian Institute for the Administration of Justice	Publication of the proceedings of the 1985 National Seminar on Sentencing	\$ 10,000
Number of Approved Projects	6	Total \$222,750

☐ **Criminal Law Reform Fund — Victims**

Regroupement des maisons d'hébergement et de transition pour les femmes victimes de violence	Symposium on family violence	\$ 1,775
Ministry of the Attorney General of Manitoba	Workshop on Victim Impact Statements in Courts	\$ 9,242
Department of Justice, Prince Edward Island	Provincial Program Development: Victim Assistance Service	\$ 3,389
Salvation Army (Kingston)	An assessment of the needs of victims of crime in Kingston	\$ 15,000
Society Against Family Abuse	Family Violence Workshop	\$ 14,966
Covenant House, Toronto	Conference: "Street is no place for kids"	\$ 8,200
Law Faculty, University of Ottawa	Symposium on criminal injuries compensation	\$ 2,000
Sub-total:		\$ 54,572

☐ **Special Projects — Legal Aid Fund**

Legal Aid Committee of the Law Society of Upper Canada	Mediation Project	\$ 34,000
Northern Para-legal Project for Fort Nelson, B.C.	Creation of legal aid services	\$ 54,414
New Brunswick Minister of Justice	Program Review	\$ 28,000
Sub-total:		\$116,414

Recipient	Project	Contribution
<input type="checkbox"/> Child Sexual Abuse		
New Brunswick Child Welfare Association	Symposium: "A Community Response to a Community Problem"	\$ 4,115
Metropolitan Toronto Special Committee on Child Abuse	Pilot Project on victims of child sexual abuse as witnesses in court	\$145,800
Department of the Attorney General of Manitoba	Conference on using videotaped interviews of victims of child sexual abuse as evidence in court	\$ 9,454
Canadian Council on Children and Youth	Development of private-sector mechanisms to address issues raised by the Badgley-Fraser reports	\$ 25,482
Community Services Council of Newfoundland	Publication of the Report: "A Blueprint for Action"	\$ 2,800
Department of the Attorney General of Manitoba	Pilot project on videotaped interviews of victims of child sexual abuse as evidence in court	\$ 38,500
Sub-total:		\$226,151
Number of Approved Projects	16	Total \$397,137

☐ **Access to Legal Information Fund – Start-Up Funding**

Community Legal Education Association (Manitoba) Inc.	Start-up Funding	\$ 60,000
Centre d'information juridique du Nouveau-Brunswick Inc.	Start-up Funding	\$ 60,000
Public Legal Information Association of Newfoundland	Start-up Funding	\$ 60,000
The Arctic Public Legal Education and Information Society	Start-up Funding	\$ 60,000
Community Legal Information Association of Prince Edward Island Inc.	Start-up Funding	\$ 55,670
Yukon Public Legal Education Association	Start-up Funding	\$ 60,000
Sub-total:		\$355,670

Recipient	Project	Contribution
<input type="checkbox"/> Access to Legal Information Fund – Contributions For Projects		
Service de la Police Amerindienne (Pointe-Bleue)	Design, production, distribution and evaluation of a public legal education and information program for natives	\$ 25,540
Labrador Legal Services	PLEI project for native people in Labrador	\$ 17,549
Public Legal Information Association of Newfoundland	Legal handbook for isolated Newfoundland communities	\$ 15,700
L'association des juristes d'expression française de l'Ontario	Production of six programs of "C'est ton droit"	\$ 30,000
The Public Legal Education Society of British Columbia (People's Law School)	Outreach project for disadvantaged groups in British Columbia	\$ 40,000
Legal Resource Centre of Alberta Ltd.	Participation drama in law-related activities for youth	\$ 35,347
Public Legal Education Society of Nova Scotia	Improvement of legal information programs directed at young Nova Scotians between 13 and 17	\$ 33,484
Public Legal Education Association of Saskatchewan	Assessment of the training needs of a variety of intermediary resource people	\$ 42,162
Community Legal Education Ontario	Design and production of an immigration kit	\$ 38,699
Public Legal Education Society of Nova Scotia	Youth video	\$ 20,000
Société québécoise d'information juridique	Télé-loi	\$ 31,000
Sub-total:		\$329,481
Number of Approved Projects	17	Total \$685,151

☐ **Family Provisions Enforcement Assistance Fund**

Ministry of Attorney General, Ontario	Maintenance Enforcement Computer Accounting System (MECA)	\$100,000
Newfoundland Department of Justice	Feasibility study to develop a maintenance enforcement system	\$ 50,000
Department of Social Services, Nova Scotia	Social Services Family Court Enforcement	\$100,000
Manitoba Attorney General	Access Assistance Program	\$ 37,514
Alberta Attorney General	Maintenance Enforcement Program	\$140,000
New Brunswick Department of Justice	Automated Maintenance and Enforcement System	\$140,000
Saskatchewan Department of Justice	Automatic Enforcement of Maintenance Orders System	\$100,000
Number of Approved Projects	7	Total \$667,514

Recipient	Project	Contribution
<input type="checkbox"/> Other Natives Project Fund		
Ontario Federation of Indian Friendship Centres	National Courtworker Directors Conference, June 24-25, 1986	\$ 6,500
National Association of Friendship Centres (Victoria)	Annual meeting, June 5-8, 1986	\$ 5,000
Native Counselling Services of Alberta	Book on native counselling services in Alberta	\$ 6,000
Native Law Students Association (Saskatoon)	Annual conference, July 17-20, 1986	\$ 7,000
The Northern Conference	Publication of "Northern Youth in Crisis: A Challenge for Justice"	\$ 5,000
Saskatchewan Association of Friendship Centres	Training package and curriculum for courtworkers	\$ 25,000
Number of Approved Projects	6	Total \$ 54,500

Appendix IV

Publications of the Programs and Research Section, 1986-87

☐ Sentencing – Correctional Sentences Project

Custodial and Probation Sentences (1984-85): Overview Report, The Research Group, 1986.

Sentencing Patterns in Canada: A Summary of the Correctional Sentences Project.

☐ Victims

Criminal Injuries Compensation, Statistics Canada and the Department of Justice, 1986.

☐ Legal Aid

Bibliography of Legal Aid Literature Related to the Management of Canadian Legal Aid Services, Robert O'Reilly.

☐ Public Legal Education and Information

A Survey of Public Legal Education and Information Providers in Canada, D.H. Access.

International Review of Public Legal Education and Information, Jayewardene et al.

Legal Education and Information: An Exploratory Study, Ribordy et al.

An Evaluation Resource Book for Public Legal Education and Information Organizations, CLIC (Roberts and Currie).

Plain Language and the Law: An Inquiry and a Bibliography, Blake et al.

☐ Natives

Needs of Native Young Offenders in Labrador in view of the Young Offenders Act, Res Policy Research Inc.

Native Juveniles and Criminal Law Preliminary Study of Needs and Services in Some Native Communities of Quebec, SSOCC Inc.