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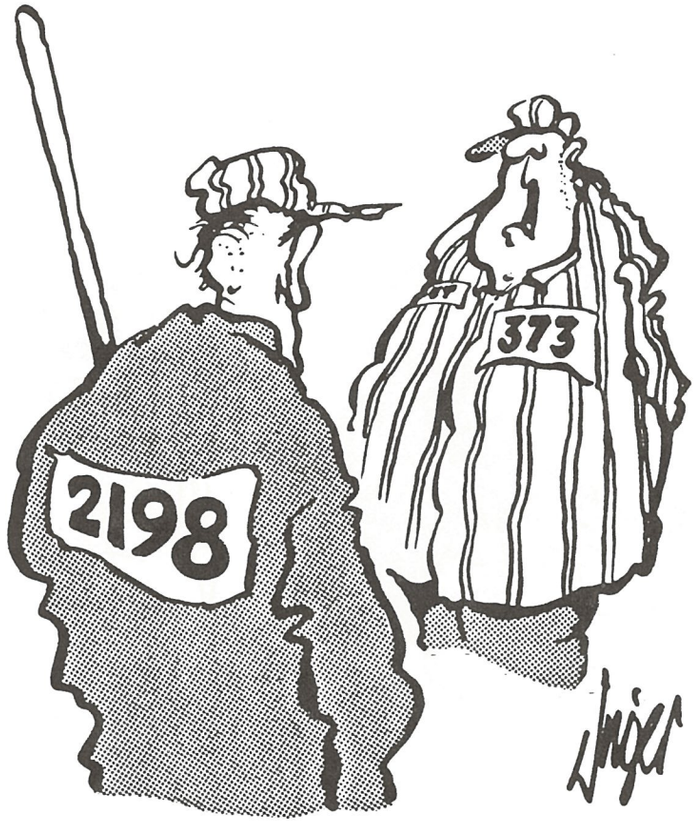


"Two months to select my jury and they found me guilty in 17 seconds."

Editorial Page

This issue marks my debut as Editor of the Journal. Although my appointment was effective April 1, 1987, the time from April 1 until the publication of the last edition was a transitional period during which the torch was passed and responsibility for the position changed hands.

It is with no little trepidation that I set out on the task I have undertaken. From the beginning I was aware that the preparation and distribution of a quarterly publication is a formidable task. Like most major undertakings, however, the enormity of the task did not fully strike home until the time arrived when it was necessary to actually prepare for my first deadline.

Now that I have commenced, I am happy to say I have conquered the initial jitters and look forward to the challenge with which I have been presented. In the past our Journal has achieved and maintained a standard of excellence both as an instrument for the presentation of informed and scholarly works as well as a medium of news amongst our members. That standard of excellence was not achieved by accident. It sits as a testimonial to the diligence, hard work and dedication of all who participated in the process of seeing the Journal created and flourish. For that a special debt of gratitude is owed all of our former Editors, but at this time I would like to single out my immediate predecessor, Judge Richard Kucey (and his staff) of Saskatoon, who has made my embarkation upon this sojourn as painless as possible.

In this, my first issue, I express as my fondest wish, the hope that the caliber of the Journal will continue to remain high. In order to achieve that objective, however, I feel it necessary to remind us all that the cooperation of every member of our Association is necessary. Accordingly, I am now inviting everyone to take some time and communicate with the Journal so that we can all be kept informed. In order to accommodate the broadest possible spectrum of information, scholarly views, informed opinion and critical commentary, it is proposed that the Journal adopt a format conducive to that type of exchange. In that regard we already have a "President's Page", an "Editor's Page" and an "In Brief" page carrying news from around the country as well as a section dedicated to scholarly works. In future it is hoped to continue carrying those sections but to expand the use of the editorial page with a view to having Provincial Editors become contributing editors. It is also hoped to dedicate a section of the Journal to the publication of feedback from members and subscribers who are henceforth invited to drop a note in either of our official languages. Any such letters might contain commentary or any topic of general interest to Judges, but they should be in good taste and carry the identity of the author. All such letters must remain subject to editing to maintain the integrity of the Journal. Persons wishing to have other articles published should send material as early as possible.

In due course Provincial Editors can expect to hear further from me on their participation. Meanwhile, I look forward to feedback from all interested parties.

President's Page

by Judge Douglas E. Rice

When I was first asked to write for the "President's Page" of the Journal, I was requested not to make it a travelogue of Provincial Association visits. I agreed to comply, but feel that I must make note of two recent experiences.

In late May, Joyce and I travelled to Kitchener and Toronto. In Kitchener we met with the Ontario (Criminal Division) Judges at their annual conference. Problems there remained largely the same as has been the case over the years. Hope springs eternal! On the same trip we joined the Civil Division Judges in Toronto for an excellent dinner, the first visit by a National President to that Association.

In mid-June we joined the Saskatchewan Judges at Waskesiu. As might be expected, their Minister of Justice had no good news. On the other hand it was a pleasure to be present when tribute was paid to retiring Chief Judge "Corney" Toews and to welcome the new Chief Judge Pat Carey.

Here in New Brunswick we have bid farewell to retiring Chief Judge Andy Harrigan and extended a welcome to his successor, Chief Judge Hazen Strange.

Many matters of importance to our association were dependent upon the meeting of the federal and provincial Attorneys General held in St. Andrews, New Brunswick the last of May. I was kindly invited to attend a reception/lobster dinner held in conjunction with the meeting. I have not received any official advice as to any decisions made although these decisions may have effected the Provincial Courts.

I did request that the matter of the title "Honorable" for Provincial Court Judges be placed on the agenda so that the reaction of the provincial Attorneys General might be assessed. I have had no response to date.

The matter of provincial Judges' salaries, in relation to federal Judges' salaries, was on the agenda and was discussed. In consideration of provincial Judges dealing with federal statute matters, (exclusive of the Criminal Code), it was to be suggested consideration be given to a proposal that would standardize provincial Judges' salaries throughout Canada, and the federal government pay a percentage of such salaries. Not all Attorneys General were in favour of an outside influence dealing with provincial Judges' salaries within their jurisdiction. While the discrepancy between provincial and federal judges' salaries was recognized, the provinces appear to have requested the Minister of Justice for Canada to restrain the federal salaries to keep the differences from becoming greater.

I was given to understand that the provincial Attorneys General did give at least tentative agreement to the Canadian Judicial Center project. It must be assumed that they agreed to provincial financing as well. I have not heard further from Chief Justice Dickson as to a first meeting of the interim Committee, and, considering the date, this matter may well be postponed until Fall.

In a brighter vein, I can report that the relationship between the Canadian Bar Association and the C.A.P.C.J. is blooming. In April I was invited to, and attended at, a meeting of the executive of the Canadian Bar at Chicoutimi, Quebec. Our statement of principles was presented to them for their consideration, together with some suggestions on how the CBA might support us, both at their national level and at the provincial branch level.

A number of questions seeking information were raised at the meeting. These were referred to Judge Carver, the author, who has since responded to the questions. Other issues were referred to the responsible committee of the CBA for action. A resolution in support of the independence of the provincial judiciary was passed, and referred to provincial branches for consideration and approval at that level.

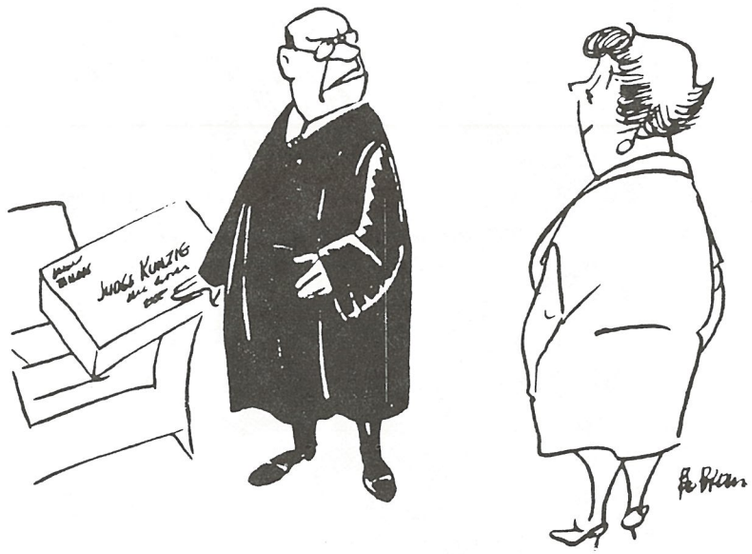
Further, I plan to meet with Jack O'Keefe, chairman of the CBA Committee on the Provincial Court during the summer. I have accepted an invitation to meet with the CBA Committee of Presidents and Vice-Presidents in conjunction with their annual meeting in August. As well, Judge Dubienski and I plan to attend Judge's Day at the same time.

Finally, I was able in Kitchener and at Waskesiu to meet with the Ontario and Saskatchewan CBA provincial Vice-Presidents. I will be doing the same thing in New Brunswick shortly. Others on our executive are doing likewise in other areas. I am hopeful that positive results will be forthcoming.

Plans for Conference '87 are in the final stages. All that the hosts now need are people. May I encourage all Judges possible to attend in Vancouver the first of September.

With these amendments to the Young Offenders Act, court staff are relieved from the fear of prosecution that previously existed for the disclosure of Youth Court records, but still remain subject to prosecution if such records are disclosed after the time periods expire that are specified in Section 45(1).

It is therefore still appropriate to stamp each file and record with the expiry date similar to the destruction date at the Central Repository, so that after that date, although the record in the court need not be destroyed, it will not be disclosed without a Court Order.



"THIS IS A JUDICIAL ROBE, EDITH — I WISH YOU'D STOP REFERRING TO IT AS MY LAW SUIT."

YOUNG OFFENDERS ACT: A Review of the 1986 Amendments Relating to Court Records — Practicality Rules Supreme

By His Honour Judge Thomas B. Davis - Yellowknife

In a combined court system dealing with family, youth and criminal matters within the court administration, court staff as well as the Judges and Justices of the Peace have had some difficulty in adjusting to the substantial philosophical changes made to Sections 40 to 46 dealing with "Records" in the Young Offenders Act.

Basically Sections 38 and 39, under the heading "Protection of Privacy of Young Persons" still restricts publication by any means, any information that would identify youths. The expression "by any means" is still taken to mean the printed word as well as any broadcast or other form of dissemination of the information that would make known publicly the identity of a young person.

The practical amendments in 1986, however, now authorize for two days the publication or broadcast of the identity of the youths, by order of the Youth Court, if the youth is considered dangerous and such publication is necessary to assist in apprehending the dangerous youth.

The amendments to Sections 40 to 46 have much greater practical benefits and effects on the court administrative staff. No longer is it necessary for the court staff to worry about marking copies of records with a date on which such records are to be destroyed. It appears that court staff need not keep records of who receives copies of the court record, so some work has been eliminated since without such a list, there is no possible need for any follow-up notice to the recipient, as was being considered as an additional precautionary duty of the court staff under the original act.

Although the pre-dating of files for destruction at two and five years hence has been a specific function of staff, and the subsequent re-dating of the files on any subsequent offence was an extra burden and worry to staff, the 1986 amendments eliminate all concern for future dates since the Court Administrator who has charge of such files, now has full authority to destroy them at any time. Presumably, the Court Administrator will retain the records for at least the period during which the court is dealing with the charge or charges, and with a little common sense, until after the disposition has been completed.

The R.C.M.P. central registry of records, which receives its input from the local police forces (41(2)), will be responsible for destruction of the recorded files pursuant to Section 45(2) within two months following an appeal period from an acquittal, or within one year following a charge that has been dismissed, withdrawn or stayed. Destruction must occur after two years from agreement to participate in alternate measures. Following a finding of guilt, the destruction must occur within five years on a summary matter, and within five years following the completion of the disposition on an indictable offence.

Although the court may retain the records, the court administrative staff must not disclose or make available such a record as would identify a youth to any person after the same record is to be destroyed at the Central Repository (46(3)), without the order of the Youth Court Judge.

The amendments also allow the disclosure to and the keeping of records by the R.C.M.P., the local police, any Government Department or any organization involved in investigating or administering an offence or a disposition, under Section 41, 42 and 43.

Records shall be disclosed by the court to the youth, his lawyer, his parent, the Attorney General or his agent, any Judge, Court or review board, any peace officer investigating an alleged offence, any department of the Government of Canada involved in alternate measures or a disposition, any person designated by the Governor in Council or a Lieutenant Governor for purposes so specified, any person involved with granting security clearances, and any Government Statistician. In addition thereto, the court shall provide the record of the youth to any other person on court order by a Youth Court Judge. (44.1(1)a-k)

A Government Archivist may for statistical purposes, on approval of the Attorney General or his agent, disclose any record to a person who undertakes not to disclose the identity of the youth. (45.2)

The original effort in the 1984 Act to protect the privacy of young persons has been extended with exceptions, some of which are noted above, by Section 46 of the 1986 amendments which make it an offence to make such a record available where to do so would serve to identify a young person. (Section 46)

In Brief

ONTARIO

Obituary - Judge Carl Waisberg

The following obituary appeared in the Toronto Daily Star on April 19, 1987.

A funeral has been held for Judge Carl Waisberg who served 20 years on the bench of the Provincial Courts criminal division in Toronto.

Friday's funeral was held at Holy Blossom Temple. Judge Waisberg died at Sunnybrook Medical Centre the day before, after a two-month illness. He was 74.

Judge Waisberg was the younger brother of Judge Harry Waisberg who served many years in York County Court.

Judge Carl Waisberg was born in Toronto and graduated from the University of Toronto. He did post-graduate studies at Northwestern University in Chicago, where he received a doctorate in law.

He began practising criminal and civil law in 1938 in Sturgeon Falls and Sudbury, working with his brother.

He helped found a home for juvenile boys that was adopted as a model in several American cities. This led to his appointment as a Juvenile and Family Court judge in Sudbury district.

In 1965, he became a judge in the Toronto Provincial Courts criminal division where he remained until retiring two years ago.

He was the commissioner of a 1976 public inquiry into Laurentian Hospital and adjudicated the Peter Worthington case when the journalist was charged under the Official Secrets Act.

His hobbies were golfing, curling and camping.

Judge Waisberg leaves his wife Edna; daughters Margo and Jodie; a son, Dr. Newton Freidman, two grandchildren and brothers Harry and Saul.

NEWFOUNDLAND

Commencing July, 1987, Judge Joseph A. Woodrow of the Newfoundland Provincial Court has embarked on a special leave of absence for one year. During that year he will be sitting as Yukon Territorial Court Judge in Whitehorse.

Best wishes to Judge Woodrow and his family who have undertaken what is obviously a worthwhile change of Judicial venue albeit temporary.

NOTICE

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SEPTEMBER 2, 1987 - SEPTEMBER 5, 1987

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majority of those offences were best conducted in circumstances and under rules of procedure which avoided as many of the legal complexities which necessarily attend the trial of serious criminal offences as possible. The effect was to remove these offences from the inappropriate milieu of the criminal court to a more simplified environment where a defendant could comfortably conduct his own defence. As a result, the Criminal Division of the Provincial Court, relieved of the responsibility of trying regulatory offences which are more minor in nature, became more truly a criminal court.

As pointed out earlier the election made by an accused person determines, as between the Provincial and District Courts, the court in which he is to be tried and is generally made upon the advice of counsel for reasons which are complex and beyond the scope of this paper.

A summary of surveys conducted in a number of Ontario counties compares the dispositions of the Criminal Division of the Provincial Court and the District Court within the various categories of all indictable offences within the jurisdiction of those courts. Dispositions from the individual counties from which these data have been summarized appear to establish that, contrary to a belief widely held in the justice system, the Provincial Court Judge currently tries not only in excess of 98% of all criminal offences, but as well tries the vast majority of the most serious offences which are within the jurisdiction of both courts.

The realities which emerge from these and earlier considerations appear to be clear. The process of evolution, in terms of jurisdiction both assigned and exercised, has effected changes so profound in the criminal justice system that the superior criminal courts which, at Confederation, as the principal criminal courts of the land tried the bulk of serious criminal offences, no longer do so. Federally appointed judges who, it was intended try the bulk of serious criminal offences, no longer do so.

In Ontario, the Criminal Division of the Provincial Court, originally assigned the position of an 'inferior' court, has become by any objective standards the principal criminal court of the province.

IV. THE CRIMINAL COURT OF THE FUTURE

To permit the criminal justice system to continue to function as it has in the past is to invite its collapse.

We stand at a crossroads; we must either become involved in a major patch-working exercise or we must begin afresh and structurally redesign the fundamental framework to create a system which reflects the dynamics of a changed and changing society.

The wiser choice seems obvious.

Unification Of The Criminal Courts

If there is a threshold issue to be addressed then it is the issue of disunity in the court system.

The fact that Canada has so long delayed seriously considering unification of its courts is astonishing, given the number and the expertise of those in this country who would advocate it, as seen below. In addition we do not appear to have profited from the experience and earlier progress of other jurisdictions.

The importance of unification in the structural framework of the courts was recognized as early as 1906 by Dean Roscoe Pound, an emminant American legal theorist, who is said to have initiated the momentum for the movement towards unification in the United States. In an address entitled **The Causes of Popular Dissatisfaction With the Administration of Justice**, he said;

> ''Our system of courts is archaic in three respects: 1) in its multiplicity of courts, 2) in preserving concurrent jurisdictions, and 3) in the waste of judicial manpower it involves.''[1]

The trend towards unification in the United States has been evident for some years and was given impetus by the President's Commission on **Law Enforcement and Administration of Justice**, which, in 1966, made strong recommendation that ''all criminal cases should be tried by judges of equal status under generally comparable procedures.''

A number of proposals for the reform of the Canadian criminal and other courts have been made in the last several decades. Some of these have been from academics and administrators, others from prominent members of the bar and yet others from judicial associations.

The scope of the present paper does not allow for a detailed review of even the more important of these proposals and the following are mentioned primarily because they have, often in urgent terms, addressed the need for reform in this area of the law, and warrant consideration.

Magistrate's Courts: Functioning and Facilities

Professor Martin Friedland - Faculty of Law Univ. of Toronto. 1968-69 Crim.Law Quarterly

[1]Reproduced in 1962, 46 Judicature 55.

There is little evidence to support the view that sentencing decisions can have a large impact on reducing the extent of criminal activity in society. This conclusion is based primarily upon an examination of the most severe sanction; namely, custodial sentences.

Humanitarian concerns dictate that punishment should be inflicted with restraint. If one adds to this consideration the fact that the imposition of the harshest form of sanction appears to contribute only modestly to the maintenance of a harmonious society, a commitment to restraint is the inevitable result.

The Commission's endorsement of a policy of restraint is consistent not only with the recommendations of almost every group that has examined the criminal justice system, from the Brown Commission in 1848 to the Nielsen Task Force in 1986, but also with those members of the Canadian public whose views on the matter have been canvassed by the Commission. Although, on first questioning, a substantial portion of the Canadian public indicates that sentences should be more severe, further inquiries clearly show that they are most concerned about offences involving violence and tend to overestimate the amount of this kind of crime in society. Statistics show that over 90% of criminal offences do not involve violence or the threat of violence (Solicitor General of Canada, 1984). For non-violent offences, which constitute the majority of offences, the public appears to favour limitations on the use of imprisonment. In short, the Canadian Sentencing Commission's support for a policy of restraint is thus consistent both with public opinion and with the recommendations of previous commissions and committees.

In view of the above discussion on restraint and the fact that sentences of imprisonment are imposed substantially less often than community-based sentences, it may seem peculiar that the Commission's recommended sentencing policy appears to focus more on imprisonment than on community sanctions. However, the Commission is of the view that imprisonment is the most intrusive sanction and consumes the greatest amount of resources. It therefore deserves special consideration.

There are also important historical reasons for this focus. Since the middle of the nineteenth century imprisonment has been pivotal to the sentencing process. A striking illustration of this fact is that, even today, community sanctions are referred to as ''non-*carceral* sanctions'' or as ''alternatives to imprisonment''. As argued in Chapter 5, the emphasis on incarceration must be changed and community sanctions must be recognized as sanctions in their own right.

tences prévues par la loi les éléments qui entravent, au lieu de faciliter, l'imposition de sentences appropriées.

3. Le principe de modération

S'il est nécessaire de resserrer l'écart qui existe entre le droit tel qu'il est écrit et le droit tel qu'il est appliqué, il faut signaler qu'il y a aussi un écart entre la capacité apparente et la capacité réelle du processus sentenciel de résoudre définitivement les problèmes de criminalité.

Le processus de la détermination de la sentence n'est qu'une partie du système pénal, lequel n'est lui-méme que l'un des mécanismes utilisés par la société pour maintenir l'ordre. Mais c'est le plus coercitif. Ce qui est certain, c'est que les sanctions pénales sont une source de souffrance et de désagrément. Ce qui l'est moins, c'est l'ampleur des beinfaits sociaux qui en résultent vraiment. Au chapitre 6, nous avons examiné les données relatives à la contribution des tribunaux au maintien de la paix et de l'ordre social au moyen d'objectifs tels que la dissuasion, la neutralisation et la réadaptation des contrevenants. Il existe bien peu de preuves que les décisions sentencielles contribuent à réduire sensiblement la criminalité. Cette constatation résulte essentiellement de l'analyse de la sanction la plus sévère, soit l'emprisonnement.

L'emprisonnement est une sanction que l'on ne devrait infliger qu'avec mesure, par souci humanitaire. Si on ajoute à cela qu'elle ne semble contribuer que modestement au maintien de l'harmonie sociale, bien que ce soit la sanction la plus rigoureuse, force est de conclure qu'il est nécessaire de faire preuve de modération. Le principe de modération prôné par la Commission est conforme non seulement aux recommandations de la quasi-totalité des organismes qui ont déjà examiné le système de justice pénale, de la Commission Brown en 1849 au Groupe d'étude Nielsen en 1986, mais aussi aux opinions exprimées par les citoyens interrogés à ce sujet par la Commission. Certes, au premier abord, un pourcentage important de répondants affirment que les sentences devraient être plus sévères, mais une analyse plus poussée montre clairement que ce sont les crimes avec violence qui les préoccupent avant tout, et qu'ils ont tendance à en surestimer la fréquence. Les statistiques révèlent que plus de 90 % des actes criminels ne sont accompagnés d'aucune violence ni d'aucune menace de violence (Solliciteur général du Canada, 1984). En ce qui concerne les actes criminels sans violence, qui représentent la majorité des infractions, le public semble favoriser un recours plus modéré à l'incarcération. En bref, la politique de modération recommandée par la Commission canadienne

volved in or subjected to the control of the criminal justice system may be able, in particular circumstances, to predict certain outcomes. However, for most people, the system is neither clear nor certain. In view of these considerations, it is not surprising to find that the public misunderstand sentencing. Since misunderstanding a process can lead to dissatisfaction with it, one can appreciate why the general public is critical of sentencing.

As these examples have shown, lack of clarity in the sentencing process arises from at least two sources. First, the substantive complexity of some sentencing provisions (for example, the three meanings of life sentences noted earlier) obscures the layperson's understanding of the sentencing process. Second, judges have developed various conventions to bring about sentences which otherwise would be precluded by legal formalism. For example, to circumvent the statutory requirement that a fine may not be given for an offence which is punishable by more than five years without also ordering another punishment, sentencing courts often resort to the imposition of a fine plus one day in prison. The purpose of sentences of this nature is not readily apparent to the general public.

One basic aim of the Commission's sentencing policy is to introduce more clarity into the sentencing process. To the greatest extent possible, this involves bridging the gap between the meaning of a sentence, as written in the law and as pronounced by the court, and its subsequent translation into practice. The Commission has also tried to rid sentencing provisions of those requirements which hinder rather than facilitate the imposition of appropriate dispositions.

3. The Principle of Restraint

We have just referred to the necessity of bridging the gap between the written law and its concrete application; there is also a discrepancy between the perceived and the actual ability of the sentencing process to provide the ultimate solution to crime control.

The sentencing process is only one part of the criminal justice system and this system is itself only one of several mechanisms by which society tries to maintain order. It is, however, the most coercive of these mechanisms. What is certain about punishment is that it is aversive; what is more contentious is the extent of social benefit actually derived from it. In Chapter 6, we examined the evidence relating to the criminal courts' success in increasing peace and order in society by pursuing such goals as deterrence, incapacitation and rehabilitation of offenders.

non pas parce qu'il refusait de payer l'amende, mais parce qu'il en était incapable. Par contre, si le juge avait imposé trois ans d'incarcération dans un pénitencier au lieu d'une amende, la victime pourrait être étonnée de découvrir par la suite que le contrevenant s'est retrouvé dans la rue en libération conditionnelle de jour au bout de six mois, ou en libération conditionnelle totale au bout de 12 mois. On pourrait enfin imaginer sa surprise si elle apprenait que le détenu aurait été libéré «automatiquement» au bout de 24 mois au titre d'une libération sous surveillance obligatoire s'il n'avait pas obtenu plus tôt sa libération conditionnelle, alors que les ressources requises pour assurer adéquatement cette surveillance ne sont pas disponibles.

Ces exemples donnent une idée du manque de clarté, de précision et de prévisibilité du processus sentenciel, alors qu'il est, de par sa nature l'intrusion la plus grave de l'État dans la vie du citoyen. Ceux qui comprennent le système le jugent peut-être suffisamment clair. Les agents du système et les contrevenants peuvent peut-être, dans certaines circonstances, en prévoir certains résultats, mais ce n'est pas le cas de l'ensemble de la population. Rien donc d'étonnant à ce que le grand public et les médias comprennent mal le processus sentenciel. Puisque la méconnaissance peut facilement engendrer le mécontentement, il n'est pas surprenant que le public critique le processus de détermination de la sentence.

Ces exemples l'ont montré, le manque de clarté résulte d'au moins deux caractéristiques. Premièrement, la complexité de fond de certaines dispositions sentencielles (comme le montrent les trois sens de l'emprisonnement à perpétuité) fait naître la confusion dans l' esprit du citoyen. Deuxièmement, les juges ont adopté diverses conventions pour pouvoir prononcer des sentences que leur interdirait une interprétation stricte de la loi. Ainsi, pour contourner l'article interdisant de condamner un contrevenant à une amende sans l'assortir d'une autre peine lorsque l'infraction est passible d'une peine maximum de plus de cinq ans d'emprisonnement, les tribunaux ajoutent souvent à l'amende une peine de prison d'une journée. Le grand public saisit mal le but de telles sentences.

L'un des objectifs fondamentaux de la politique sentencielle de la Commission est de clarifier le processus. Cela signifie qu'il faut resserrer au maximum l'écart séparant le sens immédiat de la sentence, telle que prévue par la loi et prononcée par le tribunal, de la forme ultérieure qu'elle prend en pratique. La Commission s'est aussi efforcée d'éliminer des sen-

The Structure and Jurisdiction of the Courts and Classification of Offences. 1973.
Darrel Roberts.

Provincial Courts and the Administration of Justice.
Professor Noel Lyon, Queen's University. Jan. 1978.

Judicial Administration in Canada 1981
Professor Carl Barr and Judge Perry Millar, McGill-Queen's University Press

The following briefs and reports have been prepared by various judge's associations:

Brief on Court Structure. 1978
Provincial Judges Association of Ontario. (Crim. Div.)

Presentation To the Minister of Justice of Canada on Court Structure. 1979.
Canadian Association of Provincial Court Judges.

Proposals of the New Brunswick Association of Provincial Court Judges on the Matter of Re-Constitution of the Courts of Canada.
Provincial Judges Association of New Brunswick.

The Unified Criminal Court. 1980.
Provincial Judges Association of Ontario. (Crim. Div.)

Legal philosophers and those directly connected with the criminal justice system do not, generally speaking, disagree in principle as to the objects and purposes of the criminal law. Its very fundamental purpose is to serve the community and the fundamental purpose of the courts is to achieve justice in the community. All courts of justice are important and courts of criminal justice particularly so because of their special role in the community.

The President's Commission on **Law Enforcement and Administration of Justice**, described the role and function of the criminal court as follows:

> "The criminal court is the central, crucial institution in the criminal justice system.
>
> It is the part of the system that is the most venerable, the most formally organized, and the most elaborately circumscribed by law and tradition.
>
> It is the institution around which the rest of the system has developed and to which the rest of the system is in large measure responsible.
>
> It regulates the flow of the criminal process under the governance of the law.
>
> The activities of the police are limited or shaped by the rules and the procedures of the court.
>
> The work of the correctional system is determined by the court's sentence.
>
> Society asks much of the criminal court. The court is expected to meet society's demand that serious offenders be convicted and punished, and at the same time it is expected to ensure that the innocent and the unfortunate are not oppressed.
>
> It is expected to control the application of force against the individual by the state, and it is expected to find which of two conflicting versions of events is the truth. And so the court is not merely an operating agency, but one that has vital educational and symbolic significance.
>
> It is expected to articulate the community's most deeply held, most cherished views about the relationship of the individual and society.
>
> The formality of the trial and the honour accorded the robed judge bespeak the symbolic significance of the court and its work."

While there may be agreement as to the purpose and objects of the criminal courts, there is often disagreement as to the means by which those objects are best achieved. The approaches found in the above reports and in others which address reform of the courts, are varied and the theoretical models differ in method. The proposals, generally speaking however, have one common denominator; they agree that the principal flaw in our present system is the disunity which is the natural fragmenting consequence of a proliferation of courts and particularly of courts of overlapping jurisdiction. The architects of these proposals deplore our system of justice which represents to the public that there are different qualities of justice for different criminal offences, and even different qualities of courts of justice for trials of the same criminal offences.

Dean Friedland in his report to the **Ouimet Committee** (supra) recommends at page 54:

> "The final section of this paper recommends a fundamental change in the structure of the court system; the abolition of the lower courts as they operate today and their replacement by a Provincial Criminal Court which would be of equal status with and have concurrent jurisdiction over the same offences as the County and Supreme Courts (with the exception of capital cases). This is the real solution to the problems which face and will continue to face our lower courts."

Perhaps the most detailed and comprehensive inquiry ever conducted in this country into court structure is that of **Darrell Roberts** (supra). He concludes at page 34:

> "What is needed is one criminal court in which all of the judges would have jurisdiction to try all criminal cases and in which they would enjoy equal status and equal pay. All of the different trial jurisdictions now exercised would be abolished, the complicated scheme of elections and re-elections would be eliminated, and the only trial option that might remain within the one criminal court is the choice of trial by judge alone or judge and jury. The court could be called the Canadian Criminal Court and be named as such in each province. The judges of that court could be called judges or justices of the Criminal Court and for efficiency each province might be divided into judicial districts with administrative authority to be exercised by a senior judge in each district."

Those who would assume the enormous tasks of the design and implementation of a new criminal justice system will seek the assistance of professionals from many fields. What follows is an outline of those considerations which, in the respectful view of the Provincial Criminal Court Judges of this province, are relevant to the design of such a new structure and of the components and attributes appropriate to it or which may be seen as necessary for its successful implementation.

The proposal for a unified criminal court here advanced envisages a single criminal court vested with jurisdiction over the trial of all criminal offences both with and without a jury. In very simple terms the result achieved would be one level of criminal court, one co-ordinated system of administration and case-flow management, one class of criminal court judge and one quality of criminal justice.

The structure proposed may be outlined as follows:

THE SUPREME COURT OF THE PROVINCE

The jurisdiction of this court is to be that of the highest provincial court of appeal and appeals to this court are to be restricted to matters of law selected by members of that court through a process of leave upon special grounds. It is to be composed of the present members of the Court of Appeal and would sit in panels of three or five justices.

THE PROVINCIAL COURT OF APPEALS

The jurisdiction of this court is to include all other appellate jurisdiction and all remaining supervisory jurisdiction over the trial courts. Its members should reside in, or travel to, various designated regions throughout the province presiding in panels of three justices except in respect of appeals from the Provincial Offences and Small Claims Courts. Initially the members of this court would be composed of those members of the present Trial Division of the Supreme Court of the Province except for those justices whose preference would be to continue in a trial jurisdiction.

The jurisdiction of this court would include:

- appeals from decisions of all civil trial courts,
- appeals from all criminal trial courts including indictable and summary conviction offences on matters of fact, law and mixed fact and law,
- appeals from the Provincial Offences Court,
- grants of prerogative remedies.

THE PROVINCIAL TRIAL COURTS

Composed of three divisions as follows each administered by a Chief Judge or Justice:

A. The Civil Division.

This court is to have unlimited monetary and territorial jurisdiction in all civil and surrogate matters and would preside with or without a jury.

B. The Criminal Division.

This court is to have unlimited jury and non-jury trial jurisdiction in all criminal matters. It might in addition assume that jurisdiction of the Youth Court in respect of young offenders aged 16 to 18.

C. The Family Division.

This court is to have unlimited trial jurisdiction in all matrimonial matters including divorce, custody and the present jurisdiction of the Provincial Court (Family Division) in family matters and in Youth Court matters not assumed by the Criminal Division.

Initially members of the above courts might be chosen from among Supreme, District or Provincial Court Judges as suitability and preference might dictate.

Two other trial courts are contemplated;

D. The Provincial Offences Court.

This court is to have jurisdiction over the trial of all provincial offences, save those which, by means of some statutory classification are, or may be, on application to a Judge of the Criminal Division, considered to be of such complexity or gravity as to warrant trial by a

to comprehend any of the three meanings of life imprisonment. In conclusion, it may be seen that even if the most direct source of information on the criminal law — the *Criminal Code* of Canada — is consulted, the layperson will still be faced with a dilemma. The words will be given their literal meaning, in which case the layperson's interpretation of a life sentence will be wrong, or additional legal knowledge will be needed to be able to understand what the maximum penalty for break and enter actually means.

Let us take this example even further. If the offender who had committed the break and enter were tried and convicted for the offence, the sentencing judge could impose any custodial sentence up to life imprisonment. In view of this maximum penalty, the victim might well expect that the offender would be sentenced to a substantial custodial term. He or she no doubt would be surprised if the judge, after a well-reasoned decision, imposed a large fine and one day of imprisonment. The victim might be bewildered by the discrepancy between the maximum penalty provided for the offence and the sentence actually given. He or she might also question the utility of imposing one day of imprisonment. He or she probably would not realize that, to satisfy the requirements of subsection 646(2) of the *Criminal Code*, the imposition of a fine for an offence punishable by more than five years imprisonment must be accompanied by another punishment, which often is a nominal term of imprisonment. One mechanism for satisfying this statutory provision in a purely formal way is to impose one day of imprisonment along with the fine even though the offender will not actually serve the day in prison.

Furthermore, the victim in our example might be surprised to learn that the offender was eventually imprisoned for being unable, rather than unwilling, to pay the fine. On the other hand, if the judge had imposed a sentence of three years in a penitentiary instead of a fine, the victim might be surprised to find the same offender on day parole after six months, or released on full parole after 12 months. The victim might also be surprised to find that if the offender were not released earlier on parole, he or she would be released "automatically" after 24 months on mandatory supervision for which resources for proper "supervision" were not available.

These examples give some indication of the degree to which the sentencing process lacks clarity, certainty and predictability despite its nature as the most serious state intrusion into the lives of citizens. There may be clarity for those who understand the system. Further, those in-

d'une peine obligatoire d'emprisonnement à perpétuité pour meurtre au premier degré ou pour haute trahison, le contrevenant devra purger 25 ans de prison avant d'être admissible à la libération conditionnelle. Dans le cas d'une peine obligatoire pour meurtre au deuxième degré, le nombre d'années qu'il devra passer en prison avant d'être admissible à la libération conditionnelle sera précisé par le juge et fixé entre 10 et 25. Dans celui, enfin, d'une peine facultative d'emprisonnement à perpétuité, par exemple pour un homicide involontaire coupable, le contrevenant sera admissible à la libération conditionnelle après avoir purgé seulement sept années de prison. Il est donc indispensable d'avoir une certaine connaissance de la procédure de libération conditionnelle et de la notion de peine obligatoire d'emprisonnement à perpétuité pour comprendre chacune de ces trois décisions. En conclusion, même en consultant la source d'information par excellence qu'est le *Code criminel* du Canada, le citoyen sera toujours dans l'incertitude. S'il prend les dispositions du *Code* au sens littéral, son interprétation de l'emprisonnement à perpétuité sera erronée; sans connaissances juridiques supplémentaires, il ne comprendra pas ce que signifie la peine maximale prévue pour les cas d'introduction par effraction.

Poursuivons l'analyse. Si la personne accusée d'être entrée chez quelqu'un par effraction est trouvée coupable, le juge peut lui imposer une peine pourvant aller jusqu'à l'emprisonnement à perpétuité. Vu ce maximum, la victime pourrait bien s'attendre à ce que le contrevenant soit condamné à une peine de prison assez sévère. On imagine sa perplexité si le juge, dans une décision bien fondée, infligeait au contrevenant une amende élevée et une journée de prison. La victime serait peut-être déconcertée par l'écart qui existe entre la peine maximale prévu par la loi et la sentence effectivement prononcée par le juge. Elle pourrait également se demander quelle est l'utilité d'une peine de prison d'une journée. C'est probablement qu'elle ignorerait que le paragraphe 646(2) du *Code criminel* dispose que toute amende infligée pour un acte criminel passible d'un emprisonnement de plus de cinq ans doit être accompagnée d'une autre peine, qui est souvent une peine de prison nominale. L'une des solutions que l'on a trouvées pour garantir le respect purement formel de cette disposition consiste à assortir l'amende d'une peine de prison d'une journée, en sachant parfaitement que le condamnée ne passera pas vraiment une journée en prison.

Par ailleurs, la victime de notre exemple serait sans doute surprise d'apprendre que le contrevenant a en fin de compte été emprisonné,

ular point along the criminal justice process and evaluating them separately. The recommendations should be evaluated in terms of their anticipated impact upon every aspect of the sentencing process.

2. The Need for Clarity and Predictability

Chapters 3 and 4 documented a very serious problem in the area of sentencing: the sentencing process, for the most part, is not understood by the public nor even by many criminal justice professionals. Since most people obtain information about crime and punishment from the news media, one could easily infer that the media do not adequately explain sentences or, more generally speaking, inform people about the sentencing process.

However, although the news media might be the immediate source of public misinformation, attributing public misunderstanding of sentencing to the media only raises a further question: why is it that the information given by the media is said to be inaccurate? We believe that the answer to this question relates not only to the reporting policies of the various media but also, in part, to the complexity of sentencing provisions and to the absence of clarity and predictability in the sentencing process itself.

Sentencing in Canada is not easy to understand. A few examples will illustrate this point. For instance, a person whose home is broken into may want to know the maximum penalty provided by law for this offence. Section 306 of the *Criminal Code* will tell him or her that breaking and entering a dwelling house carries a maximum penalty of life imprisonment. However, the meaning of this penalty will not be readily apparent from the *Code*. The victim may not realize that the one thing a sentence of life imprisonment does not mean is that the offender will necessarily spend the remainder of his or her natural life in prison. He or she will probably not know that a sentence of life imprisonment may actually mean one of three things. First, if it is a mandatory life sentence provided for first degree murder or high treason, it will mean that the offender must serve 25 years in prison before eligibility for parole. Second, if it is a mandatory sentence for second degree murder, the offender must serve a specific number of years between 10 and 25, as set by the sentencing judge, prior to eligibility for release on parole. Finally, if the sentence is a non-mandatory life sentence, such as that provided for manslaughter, the offender is eligible for parole after serving seven years. Therefore, some knowledge of the parole process and of mandatory life sentences is necessary to be able

si, l'imposition d'une sentence est généralement précédée de discussions entre le procureur de la Couronne et l'avocat de la défense, et de recommendations adressées au tribunal. Lorsque la sentence est prononcée, son exécution est assurée par les services correctionnels.

L'évaluation de notre politique sentencielle serait donc incomplète si elle n'était fondée que sur l'analyse isolée des recommandations portant sur telle ou telle étape du processus de la justice pénale. Nos propositions devraient être évaluées en fonction de leurs effets éventuels sur chacune des composantes du processus sentenciel.

2. Un processus sentenciel clair et prévisible

Nous avons examiné en détail aux chapitres 3 et 4 un très grave problème du processus sentenciel, à savoir que les citoyens, voire bon nombre de professionels de la justice pénale, le comprennent mal. Comme les médias sont la principale source d'information du public sur les affaires judiciaires, il serait facile de leur reprocher de ne pas expliquer adéquatement les sentences et, de manière plus générale, de ne pas diffuser d'informations satisfaisantes sur le processus sentenciel.

Cependant, même si les médias sont peut-être une cause immédiate de l'information inadéquate du public, leur en imputer toute la responsabilité ne ferait que déplacer le problême, puisqu'il faudrait alors se demander pourquoi il en est ainsi. À notre avis, cela résulte non seulement de la politique rédactionnelle appliquée par les divers organes de presse, mais aussi de la complexité des dispositions régissant la détermination des sentences et du manque de clarté et de prévisibilité du processus sentenciel lui-même.

Au Canada, les décisions en matière de sentences ne sont pas faciles à comprendre, comme vont le montrer les exemples suivants. Un citoyen chez qui on entre par effraction pourrait souhaiter connaître la peine maximale prévue par la loi. En consultant l'article 306 du *Code criminel,* il apprendrait que l'introduction par effraction dans une maison d'habitation est passible d'une peine maximale d'emprisonnement à perpétuité, mais il ne comprendrait pas nécessairement le sens de cette peine, qui n'est pas explicité par le *Code*. En ce qui concerne la victime, elle ne saurait probablement pas que cette peine ne signifie aucunement que le contrevenant passera nécessairement le restant de ses jours en prison. Il est peu probable qu'elle sache qu'une peine d'emprisonnement à perpétuité peut avoir trois sens différents. S'il s'agit

help but be adversely affected by this situation where judges must entreat permission and beg for resources from the executive. One Chief Justice avowed frankly: 'There is no longer even a semblance of independence'.''

The scope of this paper does not permit extensive participation in this debate but some insight into the problem may be gained from the experience of Provincial Criminal Court Judges of the administrative controls to which they are presently subject.

Provincial Courts in this province are particularly susceptible to these problems and to a much greater extent than the courts of federally-appointed judges, partly because of the 'inferior court' concept of Provincial Courts to which earlier reference has been made, and in addition because the courts and offices of the Provincial Court, unlike those of the District Court, are in the general mainstream of the Attorney General's Ministry.

Policy determinations have been made by employees of the Attorney Generals Ministry which govern and direct, in minute detail, the provision of the judge's immediate court support staff, his supplies and furniture, his expense money and the surveillance of his court. The control exercised is often subtle, but occasionally direct. Judges feel that it is suffocating, humiliating and dispiriting.

The policy is contained in Ministry administration manuals and directions provided to court administrators whose responsibility is to interpret such policy and carry it out, and where necessary, to supervise the judge's adherence to the policy.

This policy established the qualification requirements and remuneration of court reporters, clerks and of all persons who comprise the immediate support staff of the court. Such persons are employed, trained, directed and discharged generally without consultation with the judge and are totally under the control of the Ministry. Policy determines whether the judge will have a personal secretary and the extent to which she will be made available to him. She will be hired, often without his having spoken to her, and remains subject to the over-riding supervision and control of the administrator. Whether the judge will have a filing cabinet in his office or a telephone in an outside court office, remains within the absolute discretion of the administrator. Policy determines what books will be provided at the Ministry's expense for the court's library.

Controls over the courts are inappropriately exercised by other branches of the executive. Courtrooms are designed, redesigned and renovated by employees of the Ministry of Government Services occasionally without consultation with the judiciary.

Individual Judges have no right to autonomy nor should they have the authority to make final decisions in matters of policy relating to support staff and other requirements of the courts. These decisions however may only appropriately be made by persons who understand the function of the courts and the role of the judge and whose principal allegiance and loyalties are not to the chief prosecuting law officer of the province. The priorities to be determined within the limitations of existing financial restraints cannot be properly determined unless those persons who are charged with the responsibility of administering justice in the system have an effective voice.

Professor Carl Barr and Judge Perry S. Millar, the authors of **Judicial Administration In Canada** (supra) agree:

> ''Therefore, if the whole field of administration is to be welded together under one authority, that authority must be the judiciary. It follows that the present requirement, from a practical point of view, is a judiciary informed of and sensitive to management needs, supported by competent and trusted administrators.''

The ultimate authority is best vested in a council of judges whose legislated responsibility and accountability is to the Government of the Province by means of a mechanism involving a Minister of Justice. Such a council should be given legislative authority to determine, in consultation with those ministries concerned with justice and within those restraints as may be imposed by the Government, matters of policy for the courts. In turn the council should assume the responsibility of establishing lines of authority to the individual presiding judges in relation to their personal, court staff and other requirements. As a result constraints upon individual judges might well result, in some respects and in some areas of administration, which are no less restrictive than those presently in place, but they will be more readily accepted by judges because they will have been determined by persons who are more sensitive to the priorities to be considered and to the manner in which the courts and the judges may best serve the public.

The general view held by Provincial Criminal Court Judges is that the administrative control presently exercised by the Attorney General and his Ministry, and by other Ministries, over the courts and over judges, impairs their ability to properly carry out their judicial functions and blurs the public's image of an independent judiciary.

REPORT OF THE CANADIAN SENTENCING COMMISSION: A BRIEF EXTRACT*

RAPPORT DE LA COMMISSION CANADIENNE SUR LA DETERMINATION DE LA PEINE: UN EXTRAIT BREF

General Introduction

This introduction to the Commission's specific recommendations attempts to explain the principles which guided our deliberations and upon which we based our approach to the development of a sentencing policy. In other words, it describes what it is that we have sought to accomplish. The sentencing policy formulated by the Commission reflects the following concerns which are listed not in order of priority, but to provide a logical flow of discussion.

I. An Integrative Approach

As has already been pointed on in Chapter 1, of the many groups that have examined criminal law issues, the Canadian Sentencing Commission is the first with the specific mandate to examine the whole sentencing process including the determination of sentences. It is not, however, the first commission to make recommendations in the area of sentencing. Although there have been some important changes over the past 100 years in the criminal law relating to such matters as appeals, early release, electronic surveillance and bail as well as to specific offences such as sexual assault or impaired driving, there have been no fundamental changes to the sentencing structure itself. The enduring character of our penalty structure is illustrated by the fact that the hierarchy of maximum penalties in the *Criminal Code* has remained virtually unchanged for close to a century. The current maxima of two years, five years, seven years, ten years, fourteen years and life, date back to 1892. Other maximum terms of imprisonment provided in the *Code* at that time, such as a three year maximum penalty, have since been deleted.

Part of the reason for the absence, to date, of a comprehensive review of our sentencing policy and penalty structure has been the complexity of the sentencing process and its interaction with other parts of the criminal justice system. Changes to one part of that process imply a need to modify other parts. One might well effect a minor change such as raising the minimum sentence for a particular offence without seriously jeopardizing other components of the system. However, any more ambitious or substantive modification introduced to solve problems in one area of sentencing would impact upon and consequently necessitate a systematic review of all components of the sentencing process.

The scope of the Commission's mandate implies that proposals for reform should encompass a wide range of issues and further, that they should address the structure of the sentencing process. Therefore, it was necessary to adopt an integrative approach in formulating and recommending a sentencing policy for Canada.

The recommendations relating to each of the major tasks assigned to the Commission by its terms of reference are described in detail in the chapters which follow. Although each chapter deals with a specific topic, the Commission's recommendations cannot be read independently of one another. They were formulated as part of a comprehensive sentencing package. Focusing on one set of recommendations to the exclusion of others would lead to an incomplete understanding of the Commission's sentencing policy. In other words, in developing specific recommendations, the Commission was always aware of the degree to which its proposals were interdependent. However, we must stress that an integrated sentencing package does not mean that rejection of one set of recommendations necessarily implies automatic dismissal of all others. Individual elements of our recommended sentencing policy can be modified; however, because the package represents a synthesis of various components, changes to one area may necessitate alterations to others.

In a similar vein, it is important to realize that an assessment of the meaning and anticipated impact of one set of recommendations can only be made in the context of all the other proposals. There is an implicit recognition in the Commission's terms of reference that the sentencing process includes numerous points along the criminal justice continuum. For example, the imposition of a sentence is usually preceded by discussions between Crown and defence counsel and by sentencing representations made to the court. Once pronounced, the sentence is then administered by correctional authorities. The assessment of our sentencing policy would be incomplete if it involved isolating those recommendations which pertained to a partic-

Introduction Générale

Cette introduction aux recommandations spécifiques de la Commission est destinée à expliciter les principes qui ont guidé ses délibérations et qui ont fondé son travail d'élaboration d'une politique sentencielle. En d'autres mots, elle décrit ce que les commissaires ont voulu accomplir. La politique sentencielle formulée par la Commission reflète les préoccupations énoncées ci-après. Ces considérations ne sont pas présentées par ordre d'importance mais de manière à respecter un enchaînement logique.

1. Une approche globale

Comme nous l'avons déjà souligné au chapitre 1, la Commission canadienne sur la détermination de la peine est le premier des nombreux organismes qui ont examiné des problèmes de droit pénal à avoir été explicitement saisi de tout le processus sentenciel, y compris de la détermination des sentences. Ce n'est cependant pas le premier à formuler des recommandations à ce sujet. Certes, le droit pénal a fait l'objet de modifications notables au cours du siècle dernier, par exemple en ce qui concerne les appels, la mise en liberté anticipée, la surveillance électronique et la libération sous caution, ou en ce qui concerne des infractions données, comme les agressions sexuelles ou la conduite avec facultés affaiblies, mais la structure des sentences elle-même n'a encore fait l'objet d'aucune réforme de fond. On peut d'ailleurs illustrer l'immuabilité de cette structure en soulignant que la hiérarchie des peines maximales inscrites au *Code criminel* est quasiment la même depuis près d'un siècle. Les peines maximales d'emprisonnement actuelles de deux, cinz, sept, dix, et quatorze ans et de réclusion à perpétuité remontent à l'an 1892. D'autres peines d'incarcération maximales figurant dans le *Code* de cette époque, telle la peine maximale de trois ans, ont depuis été abrogées.

C'est en partie à cause de la complexité du processus sentenciel et de son interaction avec les autres éléments du système pénal qu'aucune révision en profondeur de notre politique sentencielle et de notre structure des sentences n'a encore été entreprise. Toute modification apportée à l'une des parties du processus en exige d'autres ailleurs. Certes, on pourrait peut-être apporter une modification mineure, par exemple hausser la peine minimale pour une infraction donnée, sans remettre en cause les autres éléments du système, mais tout projet de réforme plus ambitieux ou plus fondamental destiné à résoudre les problèmes dans l'un des domaines de la détermination des sentences aurait des répercussions sur tous les autres éléments du processus sentenciel, et exigerait donc l'examen méthodique des réajustements nécessaires pour retrouver un nouvel équilibre.

L'ampleur du mandat qui nous a été confié nous impose de formuler nos propositions de réforme en tenant compte d'une vaste gamme de problèmes et en abordant la question de la structure du processus sentenciel. Cela signifie que nous avons dû entreprendre l'élaboration d'une politique sentencielle pour le Canada en adoptant une approche intégrée.

Les recommandations concernant chacune des tâches fondamentales attribuées à la Commission sont énoncées en détail dans les chapitres qui suivent. Bien que chacun porte sur un sujet distinct, les recommandations de la Commission ne peuvent être interprétées indépendamment les unes des autres. Elles ont été formulées de façon à s'inscrire dans un ensemble intégré de propositions de réforme, et quiconque n'en retiendrait qu'une partie à l'exclusion des autres aurait une compréhension incomplète de notre politique sentencielle. En d'autres mots, lorsque la Commission a élaboré ses recommandations, elle savait pertinemment qu'elles seraient interdépendantes. Soulignons toutefois que cette approche intégrée n'implique pas que le rejet d'une série de recommandations entraîne nécessairement le rejet automatique de toutes les autres. On peut envisager de modifier telle ou telle partie de la politique sentencielle que nous recommandons, mais puisque cette politique représente la synthèse de diverses composantes, il pourra être nécessaire de modifier les autres parties.

Dans le même ordre d'idées, il importe de reconnaître qu'on ne saurait analyser correctement le sens et les effets probables de telle ou telle série de recommandations sans tenir compte de toutes les autres. Le mandat de la Commission contient en filigrane l'idée que le processus sentenciel englobe de nombreuses étapes qui font partie de la justice pénale. Ain-

(*EDITOR'S NOTE: The Canadian Sentencing Commission under the Chairmanship of Provincial Court Judge Omer Archambault completed its work on sentencing reform in Canada in February, 1987. The report was distributed to Judges in March. For those who have not yet had an opportunity to study the report or if there are any among us who remain skeptical of the value of the work of the Commission, perhaps the following extract from the report will whet our appetites to give the report some detailed consideration.)