



Ministry of the
Attorney
General

annual
report
1977-78



NORTHUMBERLAND COUNTY COURT HOUSE,
COBOURG

59555

To Her Honour the Lieutenant Governor in
Council

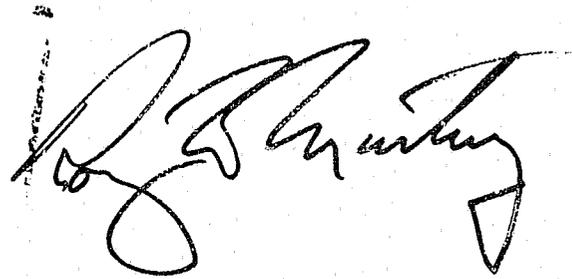
May it please Your Honour:

It is my pleasure to present to your Honour
the Annual Report of the Ministry of the
Attorney General for the year 1977-78.

NCJRS

JUL 23 1979

ACQUISITIONS

A handwritten signature in black ink, appearing to read "R. Roy McMurtry". The signature is fluid and cursive, with a large loop at the end.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



Table of Contents

Letter from the Deputy Attorney General	5
The Ministry of the Attorney General	6
Office of the Legislative Counsel	7
Policy Development Division	8
Courts Administration Division	11
Crown Law Office	22
Crown Attorneys System	23
Civil Litigation and Legal Advisory Services	26
Common Legal Services	31
Programs and Administration Division	40
Boards and Commissions	44
Ontario Law Reform Commission	44
Ontario Municipal Board	45
Assessment Review Court	45
Criminal Injuries Compensation Board	47
Land Compensation Board	48
Board of Negotiation	49
Background Papers	51
French Language Services in Ontario Courts	51
Family Law Reform	60
Appendix	63
Acts Administered by the Ministry of the Attorney General	

The Stephen Britton Osler drawings throughout this report are from the Ontario Court Series, a limited-edition series produced by D.G. Dorrell International Inc. for Legal Art.

Letter from the Deputy Attorney

November 15, 1978.

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
18th Floor, 18 King Street East,
Toronto, Ontario.

Dear Mr. Attorney,

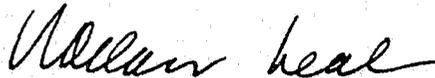
In accordance with the provisions of section 7 of
The Ministry of the Attorney General Act, I am
pleased to be able to present the Ministry's Annual
Report.

To the outside observer, the year has been one of
profoundly important law reform. The enactment
of the Family Law Reform Act and its accompany-
ing legislation potentially affects the lives of all
in Ontario. The whole of the law and procedure
governing provincial offences is rationalized by the
Provincial Offences Bill recently introduced.

We have also taken important steps to improve
access to justice. The extension of French language
trials, the inauguration of a comprehensive pro-
gram to translate statute law into French, and the
simplification of court procedures all contribute
to this general end.

For many, this has also been a year of constraint, a
year in which burgeoning caseloads and budgetary
restrictions have placed difficult demands on the
whole Ministry. That we have been able to respond
as we have is evidence of the quiet efficiency of a
dedicated team of men and women working across
Ontario, to run the operations of the Ministry and
serve the public. This report, which records what
they have achieved, is at the same time a tribute
to their industry, imagination and dedication.

All of which is respectfully submitted.



H. Allan Leal, Q.C.,
Deputy Attorney General.



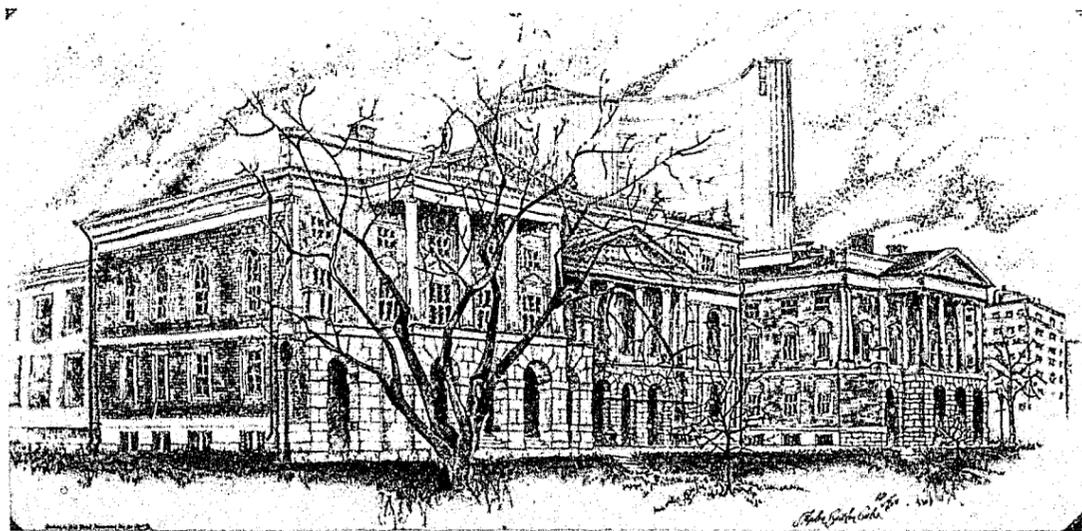
The Ministry of the Attorney General

6. The division participated in the drafting of a Provincial Offences Act, and has produced a booklet, *Provincial Offences Procedure: An Analysis and Explanation of Legislative Proposals*, to be published in April, 1978. The new procedures are the product of several years of intensive development. Many persons living in Ontario find the procedure which now governs the prosecution of provincial offences bewildering, expensive, time consuming and altogether disproportionate in gravity to those offences. This situation is redressed by the proposed Act which creates a clear, self-contained, procedural code to simplify procedures, eliminate technicalities, enhance procedural rights and protections, and remove the obstacle of delay from the assertion of rights and the conclusion of prosecutions. In addition, the Act promotes the replacement of jailing persons who do not pay their fines with effective means for collecting those fines.

Uniform Law Conference of Canada

The conference consists of commissioners and other participants from all provinces, the territories and the federal Government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The division has increasingly taken on work generated by this conference. This year the division has worked with legislative counsel to draft a Uniform Powers of Attorney Act to present to the conference. The division has also prepared a report on declarations of paternity and materials regarding prejudgment interest.



Osgoode Hall, Toronto

Courts Administration Division

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

Mr. B.W. McLoughlin was appointed Assistant Deputy Attorney General and Director of Courts Administration effective from February 7, 1978.

Mr. M.S. Fitzpatrick was appointed Inspector of Legal Offices and Deputy Director of Courts Administration on February 15, 1978.

The Courts Administration Division was reorganized in February and the current composition of the Division is reflected in the Organization Chart of February 10, 1978.

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the general administration of the courts in Ontario including:

- regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

French Language Programs

Legislative Amendments

In May of 1978 the Legislature gave approval to Bill 71, an Act to amend the Judicature Act, and

Bill 72, an Act to amend the Juries Act, 1974. This important new legislation enables the Ministry of the Attorney General to further expand its French language court services.

The amendment to the Judicature Act provides for the official designation of courts and Counties and Districts in which French-speaking residents may elect to testify in French and to have their evidence directly received and understood by the court without it being relayed through an interpreter. It is anticipated that such proceedings will be bilingual, but provision has been made for unilingual French proceedings where circumstances warrant.

The amendment to the Juries Act enables the selection of bilingual jurors.

French Language Services in Provincial Court (Criminal Division)

French language services are now available in the Provincial Court (Criminal Division) in Sudbury, Espanola, Ottawa, L'Orignal, Hawkesbury, Rockland, Cochrane, Kapuskasing, Hearst, Smooth Rock Falls, and Hornepayne. Thus, French court services are now available to approximately 66 per cent of Ontario citizens who speak French only.

It is anticipated that further expansion will be undertaken in the Cornwall area in the near future.

French Language Services in Provincial Court (Family Division)

French language services are now available in the Provincial Court (Family Division) in Sudbury and in Ottawa. Planning is underway for further expansion.

French Language Services in Supreme, County & District Courts

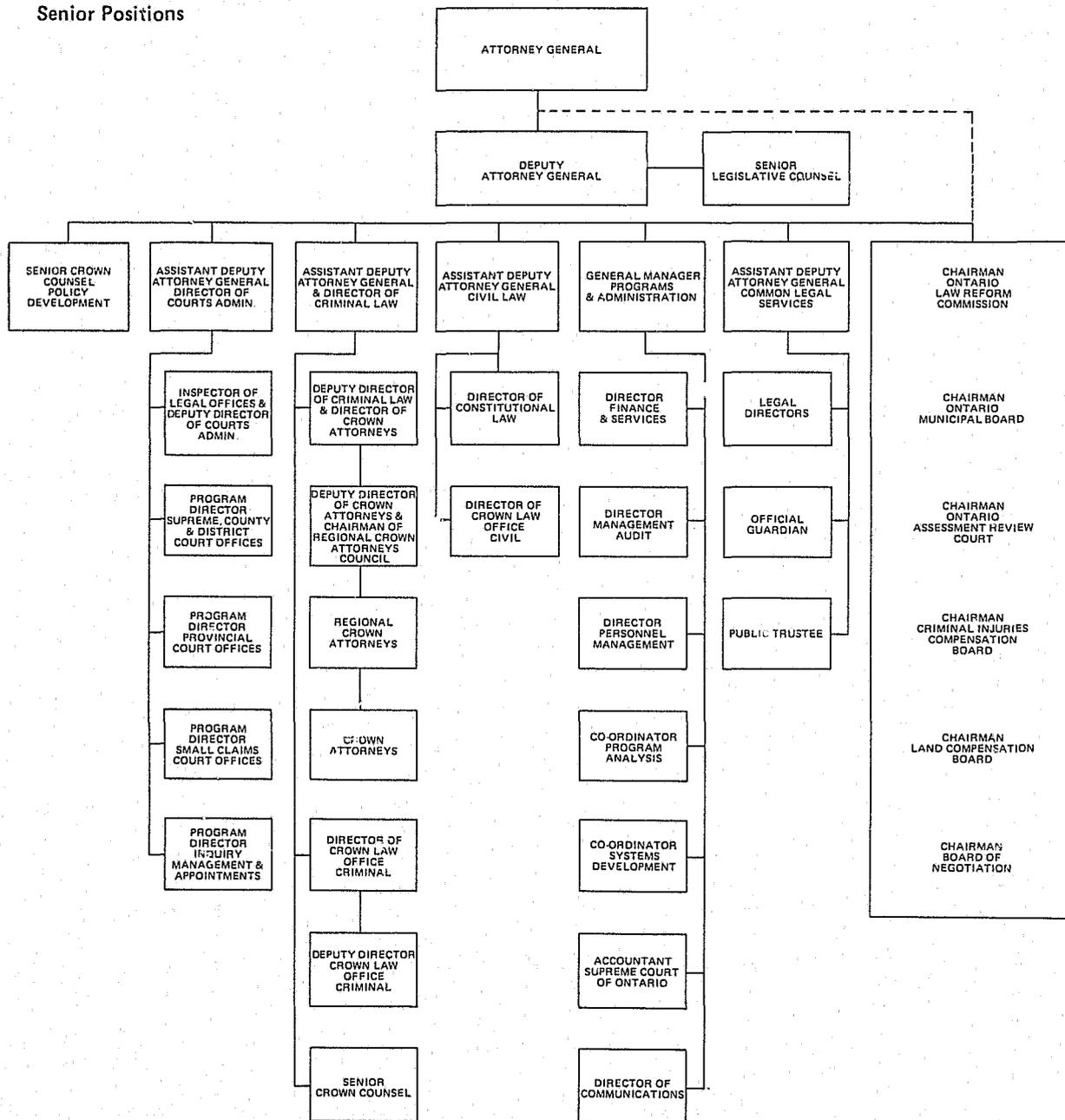
With the recent amendments to the Judicature and Juries Acts, planning is underway for the provision of French language services in the Supreme, County and District Courts in specified, designated areas.

Forms Program

The forms program relating to the Provincial Courts, both Criminal and Family Divisions, has been expanded to provide some 40 forms in a bilingual format. These include the vast majority of forms which the public normally sees or receives during the course of contact with the Provincial Court

The Ministry of the Attorney General

Senior Positions



Office of the Legislative Counsel

Arthur N. Stone, O.C.,
Senior Legislative Counsel

This office consists of eight lawyers, eight clerks and four legislative editors.

The duties and responsibilities of the Office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes.
4. Maintaining public files of regulations and publishing the regulations.
5. Maintaining updated proofs of statutes and regulations.

Number of Bills Drafted, Introduced and Passed

	1974	1975	1976	1977
Government bills —				
Drafted	225	191	151	206
Introduced	145	115	101	127
Passed	137	110	87	70
Private bills —				
Introduced	31	32	26	57
Passed	31	31	24	43
Private member's bills —				
Drafted	72	79	104	96
Introduced	58	83	95	80
Passed	0	0	0	1
Number of pages in statute book				
	1650	1100	895	1010

Number of Regulations Drafted and Filed

	1974	1975	1976	1977
Drafted	1152	1216	1230	1156
Filed	1001	1049	1021	975
Published pages in Gazette				
	1767	2457	1717	1797

Program of Operations for the Fiscal Year 1978-79

The office will assume responsibility for the translation and publication of statutes in the French language.

The Ministry of the Attorney General

Policy Development Division

John Cavarzan,
Senior Crown Counsel

The Division

At present the Division, which consists of Senior Crown Counsel and six lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario.
2. Continual review of the 133 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problems and evaluating all government options for discussion and decision-making by the justice committee of Cabinet and by Cabinet. This process concludes with counsel from the division assisting Legislative Counsel to create draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

The division is also responsible for the Ministry Library, which serves the Crown Law Office and (about 50) field offices.

Relationship with Other Organizational Units

To do its job, the division must have close relationships with a number of organizational units both within the Ministry and independent of it. There is constant liaison and co-operation with the Crown Law Office. Through these efforts some projects are conducted jointly and duplication is avoided. The Policy Development Division maintains a

co-operative relationship with the Ontario Law Reform Commission. While the independence of the Commission is at all times recognized and respected, there is an exchange of research material and ideas.

There is constant demand for interaction with other ministries and policy fields, with the federal Department of Justice, and with public interest groups. The division's involvement enables it to keep abreast of many activities and proposals which may affect the administration of justice in the province.

Examples of Activity

Legislation

Thirteen years of detailed research and development in the field of family law in Ontario, four of them in this division, were culminated by the enactment of three major statutes:

1. The Family Law Reform Act, 1978 (first introduced as a Bill in substantially the same form in 1976 and reintroduced as a Bill in 1977). The Act is a comprehensive reform of family law in the areas of family property and family support obligations. It provides, among other things, for: division of family assets on matrimonial breakdown; the rights of spouses to possession of the matrimonial home; support obligations for spouses, children, parents and dependant "common law spouses"; marriage contracts, separation agreements and cohabitation agreements; claims by dependants against a person whose fault or neglect has resulted in the injury or death of a family breadwinner.
2. The Children's Law Reform Act, 1977 (previously introduced as a Bill as The Children's Law Reform Act, 1976). The Act abolishes the legal distinction between legitimate children and illegitimate children and provides that a person is the child of his, or her, natural parents (adoption excepted). The Act also provides judicial procedures for establishing paternity and creates presumptions of paternity to assist children to enforce their legal rights to support and property.
3. The Succession Law Reform Act, 1977 (previously introduced as a Bill in substantially the same form in 1976). The Act is a comprehensive reform of testate and intestate succession which, among other things, provides for: holograph wills; an international form of will; a new order of

distribution of an estate among kin upon the death of a person who has not made a will; new rules for distributing property of persons whose estates are interconnected and who die in circumstances making it impossible to determine who died first; the designation of beneficiaries in retirement and pension plans; application to a court to ensure the support of dependants of a deceased person where a will, or the system of distribution where there is no will, do not adequately provide.

Other Legislation Relating to Family Law Reform:

4. The Marriage Act, 1977 (previously introduced as a Bill in 1976). The Act revised the existing Marriage Act in accordance with recommendations of the Ontario Law Reform Commission and made other improvements.
5. The Land Titles Act, The Registry Act, The Trustee Act, The Surrogate Courts Act, and The Provincial Courts Act were all amended to ensure the effectiveness of substantive family law reform.

Other Important Legislation Developed by the Division:

6. The Judicature Amendment Act, 1977, provides for interest between the time a cause of action arises and the trial. These provisions were needed to create incentive to settle cases and, where settlement is impossible, to speed their trial. The legislation also creates a cause of action for unreasonably obtaining and registering a certificate of pending action, a court procedure which was being abused.
7. The Small Claims Court Amendment Act, 1977, raised the jurisdiction of the court to \$1,000 throughout Ontario. It also removed the requirement to prove a case using the formal rules of evidence, abolished pre-trial garnishment and established the Office of Small Claims Court Referee.
8. The Highway Traffic Amendment Act and The Negligence Amendment Act removed the necessity for an injured gratuitous passenger to prove the driver guilty of gross negligence before recovering damages. Only negligence need now be proven.

The division was deeply involved in the drafting of rules and forms for the Unified Family Court and, in connection with family law reform, assisted both the Rules Committee of the Provincial Court

(Family Division) and the Rules Committee established under The Judicature Act in the drafting of new rules and forms.

The division was also required to monitor and comment upon Private Members' Bills dealing with aspects of this Ministry's responsibility. Under the new rules of the Legislative Assembly, Private Members' Bills have a greater possibility of being enacted and, therefore, considerable time must be spent in analyzing them.

Studies, Papers, Consultation

1. A Discussion Paper on a proposed Limitations Act was prepared and distributed by the division. The Paper includes a draft proposed Limitations Act and requests the comments and suggestions of the general public and the legal profession, in order to ensure the soundness of the proposed new legislation.
2. Counsel in the division worked with senior civil servants in the Ministries of Consumer and Commercial Relations and Housing in the preparation of a booklet, Policy Options for Continuing Tenant Protection. The booklet describes the historical development of rent review, residential tenancy legislation and housing policies. It then sets out a range of options for future legislation to deal with these subject areas. The purpose of the booklet is to focus public discussion so that there can be maximum public participation in the dialogue which will precede new legislation.
3. A lawyer of this division was a member of the Attorney General's Committee on Representation of Children. Members of the division have been appointed to various interministerial committees and have attended conferences on behalf of the Ministry.
4. The division continued its development of legislation to deal with problems regarding the liability of occupiers of land to people entering onto the land and the problems of enforcing occupiers' rights against trespassers. The objective is to protect the legitimate interests of private owners of non-industrial and non-commercial land, while encouraging them to permit greater recreational use of their land.
5. The division is preparing an explanatory booklet on The Small Claims Courts to assist non-lawyers in using these courts.

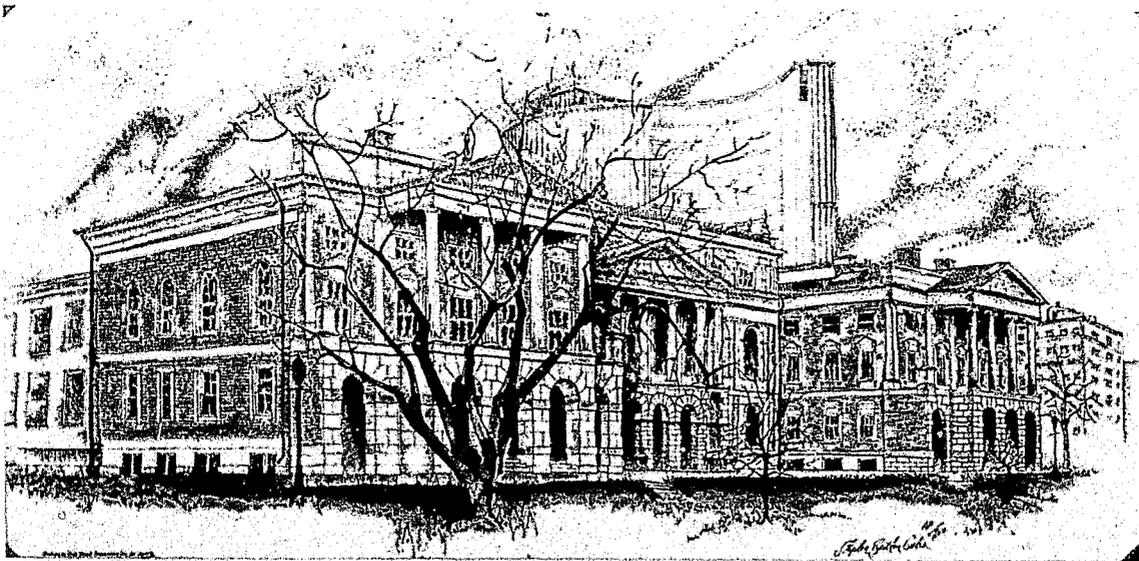
The Ministry of the Attorney General

6. The division participated in the drafting of a Provincial Offences Act, and has produced a booklet, *Provincial Offences Procedure: An Analysis and Explanation of Legislative Proposals*, to be published in April, 1978. The new procedures are the product of several years of intensive development. Many persons living in Ontario find the procedure which now governs the prosecution of provincial offences bewildering, expensive, time consuming and altogether disproportionate in gravity to those offences. This situation is redressed by the proposed Act which creates a clear, self-contained, procedural code to simplify procedures, eliminate technicalities, enhance procedural rights and protections, and remove the obstacle of delay from the assertion of rights and the conclusion of prosecutions. In addition, the Act promotes the replacement of jailing persons who do not pay their fines with effective means for collecting those fines.

Uniform Law Conference of Canada

The conference consists of commissioners and other participants from all provinces, the territories and the federal Government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The division has increasingly taken on work generated by this conference. This year the division has worked with legislative counsel to draft a Uniform Powers of Attorney Act to present to the conference. The division has also prepared a report on declarations of paternity and materials regarding prejudgment interest.



Osgoode Hall, Toronto

Courts Administration Division

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

Mr. B.W. McLoughlin was appointed Assistant Deputy Attorney General and Director of Courts Administration effective from February 7, 1978.

Mr. M.S. Fitzpatrick was appointed Inspector of Legal Offices and Deputy Director of Courts Administration on February 15, 1978.

The Courts Administration Division was re-organized in February and the current composition of the Division is reflected in the Organization Chart of February 10, 1978.

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the general administration of the courts in Ontario including:

- regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

French Language Programs

Legislative Amendments

In May of 1978 the Legislature gave approval to Bill 71, an Act to amend the Judicature Act, and

Bill 72, an Act to amend the Juries Act, 1974. This important new legislation enables the Ministry of the Attorney General to further expand its French language court services.

The amendment to the Judicature Act provides for the official designation of courts and Counties and Districts in which French-speaking residents may elect to testify in French and to have their evidence directly received and understood by the court without it being relayed through an interpreter. It is anticipated that such proceedings will be bilingual, but provision has been made for unilingual French proceedings where circumstances warrant.

The amendment to the Juries Act enables the selection of bilingual jurors.

French Language Services in Provincial Court (Criminal Division)

French language services are now available in the Provincial Court (Criminal Division) in Sudbury, Espanola, Ottawa, L'Orignal, Hawkesbury, Rockland, Cochrane, Kapuskasing, Hearst, Smooth Rock Falls, and Hornepayne. Thus, French court services are now available to approximately 66 per cent of Ontario citizens who speak French only.

It is anticipated that further expansion will be undertaken in the Cornwall area in the near future.

French Language Services in Provincial Court (Family Division)

French language services are now available in the Provincial Court (Family Division) in Sudbury and in Ottawa. Planning is underway for further expansion.

French Language Services in Supreme, County & District Courts

With the recent amendments to the Judicature and Juries Acts, planning is underway for the provision of French language services in the Supreme, County and District Courts in specified, designated areas.

Forms Program

The forms program relating to the Provincial Courts, both Criminal and Family Divisions, has been expanded to provide some 40 forms in a bilingual format. These include the vast majority of forms which the public normally sees or receives during the course of contact with the Provincial Court

The Ministry of the Attorney General

(Criminal Division) or the Provincial Court (Family Division).

The questionnaire as to qualifications for jury service is now available in a bilingual format, and is distributed in the designated bilingual areas.

Human Resources

The Ministry is currently reviewing the human resources available for the appropriate and effective implementation of the French language programs in the courts and is taking steps to ensure that suitable resources are available.

Supreme, County and District, and Surrogate Court Offices

R.W. Schurman,
Director

The director provides administrative direction for Supreme, County and District, and Surrogate Court offices. In liaison with the regional co-ordinators he develops and implements policies of the Ministry relating to procedures and training programs.

Standard procedures have been developed to help the offices process an ever-increasing volume of litigation. Other changes, particularly in case-flow management, are being assessed to ensure that persons using the court system are adequately served.

During the past year, in addition to the regular regional seminars, instructional seminars were held in all areas for officials and their deputies, and for all staff members. These seminars were designed to meet the growing need for more uniformity of practice within all offices.

The educational seminars, begun in 1976, are being continued under the guidance of the Regional Co-ordinators, and have been extended to include all staff members in all of the offices. Nine separate seminars have been held for the court staffs in strategic areas of the province. As well, the co-ordinators continue to initiate studies into all phases of Sheriffs' and Court Registrars' responsibilities.

Court Reporting

Tom Moran,
Co-ordinator

Court Reporting

The co-ordinator is responsible for the provision of administrative control of all court reporting functions in the Province, including the development and implementation of approved policies relative to all levels of court reporting, including special examinations and certain boards and commissions.

The co-ordinator is also responsible for the establishment of reporting standards, the development of reporter training programs, the provision of direction and support to the offices of Special Examiners in Toronto, Ottawa, Hamilton, St. Catharines, Windsor and Timmins and the provision of competent reporting services to maintain acceptable standards.

Methods of Reporting

There are currently 370 court reporters on staff; 120 shorthand reporters, 39 stenotype reporters, 153 stenomask reporters and 58 court monitors (using electronic recording systems). In addition there are approximately 220 freelance reporters available on a part-time basis.

Central or archival recording systems are now operational in Barrie, Windsor, London, Ottawa, Brampton and Hamilton. With this system an independent record is made of the court proceedings onto a master tape for archival storage while the reporter produces the 'in-court' record for transcription purposes.

Training and development of competent court reporters continues to receive priority and as a result George Brown College, in 1976, expanded its reporter training program to include a one-year course in the stenomask system. A number of successful graduates, both shorthand and stenomask, have joined our staff since the implementation of this program.

Courts and Office Accommodation Planning

Bill Thomson,
Administrator

Administration

The Ministry, during the 1977/78 fiscal year, has actively pursued its program of upgrading and expanding existing court and office accommodations as well as providing much needed additional court facilities throughout the province.

Projects Completed

In Kitchener, the Provincial Courts, both Criminal and Family Divisions, were relocated from the County Court House to the newly-constructed Registry Office and provided with much needed expansion space. The Provincial Court (Family Division) in Brampton was provided with new quarters which included one additional courtroom, also in the new Registry Office adjacent to the existing Peel County Court House. This move provided expansion space in the County Court House for the County Court and support facilities.

In Dryden, where the Provincial Courts were previously fragmented, having offices in one location and a courtroom in the OPP detachment, new facilities were provided in the recently-opened Government Consolidated Building.

An additional courtroom was provided in the Simcoe Court House and renovations were undertaken in the Court House in Cayuga. In London, Courtroom #14, provided as expansion space during the initial construction, was completed. The Provincial Court (Criminal Division) at 125 Main Street, Hamilton, was provided with an additional courtroom, Judge's Chamber, Crown Attorney's offices and support facilities. A former OPP detachment in Fort Erie was renovated to provide a courtroom, Judge's Chamber, Crown Attorney's office, interview rooms and public areas for the Provincial Courts (Criminal Division). Three new courtrooms and support facilities were constructed as the first phase of the newly-established Unified Family Court in Hamilton.

The court facilities in St. Thomas, Welland and Penetanguishene were also renovated. New leased

premises were provided for the Crown Attorney in Timmins as well as for the Provincial Court (Criminal Division) in Brampton. The Provincial Court (Family Division) in Orillia, which had shared facilities with the Provincial Court (Criminal Division), was relocated to new leased quarters to allow for expansion of the Criminal Division. The Criminal Injuries Compensation Board, the Board of Negotiation and the Assessment Review Court were all relocated at the expiry of their previous leases.

In order to centralize space provided for Royal Commissions and to eliminate the necessity of leasing premises for each Commission upon its inception, new premises were leased at 180 Dundas Street West, as a permanent location for Royal Commissions in Metro Toronto. This space is occupied by five Commissions.

In Cobourg, the Provincial Courts, both Criminal and Family Divisions, were provided new leased facilities in the recently-restored Victoria Hall.

In keeping with the Metro decentralization program, new interim facilities were leased in Etobicoke for eight Provincial Court (Criminal Division) courtrooms and four Traffic Courtrooms in a Traffic Tribunal; in Scarborough, five Provincial Court (Criminal Division) courtrooms, a Traffic Tribunal with four courtrooms and two Provincial Court (Family Division) courtrooms were provided; in North York, seven Provincial Court (Criminal Division) courtrooms and a Traffic Tribunal with five courtrooms were provided as well as two additional courtrooms being added to the existing Traffic Tribunal. The addition of the Etobicoke courtrooms allowed for the conversion of the existing courtrooms on Keele Street to a three-courtroom Traffic Tribunal.

In Ottawa, a new ground-floor courtroom was provided for the Provincial Court (Criminal Division) and, in Sudbury, an additional courtroom and Judge's Chamber was provided for the Provincial Court (Family Division).

The Brampton and Mississauga Small Claims Courts were relocated to interim facilities to provide additional space in the Peel County Court House.

Under Construction

Construction work underway at the County Court Houses in Windsor will provide additional courtrooms and support facilities for the County and

The Ministry of the Attorney General



The Ministry, as part of its program to decentralize Provincial Court operations in Metropolitan Toronto, leased premises at 1911 Eglinton Avenue in Scarborough (above) and at the East Mall in Etobicoke (below). The Scarborough facility contains five Criminal Division courtrooms, two Family Division courtrooms and four Traffic Tribunal courtrooms. Eight Criminal Division courtrooms and a four-courtroom Traffic Tribunal are in operation in Etobicoke.



District Courts. At Milton, an extension to the existing building will provide additional Provincial Court (Criminal Division) facilities.

In Newmarket, a 22-courtroom Court House to accommodate County and District, Provincial Courts (Criminal and Family Divisions) is well underway. Additional holding facilities are being built for the Provincial Court (Criminal Division) at 125 Main Street, Hamilton, and a new central air conditioning system is being installed at Haileybury County Court House.

In Planning

Designs are being developed for new 22-courtroom Court Houses in Scarborough, North York, Etobicoke and St. Catharines. Renovations are being planned to accommodate the County Courts in the space vacated by the Provincial Court (Family Division) in the Kitchener County Court House, and new space for Small Claims Court and Crown Attorneys is under design in the newly-completed Brampton Registry Office. In Belleville, the Provincial Court (Criminal Division) will be provided with expansion space following relocation of the Provincial Court (Family Division). Plans are underway for the second phase of the Unified Family Court in Hamilton; the expansion of the Jury Room and relocation of the Small Claims Court in the Peterborough County Court; the completion of an additional courtroom and Judge's Chambers on the third floor of the Whitby County Court House; an additional courtroom for the Provincial Court (Criminal Division) in the Sudbury Court House; the relocation of the Provincial Courts (Criminal and Family Divisions) in Pembroke; new quarters for the Crown Attorney's Offices in Windsor; the relocation of the Provincial Courts (Criminal and Family Divisions) in Guelph; the provision of 10 additional Provincial Court (Criminal Division) courtrooms at College Park (Eaton's) to relieve the overburdened Old City Hall; an additional courtroom for the Provincial Court (Family Division) in Etobicoke and the renovation of the existing Provincial Court facilities in Stratford to provide more adequate space to the Provincial Court (Family Division).

Provincial Court Offices

Alex Mackay,
Director

The administrative staffs of the Provincial Court Offices provide clerical and stenographic support for the judiciary, serve the public and other court users and are responsible for accounting, document preparation and related duties required by the Ministry.

Staffing constraints have created a great deal of pressure on the administration as the caseload continues to increase without additional resources being available. The Criminal Division experienced an increase of 5.5 per cent over the previous year, representing an increase of 176,753 dispositions and bringing the total to 3,388,611 for the year. Revenues increased to \$64,475,593, from \$58,618,577 in the previous year.

It is obvious that changes will have to be made to allow the administration to cope with the large volume of cases. The Honourable R. Roy McMurtry, Attorney General, is presently drafting new legislation (The Provincial Offences Act) which will provide better processing methods for summary conviction cases. The Ministry has received the approval of Management Board to proceed in Oshawa with a mini-computer project designed to provide case recording, accounting and docket preparation for the Criminal Court. This project will determine the capability of this type of system in courts administration and also the cost/benefit to the Ministry.

The Family Division caseload remains relatively consistent with the previous year with a substantial increase in enforcement of maintenance orders and a reduction in charges under the Juvenile Delinquents Act. The implementation of the Family Law Reform Act on the last day of the fiscal year does not permit any statistical data on the new legislation but there is no doubt that it will have an effect on the administration of the Family Court.

In anticipation of the new Family Law Reform Act, Chief Judge Andrews and his staff provided an extensive training program for the Court Administrators and intake workers. Regional meetings were held and the course content was found to be very beneficial to all participants.

The Ministry of the Attorney General

Management Training

The Ministry has continued its management training program as provided by Sheridan College and, through the training staff of the Personnel Branch, has encouraged many other employees to participate in courses which will upgrade their skills.

The following are the courses and the number of staff who attended:

Management Workshop	104
Personal Dynamics for Managers	84
Management by Objectives	2
Management of Time	1
Management Workshop (Civil Service)	4
Problem Employee Seminar	3
Lifework Planning	1
Assertiveness Training	3
Communications Workshop	1
Effective Writing	1
Public Speaking	1
Support Staff Seminar	18
Transactional Analysis	5
Total	<u>228</u> Employees

In addition, 35 staff members are furnished tuition assistance for courses at various Colleges and Universities.

Small Claims Court Offices

Ron McFarland,
Director

Function

The Director of the Small Claims Courts provides administrative direction to the 128 court offices throughout the Province. The Director is responsible for the planning and preparation of reports on the needs, both Judicial and Administrative, of the courts and for filling staff vacancies. The Director advises court officials on procedures, the interpretation of amendments, and the updating of the Manual of Administration.

Activity

In November, 1977, the monetary jurisdiction of the courts was raised to \$1,000 throughout the

Province. This major change has increased the level of activity in the courts. It is estimated that the number of claims will increase some 25 per cent during the calendar year 1978. Throughout the year, there will be a continued review of the courts, particularly relating to any backlog of disputed matters requiring trial dates.

Procedures, Forms

During 1977, a review was made of all forms and basic procedures in the courts. It is expected that by the end of 1978, standardized forms will be approved.

New Initiatives

The Small Claims Courts are one of the most important but least-known segments of the court system in Ontario. To make the public more aware of this informal and relatively-inexpensive system for settling disputes over goods and services, pamphlets and booklets describing the functions of and procedures in these courts were distributed throughout the Province. (Supermarkets, Libraries, Court Offices and so forth)

Along with the new emphasis being placed on the courts is an in-depth review of the present Small Claims Courts Act. The prime objective is to streamline procedures and suggest amendments to make the courts responsive to the changing needs of the public. Training seminars will be held throughout the Province to assist the Ministry and the Small Claims Courts Clerks and Bailiffs to better serve the public.

Inquiry Management and Appointments Branch

Peter Clendinneng,
Director

The Inquiry Management and Appointments Branch has two primary responsibilities. One is the co-ordination and direction of the logistical support of Royal Commissions, Judicial Inquiries, and Task Forces by the Ministry of the Attorney General. The second is the appointment and administration of the Justice of the Peace, Notary Public, and Commissioner for taking Affidavits programs, together with the responsibility for drafting all the Ministry's Recommendations to Council. In addition, this Branch administers the

Blind Persons Rights Act and the Public Institutions Inspection Act.

With the establishment of this new Branch in the latter part of the 1977/78 fiscal year, it is planned to introduce some fundamental modifications to the administrative, co-ordinating and reporting relationships within these areas. The primary objectives will be to support the development of improved financial administrative program management for Royal Commissions, Judicial Inquiries, and Task Forces, and to develop and present revised guidelines and policies for the appointment of Justices of the Peace, Notaries Public, and Commissioners for taking Affidavits. In addition, initiatives are being taken to effect better utilization of Public Institutions Inspection Panel reports.

Provincial Court (Criminal Division)

Chief Judge F.C. Hayes

Court Sittings

The Provincial Courts (Criminal Division) continued to deal with a heavy caseload and to attempt to maintain a reasonable period from the date of offence to the final disposition of the matter. In this regard, it is necessary to maximize the use of available judicial personnel, facilities, and time, and some of the procedures which are being utilized are as follows:

- Continual assessment of the caseload followed by relevant revisions to court sittings and Judges' assignments;
- Institution of specialized court lists;
- Review of court sittings in heavy caseload areas and re-allocation of judicial resources to make more sitting days available for relief work, lengthy trials or preliminary hearings;
- Increased use of Justices of the Peace in all areas for the trial of minor liquor and traffic offences and for the adjournment of some criminal matters;
- A recommendation to the Ministry for an increase in the number of judicial personnel, based on locating the additional personnel in central locations so as to provide assistance to adjoining areas.

The Chief Judge's office is continuing with the development of a program to obtain some uniformity in the time between the laying of an Information and the return date for the accused to appear.

The statistical analysis representing the caseload is only a partial assessment of the problem. Over the past few years, there has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of Judges to various areas of the Province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (i.e., cases occupying one day or more) increased slightly from 757 in 1976-77 to 772 in 1977-78. Special matters being prosecuted by representatives of the Federal Department of Justice accounted for 136 courtroom days in 1977-78. Special matters being prosecuted by Provincial Assistant Crown Attorneys accounted for 590 courtroom days in 1977-78, being an increase of approximately 27 per cent over the figure for 1976-77. The movement of Judges from Metropolitan Toronto to other areas for special relief increased from 263 days in 1976-77 to 418 days in 1977-78, an increase of approximately 58.93 per cent.

The demand continued for the Court to attend in remote communities in Northwestern and Northeastern Ontario, and this demand was met in most instances by scheduling special sittings.

The Ontario Provincial Police are policing approximately 22 reserves in Northwestern Ontario and an increasing number of reserves in Northeastern Ontario. This level of law enforcement has led to a greater number of charges and we have been unable to respond to all the demands for additional sittings in various areas of Northwestern Ontario. Some court locations have been re-assigned to other Judges but this will not entirely serve the needs of the area.

The fiscal year 1977-78 saw the introduction of trials in the French language in courts in Ottawa, Hearst, Kapuskasing, Smooth Rock Falls, Hornepayne and Espanola.

In this fiscal year, new enlarged facilities were

The Ministry of the Attorney General

made available in three suburban locations in Metropolitan Toronto for the trial of criminal matters. Groups of Judges have been assigned to these locations on a continuing basis. The additional facilities and the consistent use, where possible, of the same judicial personnel have assisted in reducing the time period for the disposition of criminal charges. If additional judicial personnel and supporting administrative staff are provided, we will be able to make further use of the additional facilities and thereby further reduce the disposition period for criminal charges.

Traffic Tribunal

The traffic tribunal concept, outlined in previous Annual Reports, was extended during this fiscal year to include three additional suburban locations in Metropolitan Toronto, and traffic tribunals are now available to the Metropolitan Toronto public in North York, Etobicoke, Scarborough and at 2265 Keele Street.

In Metropolitan Toronto, this tribunal concept has also been expanded to include cases involving accidents and/or personal injury where a licence suspension is not a possible part of the penalty.

Judicial Appointments

	1973	1974	1975	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978
Provincial Judges in Ontario (Criminal Division)						
Number of Full-time Judges as of December 31	108	118	117	117	128	129
Number of Judges Retired or Deceased or on L.T.I.P.	7	5	6	6	5	8
Number of Judges Appointed	7	15	5	7	15	8
Number of Part-time Judges	2	2	2	2	2	2
Number of Judges on Extension	5	5	6	6	4	6

As of October, 1977, eight of the above Judges were also presiding in the Family Division.

Provincial Judges in Metropolitan Toronto

Number of Full-time Judges, including Chief Judge, as of December 31	23	28	29	28	36	34
Number of Judges Retired, Deceased or Resigned	0	0	0	1	0	2
Number of Judges Appointed	1	5	1	1	8	0
Number of Judges on Extension	2	2	1	2	1	2

The above shows only Metropolitan Toronto. To calculate figures for the Judicial District of York, it will be necessary to add one full-time Judge — Judge R.G. Pearce — and to show one resignation — Judge C.W. Morrison — in 1975.

Traffic Court Sitings

In an effort to improve the scheduling for the trial of traffic cases, the sittings of the court have been revised in certain areas so as to provide sittings at 9 a.m., 10:30 a.m., 1:30 p.m. and 3 p.m. This means the citizen who is charged, and all necessary witnesses, are required to attend at the court premises for not more than 1½ hours. In addition, it serves to make more intensive use of the physical facilities.

This particular method of scheduling sittings of a Traffic Court is particularly suited to areas having a higher volume of charges. At the present time, the four-tier system of sittings of the Traffic Court has been introduced in all of Metropolitan Toronto and in Brantford, Kitchener and St. Catharines and will, in the coming fiscal year, be introduced in Hamilton, Ottawa and Richmond Hill.

Court Visitations

The Chief Judge continued his visits to a number of areas of the Province where he met with the Area Senior Judges and with the Provincial Judges. The Area Senior Judges also continued to hold their regional meetings, and the Chief Judge attended these meetings wherever possible.

In all meetings there has been a continuing study of the local criminal and provincial statutory offence caseload and various alterations have been made to case scheduling methods in order to achieve an earlier disposition date and a more efficient use of judicial personnel, administrative personnel and physical facilities.

Judicial Education

The office of the Chief Judge continued to review judgments of the Court of Appeal and law reports and to circulate matters of interest to the Judges. The Law Clerk assigned to the staff of this office assisted in preparing appropriate annotations for recently reported judgments and in carrying out research in areas of criminal law relevant to the Provincial Court (Criminal Division), including rendering assistance to Judges in their preparation of judgments.

The Judges University Education Program was held at the University of Western Ontario. This program permits a Judge, once every three years,

to live for one week in a university setting and to participate in a program of lectures, discussions and video-tapes.

The Provincial Judges Association (Criminal Division) carried on an active program of regional education and sentencing seminars.

Justices of the Peace Education Program

The Justices of the Peace Continuing Education Program completed its fifth year of operation as of March 31, 1978. As part of this program, each active Justice of the Peace received papers on various topics, a Justice of the Peace Handbook containing selected statutes, and a copy of the Criminal Code.

The program for this fiscal year was carried on over a period of two days at each of 10 locations throughout the Province.

In addition, efforts are made to keep the Justices of the Peace informed, through the Provincial Judges, of relevant amendments to legislation.

Statistics

The statistical reports indicate that for the area outside Metropolitan Toronto, the number of new charges in the system under all statutes rose from 1,627,309 in 1976-77 to 1,873,826 in 1977-78, an increase of 15.14 per cent.

In Metropolitan Toronto, notwithstanding the problems with available resources and the change in the nature of the caseload, there were 93,035 Criminal Code dispositions in 1977-78 compared with 89,000 in 1976-77, an increase of 4.53 per cent.

In Metropolitan Toronto, minor traffic dispositions rose from 1,456,502 in 1976-77 to 1,535,092 in 1977-78, an increase of 5.39 per cent.

General

Substantial emphasis is and will continue to be placed on encouraging pre-trial disclosure in criminal matters. It is hoped this pre-trial disclosure process, which is initially being operated in Ottawa, will result in a reduction of the time spent with trials and/or preliminary hearings.

It is considered desirable to have a Provincial Judge or a limited group of Provincial Judges assigned on a continuing basis to a particular section of the caseload until that portion of the caseload has

The Ministry of the Attorney General

been finalized. In an effort to test the results of this procedure, a three-month pilot project will be initiated at the Old City Hall in Metropolitan Toronto beginning in April of 1978. In addition to there being one judicial officer assigned to a group of cases, there will also be one Assistant Crown Attorney assigned to the project. It is hoped from this project to study the results which may be achieved by having one judicial officer and one Assistant Crown Attorney exercise direct control over a particular section of the incoming caseload.

Provincial Court (Family Division)

Chief Judge H.T.G. Andrews

Jurisdiction

The jurisdiction of the Provincial Court (Family Division) includes:

- prosecutions in respect of the criminal conduct of infant offenders and criminal conduct against infant victims (i.e., juvenile delinquency and contributing to delinquency);
- proceedings in respect of child protection and neglect;
- inter-spousal rights and obligations (i.e., support, freedom from molestation, possession of the matrimonial home);
- parent-child rights and obligations (i.e., support, custody, access, freedom from molestation).

Judicial Complement As At March 31, 1977

Full-Time Family Division	49
Per Diem/Part-Time Family Division	9
On Leave	1
Serving Criminal & Family Divisions	11
Total	70

Court Operations

No. of Family Court Offices	55
No. of Locations of Sitings	120

Court Premises

During the fiscal year, courts in the Judicial District of Peel, the County of Essex and the Judicial District of York (Scarborough) occupied new accommodation.

Enlarged facilities were provided for courts in York (Etobicoke), in the District of Sudbury and for the Unified Family Court in the Judicial District of Hamilton-Wentworth. Improvements were made at several other locations and plans were initiated to provide new or improved accommodation for 11 other courts.

Training And Development

Judiciary

- Training programs were conducted for the judiciary in Kingston, Ontario, from May-June, 1977, on the subject of The Family Law Reform Act.
- The Canadian Association of Provincial Court Judges sponsored a program in Montebello, Quebec, in November, 1977. Seven newly-appointed Judges attended the two-week course.
- Continuing Education Programs were conducted at seminars and regional meetings of Judges.

Court Administrators

Training programs on The Family Law Reform Act were conducted for Court Administrators and court Social Workers in:

Location	Date	No. of Participants
Toronto	Feb. 27-Mar. 2	25
Sudbury	Mar. 6-Mar. 9	16
London	Mar. 13-Mar. 16	25
Kingston	Mar. 20-Mar. 23	23
		89

Regional Court Administrators participated in Justice of the Peace Training Programs held in:

Sudbury	North Bay
St. Catharines	Kitchener
Oakville	Chatham
Ottawa	Peterborough
Thunder Bay	

Reports and Projects

The staff researched and prepared reports on the following subjects:

- Provincial resources for detention of juveniles;
- Analysis of Automatic Enforcement Program;
- Status Report on Automatic Enforcement (3rd);
- Report on Experience '77 Program;

- Survey on Placement of Juveniles;
- Comparative Report on Maintenance Collection – 1974-77;
- Report on Child Welfare Act caseload for Child in the City Project;
- Analysis of Maintenance Monies – Fiscal Year 1974-77;
- Analysis of deserted wives show cause hearings;
- Time-Lapse and Back-Log Differentials;
- Survey of Personnel Requirements – June, 1977;
- Library requirements for courts.

Questionnaires were sent to courts to obtain information on the following subjects:

- Maintenance Collection;
- Court Activities;
- Juvenile Confidentiality;
- Staffing Requirements;
- Detention Home Facilities.

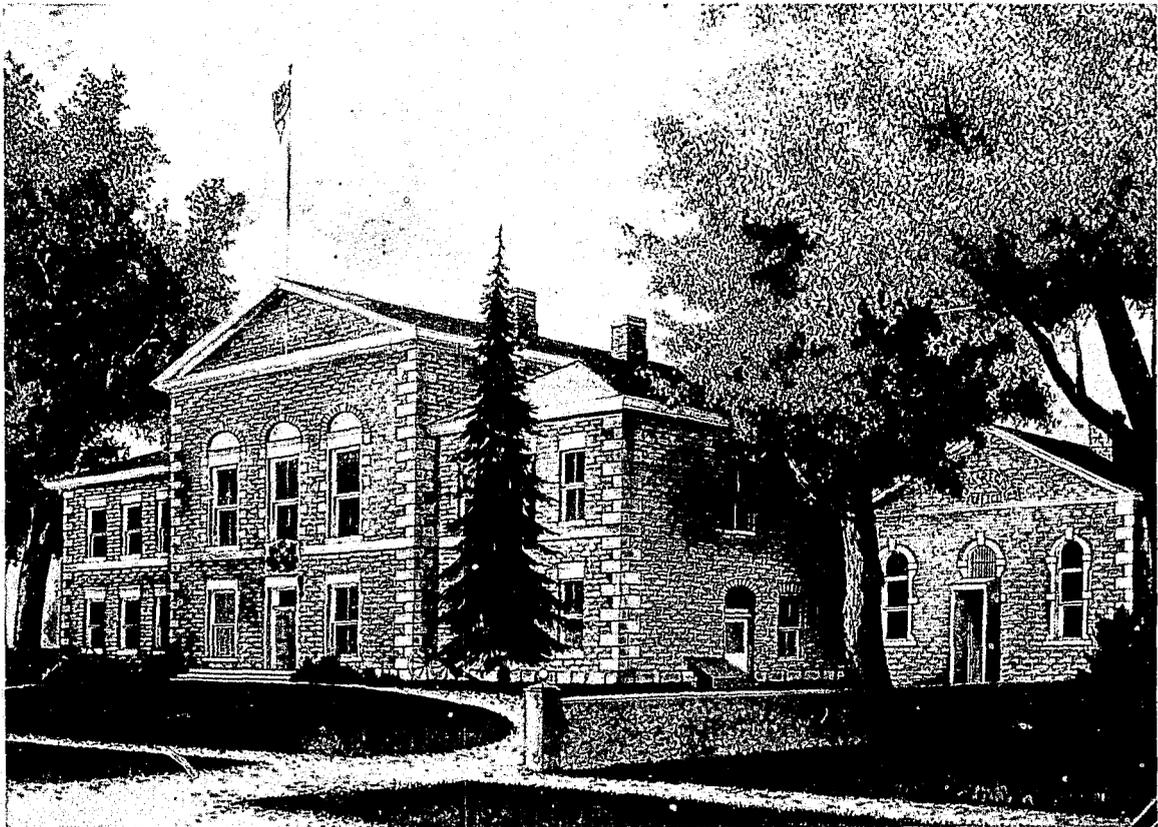
Student Employment

Experience '78

This office processed over 3,400 applications for 68 positions in the 25 participating Family Courts across the province.

Office Of The Chief Judge

Six law students were employed with this office during the summer of 1977 and were occupied with legal research for the courts.



Lanark County Court House, Perth

The Ministry of the Attorney General

Crown Law Office

R.M. McLeod,
Assistant Deputy Attorney General
and Director of Criminal Law
Crown Law Office – Criminal
Howard F. Morton,
Director

Composition

Due to the increased case load in both criminal appeals and prosecutions, it was necessary in the past year to increase the number of lawyers from 20 to 22, all of whom are specialists in the field of criminal law.

Responsibilities

1. Criminal Appeals

Criminal appeals to the Supreme Court of Ontario, Court of Appeal and Supreme Court of Canada constitute the Branch's major responsibility and compose a large portion of our workload due to their increased complexity and the increased frequency of court sittings.

2. Special Prosecutions

In the past year, the Branch has taken on a large number of prosecutions requiring complicated investigations into offences which form a pattern of criminal activity planned and organized by persons acting in concert. This activity includes illicit gambling, loansharking and other criminal rackets. The prosecutions of these activities require counsel to provide continuous legal advice to the tri-police forces' investigation into these activities.

In addition, the Branch has continued to prosecute an ever-increasing number of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. These prosecutions are complex and require lengthy preparation and trial time. Liaison with the fraud squad of the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. is an important feature of the Branch's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases. The Ontario Securities Commission is referring an increasing number of complex investigations involving stock market frauds and manipulations. Special prosecu-

tions under consumers protection legislation has also added to the burden of this Branch.

3. Other Court Appearances

Court appearances by lawyers in the Branch also encompass diverse matters involving various provisions of the Criminal Code of Canada and the Provincial Statutes of Ontario.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications, contested motions and summary conviction appeals in Weekly Court and Chambers necessitate daily attendance in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent appeals requiring further appearances by counsel. Counsel appear on applications for leave to appeal and appeals in the Supreme Court of Canada, which are heard every two weeks. When such applications are granted, more lengthy and subsequent appearances are required for the hearing of the appeal. The increased incidence of applications for judicial interim release and bail reviews, in spite of procedural adjustments to standard court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and that dangerous offenders are not at liberty prior to their trials.

4. Advisory Responsibilities

One of the functions of the Branch is to create, within its personnel, a level of expertise in selected specialized areas of Criminal Law and procedure so as to be able to provide advice to others involved in the administration of justice in the Province who require legal opinions, often on an emergency basis. To this end, the lawyers in the Branch are constantly encouraged to involve themselves in private research and a variety of academic pursuits, including the writing of text books and articles for publication, and to participate in continuing legal education programs and seminars. Several lawyers in the Branch participate as instructors in The Law Society Continuing Education Programs, in the Bar Admission Course, Criminal Law Section, and in the Canadian Bar Association Continuing Legal Education Programs.

This advisory function also extends to the delivering of lectures and conducting of seminars at many

Ministry-sponsored courses for Provincial Judges, Crown Attorneys and Justices of the Peace and at similar courses conducted by various police and regulatory agencies.

5. Committee Work

In the past year, the participation of members of the Crown Law Office — Criminal — on various interministerial committees has increased. Members of our office have participated on committees dealing with inter alia, drinking/driving, seatbelt usage, highway safety, traffic tribunals, the drinking age, foreign investment, hypnosis, hypnotherapy and psychiatry.

6. Law Reform

In the past four or five years, the Federal Law Reform Commission has spawned a considerable volume of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry both in writing and by attending several workshops throughout the year. This response, which has been shared by the Crown Law Office — Criminal — and the Crown Attorneys' system, requires that considerable time be spent studying the proposals, preparing position papers, and recommending changes to the Criminal Code, some of which have been acted on by the Federal Government.

7. Extradition

The Branch is called upon almost daily to proceed with extradition hearings of criminals who have travelled across international borders to escape Canadian criminal law. To prosecute the international criminal, it is now becoming necessary to apply for Letters Rogatory and orders to take Commission Evidence in foreign countries. In cooperation with the foreign authorities, we reciprocate and assist them with their requests for extradition, Letters Rogatory and Commission Evidence.

8. Other Responsibilities

This Branch also handles various administrative matters in the criminal justice field, including transfer of charges under the Criminal Code, transfer of probation orders, reciprocal enforcement of maintenance orders, the Criminal Records Act, the Lord's Day Act and many prosecutions under provincial and federal statutes other than the Criminal Code of Canada. Another time-consuming responsibility is the administration of

the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance, involving preparation of formal opinions, service on interdepartmental committees and provision of informal expert opinion to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario on an "on call" basis, constitutes an important part of the Branch's workload.

Crown Attorneys System

History

Prosecution authority rested originally with the Attorney General and his officers at the capital of Upper Canada. As the population expanded numerically and geographically it became increasingly difficult to carry out this responsibility from one central office. In 1857, authority was granted for the creation in each county of the province of a prosecution office under the direction of a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of the county, and as such was a part of the local administration of justice which included the local sheriff and the jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the Province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys Association, a voluntary group of Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law, and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Division is composed of approximately 190 lawyers who specialize in the criminal law. In

The Ministry of the Attorney General

Toronto, the Office of the Director of Crown Attorneys consists of the Director, the Deputy Director and two Crown Counsel. One Crown Counsel is assigned regularly to the local offices requiring temporary assistance. The other Counsel is delegated assignments by the Director and Deputy Director. There are nine Regional Crown Attorneys, each of whom is also the Crown Attorney in his local area. There are 48 Crown Attorneys in offices throughout the Province. The largest local office is in the Judicial District of York, where the Crown Attorney is assisted by four Deputies, a Senior Advisory Assistant, and 48 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to 10 lawyers. Finally, the Crown Attorneys in the Division supervise part-time Assistants, local lawyers throughout the province who are engaged on a daily basis.

Responsibilities

The Crown Attorneys' System is responsible for the conduct in Ontario of prosecutions under the Criminal Code and other Federal statutes such as the Lord's Day Act and the Juvenile Delinquents Act. From time to time Crown Attorneys also conduct prosecutions under such provincial statutes as The Highway Traffic Act and The Liquor Licence Act. Crown Attorneys and their Assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They choose the appropriate charges upon which to proceed, consider the release of prisoners pending trial, and conduct the trial of cases in court.

Crown Attorneys also supervise private prosecutions and intervene if the interests of the community require it.

Regionalization

In 1976 the Attorney General designated nine existing Crown Attorneys as Regional Crown Attorneys, who are the local representatives of the Director. This regionalization program enables the Regional Crown Attorney to bring matters of regional concern to the attention of the Director, to confer with other Crown Attorneys within their Region, and to attend regular meetings in Toronto with the Director, the Deputy Director and, on occasion, the Deputy Attorney General and the

Attorney General. This program, apart from facilitating the exchange of information and regularizing the relief system concerning occasional shortages of manpower, has contributed significantly to the further promotion of uniformity of services through the application of policy directives throughout the Crown Attorneys System. The regionalization program has strengthened the principle of a uniform administration of justice without undermining the significant contributions local Crown Attorneys have made and will continue to make in the future.

Decentralization

Last year the Attorney General established a program to expand and decentralize Provincial Court facilities in Metropolitan Toronto in order to expedite the judicial process by avoiding unnecessary delays and to bring the court system closer to the people. New Court facilities have been established in Etobicoke, North York and Scarborough, involving the placement of approximately 246 people, including Judges, Crown Attorneys and support staff in these facilities. Some of the staff for the new Crown Attorneys' offices have been taken from the existing staff of the York Crown Attorney's office. The remainder have been recruited by the assignment of additional complement. A Deputy Crown Attorney has been appointed in each of the four divisions to direct the work of the Assistant Crown Attorneys assigned to his office.

The decentralization program will lessen pressure at the Old City Hall Courts in downtown Toronto, which have witnessed an extraordinary increase in the criminal caseload of the Provincial Courts (Criminal Division). The growing caseload and the nature of the existing facilities meant that certain categories of cases had been moved from one court location to another. This program will enable most cases to be heard in the area in which they arise.

Disclosure

Last year the Attorney General instituted, through the Regional Crown Attorneys, a system of pre-trial disclosure to help overcome the problem of pre-trial delays. Crown Attorneys in Ontario were directed to institute the system of disclosure effective May 1, 1977. The guidelines issued were designed to reduce the length of preliminary

hearings while retaining the right of the Crown and Defence to full examination-in-chief and cross-examination at a preliminary hearing in appropriate cases. This system is designed to provide a greater disclosure to the defence, in the majority of cases, than ordinarily could be achieved even after a full preliminary hearing. The system does not require the intervention of the Court at the Provincial Court level but is intended to enhance the effectiveness of any pre-trial conferences which the trial courts may conduct.

The program initially has been implemented on a limited basis, covering all offences where the maximum penalty is life imprisonment, except for the offence of breaking and entering a dwelling house. The program is being monitored by means of a Disclosure Report and while the preliminary results have been mixed, an effort is being made to assess the effectiveness of the program and to introduce any changes which may be warranted.

French Language Court Services

The Attorney General has expressed to the Legislature his intention to continue the expansion of

French language services. As a result of a developmental project begun in the Provincial Courts (Criminal Division) in Sudbury, French language services have now become permanent in those particular Courts. French Language Courts became available on June 6, 1977, in the Judicial District of Carleton, in Ottawa, and the United Counties of Prescott and Russell, in L'Original. An extension of this service to Kapuskasing, Hearst, Smooth Rock Falls, Cochrane, and Hornepayne also came into effect in 1977. French language court services now are available to about 66 per cent of Ontario citizens who speak French only. In addition, French language court services are available to about 35 per cent of our citizens who speak both French and English.

French language instruction has been provided to the Ottawa Crown Attorney's office. As a result of this program two Assistant Crown Attorneys in Ottawa are able to conduct prosecutions in French. Steps also are being taken to recruit French speaking personnel where it is practicable to do so.

The Attorney General has established a Task Force within his Ministry to explore further the legal and administrative issues involved in expanding French language services in our courts.



Brant County Court, Brantford

The Ministry of the Attorney General

Civil Litigation and Legal Advisory Services

Blenus Wright,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office – Civil Law – which is divided into the Constitutional Law and Civil Law Divisions. He is also in charge of liaison between the Ministry and the Ontario Municipal Board and he deals with conflict of interest matters. He is the Attorney General's representative on the Rules Committee of the Supreme and County Courts, the Civil Procedure Revision Committee and the Law Foundation of Ontario.

Constitutional Law

D.W. Mundell, Q.C.,
Director

The branch consists of four lawyers including the director. During the year important constitutional cases in the Supreme Court of Canada included the following:

Capital Cities Communication v. C.R.T.C.

The Supreme Court has held that the federal Broadcasting Act is valid in its application to television programs carried on cable systems.

Attorney General for Quebec v. Kellogg Company of Canada

The validity of Quebec legislation restricting cartoon advertising on television shows for children was upheld.

Simpsons-Sears v. Provincial Secretary for New Brunswick

The Supreme Court of Canada decided that the distribution of catalogues without charge in New Brunswick was not subject to a consumption tax by the distributor under provincial legislation.

Reference re Ontario Farm Products Marketing Act et al

The Supreme Court of Canada has ruled that the provincial Marketing Act is valid and that federal legislation is also valid except with respect to the authorization of the imposition of levies for

provincial purposes. It will hereafter be competent to the Legislature to legislate on this subject.

Nova Scotia Board of Censors v. McNeil

The validity of provincial legislation authorizing the censorship of films was upheld, except insofar as it duplicates federal obscenity legislation.

Attorney General for Quebec v. Belanger

The Quebec legislation regulating cable television systems was found to be invalid by the Court.

R. v. Hauser

The issue in this case was the validity of federal legislation conferring authority on federal officials to prosecute contraventions of federal laws and the extent of the provincial prosecutorial function. The case has been argued and judgment reserved.

Attorney General of Canada et al v. Keable

Ontario intervened in this case on the issues of the power of a provincially-appointed commission of inquiry to investigate federal institutions, the extent of Crown privilege and the application of the Official Secrets Act. The case was argued and judgment reserved.

R. v. Cordez

The validity of the wiretap provisions of the Criminal Code and the extent of provincial power to investigate crime by means of wiretap were contested. The case was argued and reserved.

In addition to the foregoing cases in the Supreme Court of Canada, important constitutional questions were raised in the Provincial Courts:

Hamilton Harbour Commissioners v. City of Hamilton

The Court of Appeal has upheld the validity of city by-laws controlling use of lands within the harbour where such use is unconnected with navigation and shipping or harbour purposes.

Pickering Harbour Commissioners v. Township of Pickering

The issue here is similar to the issue in the Hamilton Harbour case. These proceedings were begun but have been postponed pending a decision in the Hamilton Harbour case.

Multiple Access Ltd. v. Ontario Securities Commission

The validity of the insider trading provisions of The Securities Act has been held by the Court of Appeal to be inoperative by virtue of the paramountcy of duplicative federal legislation. Leave to appeal to the Supreme Court of Canada will be sought.

City of Mississauga v. Regional Municipality of Peel

The Court of Appeal has upheld the constitutional validity of provincial legislation conferring jurisdiction on the Ontario Municipal Board to allocate assets between the new city and the new regional municipality. Leave to appeal to the Supreme Court of Canada has been granted.

R. v. Dominion Stores Ltd.

The validity of the Canada Agricultural Products Standards Act in its application to local retail trade in the province was at issue. The Court of Appeal held it valid. Leave to appeal to the Supreme Court of Canada has been granted and the appeal is to be argued at the fall sitting of the Court.

Donline Haulage Ltd. v. The Queen

The validity and operation of provincial legislation regulating the axle weight of commercial vehicles has been decided by the County Court in favour of the legislation. An appeal has been brought in the Divisional Court.

T.E. Quinn Truck Lines Ltd. v. Her Majesty the Queen

The validity of licensing provisions of federal legislation providing for the extra-provincial licensing of transport undertakings by provincial authorities was challenged. The Court of Appeal decided in favour of the appellants while rejecting the challenge to the legislation.

The Becker Milk Co. Ltd. v. Minister of Revenue

The Supreme Court of Ontario held that an assessment of a vendor under The Retail Sales Tax Act for uncollected or unremitted retail sales tax had no statutory basis in this case. The decision is under appeal to the Court of Appeal.

Westlaw Steak House v. The Ministry of Revenue

An attack on the validity of provisions of The Retail Sales Tax Act imposing penalties was rejected by the Divisional Court.

Levkoe v. Reg.

The validity of provisions of The Health Disciplines Act dealing with drugs was upheld by the Divisional Court and leave to appeal to the Court of Appeal was denied.

Ministry of Revenue v. Hala

The Land Transfer Tax Act, 1974, imposing a higher tax on non-residents acquiring land in Ontario was held valid by the Supreme Court of Ontario.

R. v. Batisse

A District Court Judge has held that The Game and Fish Act is not applicable to Treaty No. 9 Indians.

Civil Law

Julian Polika,
Director

The Branch consists of 17 lawyers, including the Director, and provides independent legal service for all Ministries of the Government, especially in the area of civil litigation.

Workload

The work of the office has continued to grow. The total number of cases assigned was 1,491 and as of March 31, 1978, there were in excess of 1,800 files on hand. Approximately 25 per cent of new matters handled was in the area of serious litigation, that is, applications for judicial review, Supreme Court of Ontario actions or actions in other levels of Court such as the Federal Court of Canada. Approximately 20 per cent were motor vehicle actions in all levels of Court. Some 231 opinions were provided, of which more than 50 per cent were for other Ministries.

Serving the Ministry of the Attorney General

The Branch provides a complete legal service for the Ministry and, in the area of Civil litigation and

The Ministry of the Attorney General

opinions, the work has increased and become more varied. In particular, there has been an increase in litigious and advisory matters involving sheriffs. The Branch has been involved in a great number of interpleader applications.

Serving Other Ministries

Work done for the Ministries continues to increase. Branch work involves appearances on behalf of the Government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in appeals in applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

The Branch also appeared before various Boards and Tribunals and conducted provincial prosecutions on behalf of a number of Ministries.

Particular Services Provided

1. Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review and, by statute, all applications for judicial review must be served upon the Attorney General. At the time of service, applications are examined to determine whether an intervention will be made on behalf of the Attorney General or whether the Branch will be acting on behalf of a named party. In the fiscal year 1977/78, 257 applications for judicial review were received and counsel for the Branch intervened or appeared on behalf of parties in 141 of these applications.

2. Claims for and against the Crown

Pursuant to The Proceedings Against the Crown Act, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action has begun to determine what the position of the Crown will be and whether a settlement is possible. The Branch handles the full range of claims available in law except for certain technical subjects requiring particular expertise such as patents or trademarks.

In the fiscal year 1977/78, the Branch opened 400 such files, excluding claims pertaining to motor vehicle accidents, mechanics' liens and expropriation matters.

3. Motor Vehicle Accident Claims

The Branch acts on behalf of the Government in respect of motor vehicle accident claims where the Government or an employee of the Government has a claim against an individual. Claims against the Government where the Government has no counter-claim are handled by our insurers' counsel. These claims are first handled by the Claims Director; if settlement is not possible an action is brought in the appropriate level of Court, counsel assigned and the matter brought to completion. In the fiscal year 1977/78, 318 such claims were received.

4. Mechanics' Lien Actions

As of January 1, 1976, The Public Works Creditors Payment Act was repealed and the Crown, save for the Ministry of Transportation and Communications, was made subject to the provisions of The Mechanics' Lien Act with the exception that a lien could not be attached to property of the Crown. In the fiscal year 1977/78, 58 such actions were handled by the Branch.

5. Expropriations

Over the last three years the Branch developed expertise in the area of expropriations. On behalf of the Ministry of Transportations and Communications and the Ministry of Government Services, the Branch now handles matters before the Land Compensation Board and, if need be, in the Courts. In the fiscal year 1977/78, 33 such matters were handled.

6. Boards and Tribunals

The Branch provides counsel service and advice to various Boards and Tribunals, for example, the Game and Fish Hearing Board, The Environmental Assessment Board, the Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission continues to make use of the Branch. Counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister of Labour to investigate alleged breaches of the Ontario Human Rights Code. In the fiscal year 1977/78, 66 cases were handled in this particular area.

7. Her Majesty's Proctor

Pursuant to the Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the Courts in divorce actions and other related matrimonial

causes. Counsel within the Branch appear regularly in respect of applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The Courts also have called upon the Queen's Proctor for assistance in pending matrimonial matters. At present the Queen's Proctor is the Director of the Branch, Julian Polika. In the fiscal year 1977/78, 117 Queen's Proctor matters were reviewed and counsel within the office actively dealt with 62 of these.

8. Provincial Prosecutions

The Branch has been called upon to conduct provincial prosecution cases involving a particular area of expertise or whether the matter transcends county boundaries. In particular, prosecutions have been conducted on behalf of the Ministry of Revenue under The Retail Sales Tax Act and on behalf of the Ministry of Natural Resources under the Game and Fish Act and related statutes. In the fiscal year 1977/78, 30 such prosecutions were conducted.

9. Advisory Services — Providing legal opinions

The Branch, in response to specific inquiries from the Ministries, provides legal opinions on a wide variety of subjects involving interpretation of Provincial statutes. These opinions may also be prepared with a view to establishing a position for a Ministry in anticipation of litigation or as a result of litigation. In the fiscal year 1977/78, 231 opinions were provided.

10. Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a court judgment. This requires constant liaison with the Ministries concerned in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a Ministry. In addition, in relation to statutes administered by the Ministry of the Attorney General, legal officers are expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Counsel's office to see that those changes are carried out. On a day-to-day basis, legal officers answer public inquiries pertaining to statutes administered by the Ministry.

11. Solicitors Work

The Branch provides a full range of solicitor's services to the Ministries and, in particular, to the

Ministry of Industry and Tourism, which does not have its own legal branch. The Branch has conducted all solicitor's services for Ontario Place Corporation.

Statistical Review of 1977/78 Workload

The chart below shows that 1,491 files were assigned in the fiscal year ending March 31, 1978. The present level of intake is in excess of 170 files per month. A review of the number of cases assigned by month together with the fact that in April, 1978, 186 files were assigned as opposed to 95 in April, 1977, indicates that there has been a substantial increase in the workload of the Branch.

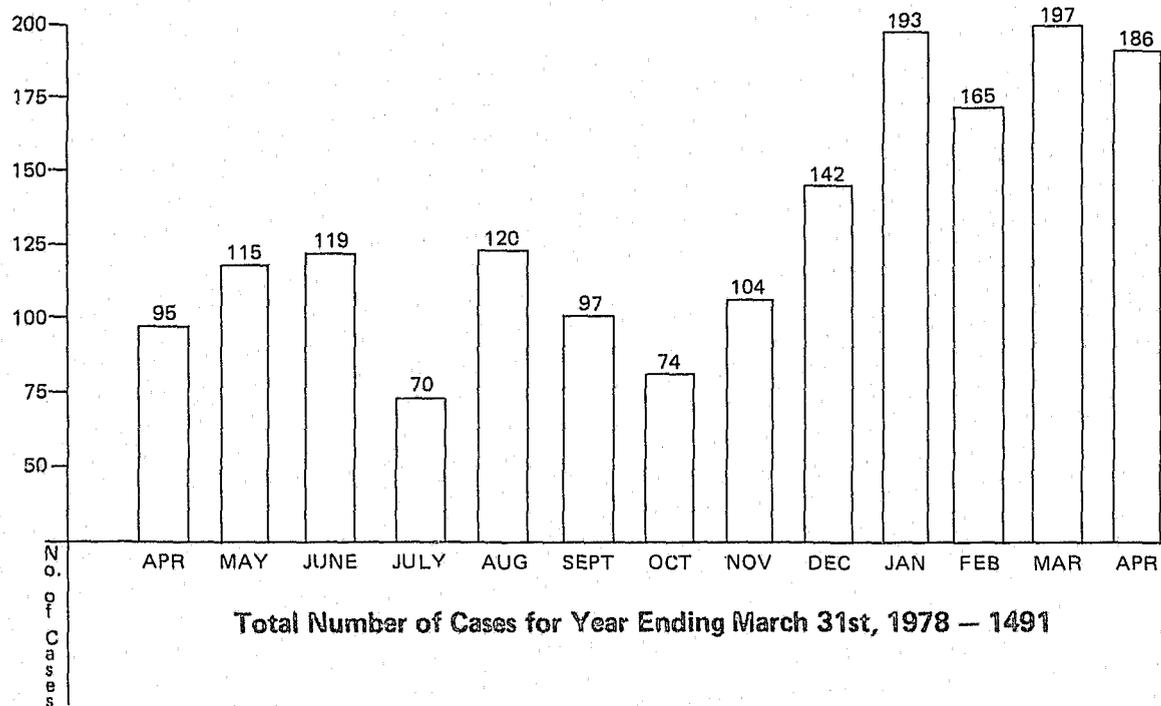
In addition to the assigned files, 176 applications pertaining to judicial reviews, Queen's Proctor matters and habeas corpus applications were reviewed by the Director. It was decided not to intervene in those cases.

At the close of the fiscal year on March 31, 1978, counsel in the Branch had on hand in excess of 1,800 files. An indication of the serious nature of this carryover is that during the fiscal year 1977/78, 105 Supreme Court of Ontario actions were assigned but there were in excess of 225 carried over. The average life span of a Supreme Court action can be anywhere from three to 4.5 years depending upon what appellate procedures follow the trial. In such actions it is not uncommon for counsel to spend in excess of 100 hours preparatory time in addition to whatever court time is required.

The Ministry of the Attorney General

Number of Cases Assigned by Month

April 1977-April 1978



Forecast of Operational Activities

The Branch does not develop new programs and activities. The Branch, for practical purposes, simply renders legal services on behalf of the Government.

It is anticipated that during the fiscal year 1978/79, the Branch will handle some 2,400 new cases in addition to the carryover of 1,800 cases. A comparison of the number of files opened with the carryover figure indicates that as of March 31, 1979, the Branch will have approximately 2,900

files on hand or approximately 161 for each lawyer in the Branch. Legal activity, and in particular civil litigious activity, has and is greatly increasing insofar as it pertains to the Government of Ontario.

French Language Instruction

In the fiscal year 1977/78, approximately 50 per cent of the lawyers on staff were on French-language conversation courses. During the fiscal year 1978/79 this figure is expected to increase.

Common Legal Services

John D. Hilton, Q.C.,
Assistant Deputy Attorney General

All Government lawyers employed by Ministry

Common Legal Services is a program to provide legal services for all Ontario Government ministries and to develop a unified approach to such things as opinions as well as pay and grading for legal services and to assist independent boards and commissions in these regards when requested. Lawyers in the 18 legal branches of the various ministries are employed by Common Legal Services on behalf of the Attorney General. This encourages independence of legal opinion within Government ministries and results in consultation on points of law. Common Legal Services is also responsible for retaining outside counsel where the services of such are required by the Government. Including the offices of the Official Guardian and Public Trustee which report to the Assistant Deputy Attorney General, Common Legal Services, this program has nearly 400 professional, secretarial and clerical employees.

Professional Development

Professional development of its lawyers is a continuing objective of Common Legal Services. Educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society are regularly used for updating and enlarging the legal knowledge of member lawyers. Movement of lawyers between legal branches and promotion of employees within Common Legal Services are both on the rise, creating more career opportunities for government lawyers.

Liaison with Boards

This office has a liaison responsibility between the Ministry and the Municipal Board, the Land Compensation Board, the Board of Negotiation and the Criminal Injuries Compensation Board.

Chief Inquiry Officer

This office spends much time discharging the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act, involving the retainer of and the liaison with inquiry officers throughout the province and a large area of

communications with the public in relation to The Expropriations Act generally.

Liaison with Official Guardian and Public Trustee

The offices of the Official Guardian and the Public Trustee also report to the Assistant Deputy Attorney General, Common Legal Services.

More time has been used in liaison with and recruiting for these offices. The increased demand for the services of the Office of the Official Guardian and its agents and the organizational changes in the Office of the Public Trustee have heightened the activity in these offices substantially.

General Counsel Work

The Assistant Deputy Attorney General, Common Legal Services, is also involved in special counsel work representing the Ontario Government chiefly before the Supreme Court of Canada in some matters of constitutional importance.

Office of the Official Guardian

L.W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accordance with the provisions of Section 107(2) of the Judicature Act.

General

The work of the office has grown from 14,395 new cases in 1973 to 18,780 in the calendar year 1977, an increase of 31 per cent in five years.

The office has a staff of 61. It also uses the services of lawyers who act as agents throughout the province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian is participating in a Family Court Conciliation Project initiated to preserve the sanctity of family life from improvident dis-

The Ministry of the Attorney General

solution of marriages to the detriment of families in general and children in particular.

The Official Guardian is a member of a committee, headed by W.B. Williston, Q.C., which is completely revising the rules of practice of the Supreme Court of Ontario. The Official Guardian also participates in the Unified Family Court Project in Hamilton.

Increasing Demand

The Official Guardian tries to contribute to developments in family and child law and to meet new, related responsibilities.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate protection of the personal rights of minors in addition to the traditional protection of their proprietary interest. Judges are now appointing the Official Guardian as guardian ad litem (counsel) to represent children in custody and access proceedings.

Another matter of major concern is the adoption of children of unwed mothers whose consent to adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had independent legal advice. The Official Guardian provides legal advice to unwed mothers before they consent to adoption. This important and far-reaching development will tend to curb improper placement of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned.

The Official Guardian continues to provide legal assistance for minors who are apprehended by Children's Aid Societies under Part II of the Child Welfare Act in cases in which there is a conflict between the Societies' proposal and the wishes of the minor.



Kenora District Court House

Report of Operations

The statistical data for the fiscal year 1977-78 and for the calendar years 1974 through 1977 is as follows:

Surrogate Court Audits	1974	629	(Decrease in 1974)	24
	1975	608	(Decrease in 1975)	21
	1976	640	(Increase in 1976)	32
	1977	594	(Decrease in 1977)	46
Fiscal Year 1977-1978		596		
Matrimonial Causes New Matters	1974	11,998	(Increase in 1974)	1656
	1975	12,738	(Increase in 1975)	740
	1976	13,378	(Increase in 1976)	640
	1977	13,423	(Increase in 1977)	45
Fiscal Year 1977-1978		13,552		
Number of Payments in to Court	1974	190	(Decrease in 1974)	28
	1975	189	(Decrease in 1975)	1
	1976	232	(Increase in 1976)	43
	1977	285	(Increase in 1977)	53
Fiscal Year 1977-1978		265		
New Fiats authorizing payments out of Court for maintenance and other purposes	1974	271	(Decrease in 1974)	99
	1975	384	(Increase in 1975)	113
	1976	417	(Increase in 1976)	33
	1977	458	(Increase in 1977)	41
Fiscal Year 1977-1978		470		
Number of Payments out of Court pursuant to existing Fiats	1974	1,572	(Decrease in 1974)	211
	1975	1,607	(Increase in 1975)	35
	1976	1,787	(Increase in 1976)	180
	1977	1,883	(Increase in 1977)	96
Fiscal Year 1977-1978		1,907		
General Counsel Work in Matters arising out of: The Child Welfare Act; The Dependents' Relief Act; The Devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act; The Infants Act; The Settled Estates Act; The Surrogate Court Act; The Trustee Act; The Variation of Trusts Act; The Wills Act; The Insurance Act; The Mortgages Act; The Partition Act.	1974	1,141	(Increase in 1974)	112
	1975	1,125	(Decrease in 1975)	16
	1976	1,325	(Increase in 1976)	200
	1977	2,010	(Increase in 1977)	685
Fiscal Year 1977-1978		2,187		
Child Representation in Custody and Access Matters	1976	79		
	1977	127	(Increase in 1977)	48
Fiscal Year 1977-1978		127		

The Ministry of the Attorney General

New Miscellaneous Matters

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the public, about how to deal with the personal and financial welfare of infants.

The total number of New Matters and Cases in the years	1974	15,801
	1975	16,651
	1976	17,858
	1977	18,780
Fiscal Year 1977-1978	19,104	

Forecast of Operational Activities

The Office of the Official Guardian does not initiate new programs and activities. The Branch renders legal services on behalf of persons who have a legal disability, mainly minors and mental incompetents. It also keeps abreast and contributes to developments in Family and Child law and has a specific responsibility to provide independent representation in relation to the Unified Family Court Project in Hamilton. Its operation for the fiscal year 1978/79 will be consistent with this responsibility.

The forecast of the program and activities for the fiscal year 1978/79 and the three succeeding years are as follows:

Surrogate Court Audits	1978-79	650
	1979-80	650
	1980-81	650
	1981-82	650

Matrimonial Causes

New Matters	1978-79	15,000
	1979-80	16,000
	1980-81	17,000
	1981-82	18,000

Payments Into Court	1978-79	275
	1979-80	275
	1980-81	300
	1981-82	300

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes	1978-79	500
	1979-80	550
	1980-81	600
	1981-82	650

Payments Out of Court Pursuant to Existing Fiats	1978-79	2,000
	1979-80	2,100
	1980-81	2,200
	1981-82	2,300

General Counsel Work	1978-79	1,400
	1979-80	1,500
	1980-81	1,600
	1981-82	1,700

Child Representation in Custody and Access Matters	1978-79	400
	1979-80	500
	1980-81	600
	1981-82	700

Child Welfare Counsel Work (included under General Counsel Work in 1977/78)	1978-79	1,500
	1979-80	2,000
	1980-81	2,500
	1981-82	3,000

Public Trustee

A.J. McComiskey, Q.C.,
Public Trustee

Mr. F.J. Maher, Q.C., retired as Public Trustee on February 1, 1978, after 22 years of valued service to the Office of the Public Trustee. He was succeeded by A.J. McComiskey, Q.C.

Duties

The Public Trustee's duties include the administration of the estates of mentally incompetent persons under the provisions of The Mental Health Act, The Mental Incompetency Act, and by Power of Attorney. The Office also administers the estates of persons dying in Ontario intestate and leaving no next-of-kin or heirs-at-law in the Province. Obligations are also placed on the Office under The Business Corporations Act to accept assets on behalf of shareholders who cannot be located when limited corporations are being dissolved and also to supervise applications for relief from forfeiture under The Escheats Act. A growing responsibility is placed on the Office to protect the rights of charities who receive benefits as beneficiaries from estates and also to supervise charitable organizations in an effort to make certain that they are properly administered. With the co-operation of the Companies Division of the Ministry of Consumer and Commercial Relations an effort is made from the date of the incorporation of a charitable organization to see that it conforms to the applicable laws.

Special Trusts

A number of special trusts are also administered by the Public Trustee pursuant to The Cemeteries Act, The Workmen's Compensation Act and The Compensation for Victims of Crime Act.

General Operations

There has been no substantial change in the general operations of the Office with respect to the administration of estates of incompetents or under The Crown Administration of Estates Act or with respect to corporate responsibilities. There has, however, been an increased demand on the staff of the Office in the charities field. The Mortmain and Charitable Uses Act continues to present a great many problems to charitable organizations who find that they have been

divested of title to real property by reason of non-compliance with the provisions of the Act and it is hoped that some changes will be made in this legislation to clarify the situation.

With increasing demands on the Office it has become harder to provide the estates under administration with the service to which they are entitled since there has been no increase in number of staff of 155 for many years. In an effort to provide reasonable service to those whom the Office represents, data processing is being implemented, to be in operation, hopefully, by the middle of 1979. It is anticipated that this will provide information more quickly.

Financial Operations

The Office of the Public Trustee receives income from three main sources: legal fees, compensation as administrator or committee, and investment income. The office pays all of its operating expenses and produces a net profit.

During 1978 total fees increased by 28 per cent. Excess of revenue over expenditures increased by 12 per cent. It is anticipated that changes in investment policy, increased fees and compensation arising from a larger number of estates under administration and the increased value of those estates, and the ability to make current the charge for legal fees and compensation as a result of data processing will substantially increase the profit of the Office in the immediate future.

Revenue and Expenses as at March 31, 1978, are shown below.

The Ministry of the Attorney General

Statement of Revenue and Expenses as at March 31st

	1978	1977
Revenue		
Fees: Patients' Estates	\$1,013,915	\$ 811,630
Crown Estates	484,992	314,294
Special Trusts	115,712	106,159
Company Trusts	14,765	25,073
Cemetery Trusts	17,443	16,193
Charities	32,216	35,664
Total Fees	1,679,043	1,309,013
Bank Interest	12,098	14,359
Income from Investment Fund Account, Net	1,991,884	2,119,081
	3,683,025	3,442,453
Deduct debit balances written off	1,728	46
	<u>\$3,681,297</u>	<u>\$3,442,407</u>
Expenses		
Salaries	\$2,097,147	\$2,034,826
Employees Benefits	296,361	264,574
Transportation and Communications	78,556	71,276
Services	481,614	415,016
Supplies and Equipment	81,792	79,981
	<u>3,035,470</u>	<u>\$2,865,673</u>
Excess of Revenue over Expenditure	\$ 645,827	\$ 576,734

Statement of Surplus

Balance at beginning of year	\$4,950,766	\$4,374,032
Add excess of revenue over expenditure	645,827	576,734
Balance at end of year	<u>\$5,596,593</u>	<u>\$4,950,766</u>

Investment Fund Account

	As of March 31st	
	1978	1977
Bank Term Deposits	\$ 1,000,000	
Bonds at Amortized Cost	88,594,462	\$83,709,136
Accrued Interest Received	2,083,282	1,907,586
Cash in Bank	92,256	53,278
	\$91,770,000	\$85,670,000
Interest Earned on Investments	\$ 7,737,708	\$ 6,747,630
Interest Earned on Bank Accounts	37,363	46,631
	7,775,071	6,794,261
Less: Interest Allowed	4,180,329	3,882,106
Book Loss on Exchange of Securities	1,602,858	793,074
Net Earnings	\$ 1,991,884	\$ 2,119,081

Securities Held For Investment Fund Account As At March 31, 1978

	Par Value	Amortized Cost	Quoted Market Value
Province of Ontario	\$13,450,000	\$13,430,043	\$12,314,188
Ontario Hydro	75,687,000	75,164,419	72,849,630
Bank of Montreal Term Deposit Receipt	1,000,000	1,000,000	1,000,000
	\$90,137,000	\$89,594,462	\$86,163,818

The Ministry of the Attorney General

Balance Sheet As At March 31, 1978

Assets

	1978	1977
Estates and Trusts		
Cash in Bank	\$ 55,729	\$ 95,089
Funds Invested	85,810,000	80,235,000
Bonds	24,240,192	20,428,566
Stocks	3,754,106	4,147,592
Mortgage Receivable	1,937,991	1,881,236
Real Estate	24,879,973	23,554,661
Life Insurance and Pensions	21,737,535	19,970,382
Miscellaneous	2,417,017	2,538,178
	<u>164,832,543</u>	<u>152,850,704</u>
Less: Mortgage Payable	1,146,496	827,021
	<u>163,686,047</u>	<u>152,023,683</u>

Administration Fund Account

Cash in Bank	24,264	27,417
Funds Invested	5,960,000	5,435,000
	<u>5,984,264</u>	<u>5,462,417</u>

Total Assets

<u>\$169,670,311</u>	<u>\$157,486,100</u>
----------------------	----------------------

Liabilities

Estates and Trusts		
Patients' Estates	\$123,346,070	\$114,590,632
Crown Estates	12,427,601	11,351,838
Probable Escheats	8,531,449	7,674,451
Special Trusts	10,969,964	9,752,763
Company Trusts	3,454,747	3,562,964
Indian Trusts	187,716	212,657
Unclaimed Balances	310,682	296,204
Cemetery Trusts	4,386,224	4,510,085
Child Welfare	71,594	72,089
	<u>163,686,047</u>	<u>152,023,683</u>

Administration Fund Account

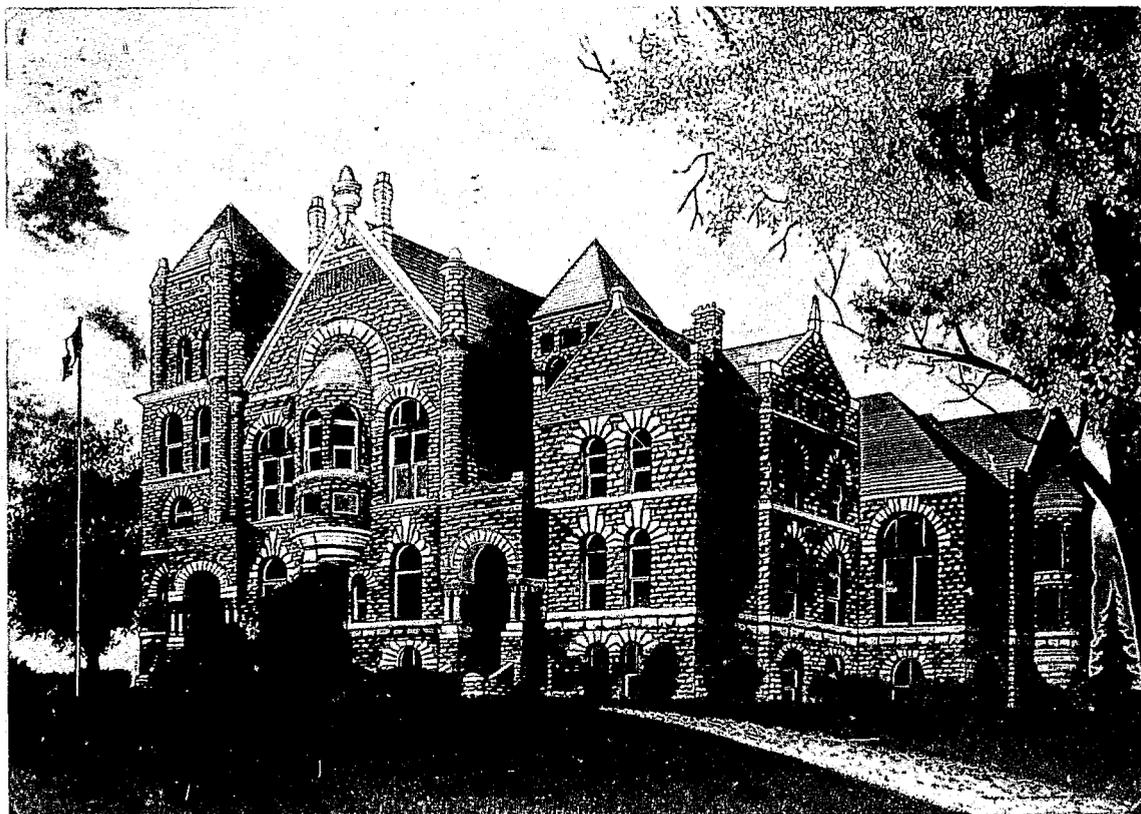
Current Liabilities	187,671	311,651
Assurance Fund	200,000	200,000
Surplus	5,596,593	4,950,766
	<u>5,984,264</u>	<u>5,462,417</u>

Total Liabilities

<u>\$169,670,311</u>	<u>\$157,486,100</u>
----------------------	----------------------

Statistical Review

	As at March 31st	
	1978	1977
Assets under Administration	\$169,670,311	\$157,486,100
Revenue	3,681,297	3,442,407
Operating Expenses	3,035,470	2,865,673
Excess of Revenue over Expenditure	645,827	576,734
Surplus	5,596,593	4,950,766
Cash Receipts	46,014,429	44,157,368
Public Trustee Investments at Book Value	89,594,462	83,709,136
No. of Files — Estates and Trusts	25,283	25,806
No. of Files — Charities	27,036	25,222
No. of Staff	155	155



Oxford County Court House, Woodstock

The Ministry of the Attorney General

Programs and Administration Division

G.H. Carter,
General Manager

Mr. G.H. Carter was appointed General Manager effective September 5, 1978, filling the vacancy created by the appointment of B.W. McLoughlin as Assistant Deputy Attorney General and Director of Courts Administration

Function

This section of the Ministry is responsible for directing and co-ordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1977/78 emphasis was again placed on increasing the efficiency of available resources in compliance with the Ontario Government's continued constraint measures.

Finance and Services Branch

H.A. Gibbs,
Director

During the fiscal year 1977/78, the Branch continued its search for areas where administrative economies could be introduced to facilitate the Ministry's response to the Treasurer's continuing program of budgetary constraint. The Forms Management Program of the Ministry, encompassing standardisation and bulk purchasing of forms, became operative supported by a newly-formed offset printing operation which produced 5.5 million low-cost impressions during its first year of operation.

A computer utilisation study was completed, resulting in changes to EDP operations and systems which significantly reduced staffing costs and freed machine time for other activities. Various other changes to administrative policies and procedures were implemented, all of which were directed towards administrative efficiency and economy.

The study on sources of Ministry revenue was completed and has provided the Ministry with an information base to give greater consideration to widening the fee structure for services provided members of the public through the judicial system.

The increasing activity of the Small Claims Courts indicated a need for improved financial controls and reporting. In order to meet this need, the Branch developed an accounting system which is now being implemented in the larger Courts.

High priority continues to be given to the improvement of communications and internal contacts through staff visits and attendance at out-of-town seminars for Provincial Court administrators.

Management Audit Branch

S.E. Neundorf,
Director

Audits

Audits of Court and Judicial Offices continued with Special Assignments continuing to place heavy demands on the Branch's manpower resources. Major special items were the Inter-Ministerial Committee on Vehicle Registration, and the seconding of one auditor on a full-time basis to the Survey of Police Services. The Branch continues to be involved in both these projects.

Defaulted Fines/License Suspension System

Suspension activity and rate of reinstatement continued near the previous year's level. The cumulative rate of reinstatements was 76 per cent as at March 31, 1978, representing a value of \$7,055,667.

Personnel Management Branch

O.M. Mitchell,
Director

The Branch continued to provide responsible assistance to Managers in conditions dominated by continuing staffing and budget constraints.

Staffing

Restraints included a complete "freeze" of three weeks on all staffing activity and stricter control of temporary help. Contract staff

required multiple documentation to meet control requirements. Special staffing programs such as a summer student program, Experience '77, O.C.A.P. and work experience weeks were supported by the Ministry and administered through the Branch. Two students in Personnel were located in a training program in the Branch.

Organisation and Position Administration

Internal Ministry organisation and decentralization resulted in corresponding Branch activity. With Program Managers the Branch participated in continuing broadbanding policy, particularly on the working Committee of the Law Administration Group.

The Branch provided the statistical base for the preparation of the Ministry submission to Management Board for the new Classified Structure Ceiling and set up a conversion and recording system to provide for detailed on-going monitoring by Management Board.

Staff Relations

The implementation of a new Working Conditions Collective Agreement included contract staff. Branch staff have continued to provide interpretation and assist Managers in resolution of informal complaints and at formal meetings or hearings.

The Employee Benefits Reports generated questions which were handled largely by the Employee Counsellor and Supervisor of Personnel Services.

Staff Training and Development

The Ministry continues to be a major supporter of Civil Service Commission sponsored courses and job-related individual development. Internal management programs for Court Administrators progressed to their planned second phase, with hopes that other managers can be included in the course in the near future.



Peterborough County Court House

The Ministry of the Attorney General

Program Analysis Branch

J. Solymos,
Co-ordinator

The main service provided during 1977-78 was, as in prior years, in support of improved utilization and allocation of resources in the various programs of the Ministry.

Management by Results

This special initiative is in response to the Ontario Government's intention that all ministries fully implement for use in the 1978/79 fiscal year a management concept known as MBR (Management by Results), the thrust of which is to focus management attention on the results of public expenditure. Among the implications of adopting this management concept are the development and/or improvement of data flows on workloads and resource levels as well as the use of the resultant information in measuring and monitoring the overall efficiency and, where suitable, the general effectiveness of programs. Work was accordingly continued on the development, testing, refinement and maintenance of ways to measure and report upon the levels of resource utilization actually attained in the various programs. At the start of the year, the utilization of some 60 per cent of the Ministry's resources was being monitored, the result of earlier work in the Branch. Broad over-all indicators were being developed and formally reported to measure utilization in such terms as "average workload per man-year". By year-end, this monitoring process had been extended to other key programs which comprises a further eight per cent of the Ministry's resources. The MBR implementation process is expected to be concluded during the 1978-79 fiscal year by bringing the total coverage of the operating programs representing about 94 per cent of total Ministry resources.

Special Evaluations

Other services provided by the Branch during 1977-78 were concerned with specific day-to-day issues. Statistical and other evaluations, for example, were prepared as support for several applications to Management Board for budgetary and program adjustments.

Systems Development Branch

The Systems Co-ordinator's position remained vacant during the 1977-78 fiscal year. Mrs. Doreen Mueller was appointed Co-Ordinator effective May 29, 1978.

A process to decentralize the systems resources located in the Ministry of Government Services was initiated by the Management Board of Cabinet. This process overshadowed the activities of the Systems Development Branch. The Management of the Ministry decided to await the recommendations of the 'Systems Process Task Force.'

A limited number of projects were undertaken during this period. Resources for these projects were procured from the private sector and the Ministry of Government Services. The mechanised accounting system for the Public Trustee progressed to detail design phase and it is expected to be implemented early in 1979. A feasibility study to automate the operation of the Accountant of the Supreme Court of Ontario was completed and a mini-computer was installed during the latter part of the fiscal year.

Management Information System

The staff of the Branch undertook consolidated efforts to improve the collection and reporting of statistics. The Annual Report of Court Statistics for 1976-77 was published. A system to collect data for examinations and taxations for the Supreme and County or District Courts was developed and implemented. The existing Criminal and Minor Offences Systems were evaluated and it was decided to discontinue the automated system.

Accountant, Supreme Court of Ontario

E.J. McGann,
Accountant

Assets

Assets under management at the end of the fiscal year 1977 totalled \$143 million, unchanged

from the previous year. The rate of nine per cent per annum on funds belonging to infants was maintained throughout the year. The rate of six per cent per annum continues to be paid on other funds being held pending court cases. Both rates are compounded semi-annually and are calculated on a minimum monthly basis.

Revenues and Investments

The investment portfolio continues to be traded actively. The interest revenue on the portfolio increased to \$12 million from \$10.05 million in the fiscal year 1976-77. The monies paid into Suits and Matters in the current fiscal year totalled \$52 million while disbursements for the same period were \$58 million (including one \$8 million disbursement). In the previous fiscal year the figures were \$45 million and \$39 million respectively.

Communications Branch

David Allen,
Director

The Communications Branch was established in 1977 in response to increased public demand for information on the activities of the Ministry and the judicial system in general.

The Branch is responsible for the preparation and production of news releases, statements, speeches, pamphlets, booklets and other material to explain Ministry programs and legislation. The Director advises the Attorney General, Deputy Attorney General and senior Ministry officials on communications matters.

The Branch's major activities during the year included the preparation, with the assistance of the Policy Development Division, of informational material on the Family Law Reform legislation and the Small Claims Courts.

Legislation passed during the year increased the jurisdiction of the Small Claims Courts and made changes in their procedures. A pamphlet highlighting the changes was prepared for wide public distribution to alert the public to the services available. In addition, a booklet with step-by-step procedures for both plaintiffs and defendants was being prepared.

The Family Law Reform legislation, after more than a decade of public discussion and debate, was passed to take effect on March 31.

The Branch supervised the preparation of the Ministry's most extensive information and education campaign, including advertising in newspapers and magazines and spot announcements on radio. Letters to the Ministry on this subject totalled almost 5,000 per week in April and May of 1978 and continued into the summer months at the rate of about 300 per week.

A pamphlet with the highlights of the reforms was prepared for wide distribution. A 74-page booklet with a detailed explanation, including the text of the Family Law Reform Act, was published. A 30-minute film for use in classrooms and by community groups was commissioned. The pamphlet, booklet and film are available in both English and French.

There was a continuing strong demand during the year for the Ministry's other publications, particularly those on landlord-tenant matters, legal aid and criminal injuries compensation. Requests from teachers for class sets of these publications as well as those on Family Law Reform and Small Claims Courts often included concerns expressed about the lack of suitable Canadian and Ontario educational material on the judicial system.

The Branch has supervised the conclusion and editing of a film on a typical day's proceedings in the Provincial Court (Criminal Division) and is exploring methods of making more material and legal personnel available to the increasing number of students in secondary school law courses.

Boards and Commissions

Ontario Law Reform Commission

Chairman:

Derek Mendes da Costa, O.C., LL.B., LL.M., S.J.D.

Vice Chairman:

Honourable George A. Gale, C.C., Q.C., LL.D.

Members:

Honourable Richard A. Bell, P.C., Q.C.

W. Gibson Gray, Q.C.

Honourable James C. McRuer, O.C., LL.D., D.C.L.

William R. Poole, Q.C.

Function

The Ontario Law Reform Commission was established as an independent Commission in 1964 to inquire into and consider any matter relating to:

- reform of the law having regard to the statute law, the common law and judicial decisions;
- the administration of justice;
- judicial and quasi-judicial procedures under any Act; or
- any subject referred to it by the Attorney General.

Over the last 14 years, the Commission has studied a broad range of topics, and has published 53 separate reports containing recommendations for law reform. Many reports have been implemented and have formed the basis for both new legislation and for amendments to existing statutes. Examples of this implementation include The Age of Majority and Accountability Act, The Children's Law Reform Act, 1977, The Marriage Act, 1977, The Family Law Reform Act, 1978, and legislation governing landlord and tenant law.

Activities during 1977-78

In the past fiscal year, substantial progress has been made towards completion of major projects; in particular, the Commission has devoted much time to the Minister's Reference on the Sale of Goods and to its project on the Law of Trusts.

Work continues on the Reference from the Minister on Class Actions, and on the related project on the Law of Standing. The Commission's project on Products Liability, which was commenced early in this fiscal year, is also well advanced.

The Commission has decided to undertake a project on the administration of estates of deceased persons. Research has commenced on this important topic.

Throughout the year, work has continued on other projects initiated by the Commission, including the Enforcement of Judgment Debts and Declarations of Marital Status.

The Commission has experienced deep satisfaction in the enactment, during the last year, of legislation concerning matters upon which we have previously reported: The Marriage Act, 1977, The Children's Law Reform Act, 1977 and The Family Law Reform Act, 1978. We are gratified that so many of the recommendations contained in our Reports on Marriage, Children, Family Property Law, Support Obligations and Torts found acceptance by the Legislature. Reference should also be made to The Succession Law Reform Act, 1977, and, in this context, to our Reports on Family Property Law, the Proposed Adoption in Ontario of the Uniform Wills Act, the International Convention providing a Uniform Law on the Form of International Will and the Impact of Divorce on Existing Wills.

As in former years, the Commission has derived valuable assistance from its contact with law reform agencies throughout the world, with the Uniform Law Conference of Canada, and with members of the profession and the public.

Full Report Available

A full report for the fiscal year 1977-78 is available from the Ontario Law Reform Commission or the Government of Ontario Bookstore.

Ontario Municipal Board

Chairman:

W. Shub, Q.C.

Vice-Chairmen:

A.H. Arrell, Q.C.

F.G. Blake (retired December 31, 1977)

A.L. McCrae

W.T. Shrives

W.H.J. Thompson, Q.C.

B.E. Smith

D.S. Colbourne

D.D. Diplock, Q.C.

Members:

S.S. Speigel

H.H. Lancaster

P.M. Brooks

A.B. Ball

H.E. Stewart

C.G. Ebers, Q.C.

H.W. Kelly, Q.C.

J.A. Wheler

E.A. Seaborn

A.J.L. Chapman, Q.C.

M. Corbett (resigned September 30, 1977)

W.E. Dyer, Q.C.

C.G. Charron, Q.C.

J. Wadds

K.D. Bindhardt

W.L. Blair

Establishment

Under the authority of The Ontario Municipal Board Act.

Primary Jurisdiction

The Ontario Municipal Board Act, The Municipal Act, The Planning Act, The Assessment Act and diverse Ontario statutes including special legislation.

Functions

To effect the growth and economic stability of municipalities in various fields:

1. Municipal Structure

Constitution, alteration of boundaries and dissolution of municipalities.

2. Capital Expenditure

Financial supervisory role, approval of capital undertakings and the manner of recovery.

3. Planning Administration

Approval of restricted area by-laws, official plans and plans of subdivisions, and appeals from land division committees and committees of adjustment.

4. Assessment Appeals

5. Miscellaneous Applications

Appeals

1. Divisional Court on matters of law and jurisdiction.

2. Petition to Lieutenant Governor in Council.

3. Application to board for rehearing.

1977 Calendar Year

Number of applications — 8,586

Number of hearings — 1,996

The board's annual report is available for more detail.

Assessment Review Court

Chairman:

B.H.B. Bowlby, Q.C.

Vice-Chairman:

G.C. Hewson

Vice-Chairman part-time:

S.R.R. McNeil

Members part-time:

91

Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69, and continues under The Assessment Review Court Act, 1972. This Court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine:

1. complaints against real property assessment for the basis of municipal taxation in Ontario at the least cost to the taxpayer;

2. appeals from municipal clerks' refusal to amend the list showing school support for school board taxation;

Boards and Commissions

3. the apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block;

4. when authorized by municipal by-law (or by way of an appeal from the decision of a municipal council), applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or manifest errors have been made in the collectors' roll.

Administrative Functions

In addition to their duties and responsibilities regarding the processing and scheduling for hearing of assessment complaints, the Regional Registrars of the Court certify the last revised assessment roll of each municipality and also process and schedule all assessment appeals to County or District Court Judges within the Province under Section 55 of The Assessment Act.

Summary of Activities

The following is a brief report of the activities of the Court during the period April 1, 1977, to March 31, 1978.

1. Court Sittings

During the year the Court sat for 1,708 days in various municipalities throughout the Province and heard and determined 127,399 complaints, appeals and applications.

The Regional Registrars processed and scheduled complaints against assessment under Sections 44 and 52 and processed and scheduled appeals to the county or district judge under Section 55 of The Assessment Act.

During this period, as in 1976-77, the Assessment Review Court experienced a further considerable increase over former years in complaints relating to all properties and, in particular, complaints relating to income producing properties such as apartment houses, office buildings and hotels. At the same time, more taxpayers were represented by professional agents, tax consultants and counsel.

No municipalities were proclaimed at market

value for assessment purposes during this period.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended instructional one-day seminars in Niagara-on-the-Lake, Thunder Bay, Sudbury, Kingston, Toronto and Kitchener.

Regional Registrars and Assistant Regional Registrars attended instructional seminars in Orillia and Toronto.

Clerks of the Court attended instructional one-day seminars in Thunder Bay and Hamilton.

3. Administrative Matters

During this period, the Court continued to review the procedures being followed at Court hearings and continued the special assignment hearings in Toronto, Newmarket, Mississauga, Ottawa, Windsor and London with special emphasis on individual assignment hearings with tax consultants, agents and counsel for the complainants to expedite the scheduling of hearings of complaints to avoid conflict of dates for counsel and agents and the Assessment Branch of the Ministry of Revenue.

A summary of Assessment Review Court complaints and appeals is set out in Schedule A.

The purpose of The Assessment Review Court is to hear and determine complaints relating to assessments throughout the Province as soon as may be practicable. With the increase in complaints each year, the main difficulty arises in scheduling the hearings of the Court in better weather conditions and disposing of them at a peak of activity in the spring months.

There have been no changes in legislation to affect the operation of the Court in this period of April 1, 1977, to March 31, 1978.

Summary of Assessment Review Court Complaints and Appeals

	1975-76	1976-77	1977-78
Section 52 of The Assessment Act (I)	58,212	65,197	81,998
Section 42, 43 of The Assessment Act (II)	16,436	6,616	8,013

Sections 516, 547, 636a, 636b of The Municipal Act (III)	18,410	35,227	37,388
Total	93,058	107,040	127,399

- Footnotes: (i) This section deals with complaints against annual assessment made under Section 40 of the Act.
- (ii) These sections deal with complaints against additional assessment under Sections 42 and 43 of the Act.
- (iii) These sections deal with applications and appeals relating to:
- (a) School support
 - (b) Apportionment of municipal taxes
 - (c) Cancellation, reduction or refund of municipal taxes
 - (d) Increase in municipal taxes by reason of clerical errors.

Summary of Appeals to County and District Court Judges (Section 55 of The Assessment Act)

1975-76	1976-77	1977-78
3,723	4,546	10,245

Criminal Injuries Compensation Board

Chairman:
Allan Grossman
Vice-Chairman:
Shaun MacGrath
Vice-Chairman (part-time):
S. David Cork
Members (part-time):
Anne Austin,
Audrey Merrett,
Edward W. Tyrrell, Q.C.
Douglas H. Lissaman, Q.C.

The Board, composed of two full-time and five part-time members, administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967.

Function of Board

The Board decides whether applicants for compensation are eligible and the amount to be awarded. Compensation is awarded, for personal

injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence under the Criminal Code of Canada. Injuries caused by a motor vehicle are excluded by the Act unless the vehicle is used as a weapon. Compensation may also be awarded when a person is hurt while lawfully arresting or attempting to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearings

Hearings of the Board are public except where a public hearing would be prejudicial to a trial, or in cases involving sexual offences. They are held in Toronto and, when practicable, in such centres as Thunder Bay, Sudbury, Sault Ste. Marie, Ottawa and Windsor, where hearings took place in the year under review.

Productivity

The relocation of the Board offices to new premises caused some disruption in operations which resulted in fewer applications being heard than in the previous fiscal year. The awards increased by 13 per cent from \$1,423,640 to \$1,611,836 and the average award rose from \$1,958 to \$2,328 or 19 per cent.

Annual Report

This report is available from the Board's offices at 439 University Avenue, 17th Floor, Toronto M5G 1Y8. Telephone: 965-4755. Brochures in various languages are also available from the Board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Boards and Commissions

Comparative Summary -- Fiscal Years Applications and Disposition

	April 1, 1974 to March 31, 1975	April 1, 1975 to March 31, 1976	April 1, 1976 to March 31, 1977	April 1, 1977 to March 31, 1978
Applications under investigation on April 1	426	599	914	1188
Eligible applications received	639	851	971	1105
Applications heard (1)	381	473	611	570
Applications heard and dismissed	40	75	63	52
Applications heard --				
further evidence required	6	1	5	nil
Second hearings	8	4	4	nil
Review of awards	1	1	6	12
Decisions completed and awards ordered (2)	349	451	609	563
Files closed	85	63	86	223
Interim awards	nil	3	8	1
Supplementary awards -	12	19	25	26
Periodic awards	16	12	21	19
Lump sum payments	\$561,114.03	\$708,640.29	\$1,192,840.37	\$1,310,698.60
Periodic payments	165,814.00	194,038.00	230,800.56	301,138.28
Total of awards ordered	726,928.03	902,678.29	1,423,640.93	1,611,836.88
Average award (3)	1,607.77	1,425.84	1,958.69	2,328.06
Applications under investigation March 31	599	914	1188	1500

- Note: (1) Includes Heard and Dismissed and Heard but Further Evidence Required.
 (2) Includes Interim, Supplementary and Periodic Awards.
 (3) Periodic Payments not included when arriving at Average Award.

Land Compensation Board

Chairman:

R.M. McGuire

(Appointed Vice-Chairman July 1, 1977)

(Appointed Chairman January 4, 1978)

J.S. Yoerger

(Retired January 3, 1978)

(Appointed V.C. January 4, 1978 -- 1 year)

Vice-Chairmen:

Roy Grant

(Appointed July 1, 1970)

Gordon Ford

(Retired December 2, 1977)

James Worrall

(Appointed January 1, 1977)

Members:

Grant Campbell

(Appointed February 1, 1975)

J. Dobbs

(Appointed January 4, 1978)

George Hobart

(Appointed May 1, 1970)

G.P. Marriott

(Appointed May 1, 1970)

D.W. Middleton

(Appointed May 1, 1970)

E.H. Reed

(Appointed May 1, 1970)

James A. McConaghy

(Retired December 31, 1977)

Registrar:

C.E. Warner

Established

Under the authority of The Expropriations Act,
December 1, 1970.

Function

Arbitration tribunal to determine compensation
to be paid in the expropriation of property
in the Province.

There were a number of retirements and
appointments occurring during the fiscal year
which resulted in some adjustments in the
scheduling of hearings, provision having to be

made for the completion of outstanding hearings and decisions. Upon his retirement as Chairman, Mr. Yoerger was retained as a part-time vice-chairman to assist in bridging the transition period.

Some procedural changes were introduced in this calendar year in an attempt to reduce the number of hearing cancellations, particularly those that might have been foreseen by the parties and thereby improving the effectiveness of the Board. The Board is now insisting that prior to scheduling a hearing that with the certificate of readiness there be a statement that all interlocutory proceedings have been completed and that appraisal reports are in hand. Because of the required advance scheduling of about six months the effects of this change are not yet apparent.

Notices of arbitration filed	114
Applications outstanding March 31, 1977	344
Applications outstanding March 31, 1978	349

Board of Negotiation

Chairman:
W.C. Dymond

Members:
J.M. Bennett
J.A. Ferguson
F.L. Heaman
W.J. Mowat
G.W. Swayze

Function

The Board of Negotiation was created by the provisions of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of

the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

Activity Report – Monthly Breakdown Fiscal Year April 1, 1977 – March 31, 1978

	Requests for Hearings Received	Meetings Held
April	9	22
May	28	16
June	17	14
July	15	15
August	6	8
September	9	20
October	8	10
November	5	9
December	9	3
January	14	7
February	10	6
March	18	7
	148	137

Note: At the end of March 31, 1978, there were 30 files left in process:
– Six of the 30 were to be scheduled
– Twenty-four were scheduled and waiting to be held

Boards and Commissions

Activity Report — Fiscal Year 1977-1978		Two-Year Follow-Up Report Fiscal Year 1976-1977	
Expropriating party	Number of Applications	Number of requests for meetings (1976-77)	
Corporation of the City of Belleville	2	Number of settlements reported following negotiations in the period April 1, 1976 to March 31, 1977	260
Brampton	1		
Burlington	2		28
Hamilton	1		
Kingston	1	Requests for meetings cancelled	42
London	2	Balance to be surveyed by Two-Year Follow-Up	190
Oshawa	1		
St. Thomas	1		
Sault Ste. Marie	1	This Report is based on replies to 190 questionnaires mailed to the Expropriating Authorities from whom we had not heard regarding results of 1976-77 meetings.	
Windsor	1		
Corporation of the Township of Gloucester	6	Questionnaires mailed	190
Nepean	1	Replies received	173
County of Brant	1	Unanswered	17
Simcoe	1	Settlements (Board of Negotiation's Recommendation a factor)	68
Metropolitan Separate School Board	4	Proceeded to, or intending to proceed to Land Compensation Board	47
Ministry of Government Services	2	Still Negotiating	46
Housing	2	In Abeyance, pending, not presently being negotiated	12
Transportation and Communications	65		173
Municipality of Metropolitan Toronto	21		
Ontario Hydro	10		
Regional Municipality of Durham	2		
Haldimand-Norfolk	1		
Niagara	1		
Ottawa-Carleton	7		
Peel	1		
York	2		
Union Gas	8		
	<u>148</u>		

Background Papers

French Language Services in Ontario Courts

Although Ontario is not officially a bilingual province, the Government of Ontario has since 1967 pursued a policy of developing a capacity to provide services to its French-speaking citizens in their own language. "Ninety-five per cent of all Canadians of French mother tongue¹ live in Quebec, Ontario, and New Brunswick — 83 per cent in Quebec, eight per cent in Ontario, and four per cent in New Brunswick."² The significance of the eight per cent in Ontario is that it represents 425,000 citizens, almost half of all Canadians of French mother tongue living outside of Quebec.

Some 750,000 Ontario citizens speak both the English and the French languages. Approximately 100,000 of these speak only the French language. A very high proportion of this minority group lives in the northern and eastern parts of Ontario, although these are significant communities in Toronto and in southern and south western Ontario.

In the fall of 1975, a few weeks after his appointment as Attorney General, the Honourable R. Roy McMurtry, O.C., committed his Ministry to developing French language services in Ontario courts. This initiative comprised not only the development of a capacity to conduct trials in the French language, but the development of bilingual court forms, the design and introduction of a bilingual traffic ticket, and the translation of informational material.

The program began in the Provincial Court (Criminal Division) in Sudbury in the summer of 1976. The Provincial Court (Criminal Division) is the court which deals with almost 98 per cent of the criminal and quasi-criminal cases. Sudbury was selected because of the availability of bilingual judges, Crown Attorneys, defence counsel, and police officers. After a period of testing in Sudbury, the service was expanded to Ottawa, L'Orignal, Hawkesbury and Rockland in June, 1977; to Espanola in September, 1977; and to Cochrane, Kapuskasing, Hearst, Smooth Rock Falls, and Hornepayne in October, 1977. With these locations, 66 per cent of Ontario citizens who speak French only (those with the greatest need in this regard) have access to French language services in that court.

Late last year the service was expanded to the Provincial Court (Family Division) in Sudbury. The Attorney General intends to announce shortly the further expansion of this service to other areas, both for the Criminal Division and the Family Division of the Provincial Court.

Signs are posted in the affected courts advising citizens of their right to elect to be tried in the French language. This election is usually made on the first appearance, at which time the case is assigned to the appropriate trial list and a date set for the hearing.

Further expansion will occur vertically as well as horizontally, based upon the existing bilingual capacity of certain members of the judiciary in both the Supreme Court of Ontario and the County and District Courts of Ontario. This expansion will encompass civil proceedings in addition to the criminal, quasi-criminal, and family law proceedings already included. In order to ensure that this development would proceed on a sound theoretical and practical basis, the Attorney General announced in August, 1977, his decision to form a special advisory committee on French language services in Ontario courts. This committee, composed in part of eminent and experienced trial lawyers designated by the Bar of Quebec and by the Law Society of Upper Canada and chaired by the Deputy Attorney General of Ontario, held a series of meetings beginning in October, 1977.

A little-known section of The Judicature Act, section 127, constitutes a major impediment to the provision of French language services in Ontario. It provides that:

Writs, pleadings and proceedings in all courts shall be in the English language only, but the proper or known names of writs or other process, or technical words, may be in the same language as has been commonly used.

The special advisory committee addressed itself primarily to the question of an appropriate amendment to section 127. A second major impediment is reflected in section 149 of The Judicature Act:

Nothing in this Act affects the practice or procedure in criminal matters or matters connected with Dominion controverted elections.

Background Papers

By virtue of section 91(27) of the B.N.A. Act, Parliament has exclusive jurisdiction to legislate with respect to criminal law and procedure in criminal matters. In 1975, in the case of *Jones v. A.G. of New Brunswick*, the Supreme Court of Canada ruled unanimously that "the language in which criminal proceedings are conducted, whether documents are involved or oral conduct only or both, may be brought within the legislative authority conferred by section 91(27) of the British North America Act".³ The Court held that the provinces could legislate on these matters so long as Parliament refrains from so doing, and that Parliament's authority is paramount in the case of any inconsistency between its legislation and that of any province. Parliament has legislated on these matters through provisions in the Official Languages Act⁴ and in the Criminal Code of Canada.⁵

The committee tackled the problem of section 127 of The Judicature Act. It established that the best solution for Ontario at this time would incorporate the following features: a designated area concept to ensure that French language services can be brought in as the necessary support staff and other resources, including a bilingual bench and bar, are developed; a right of the French-speaking litigant to have his testimony heard directly by a bilingual trier of fact (a judge alone or a jury) without the intervention of an interpreter; the recording and transcription for all purposes of French language testimony in that language; and a discretion in the court, in appropriate circumstances, to direct that a trial or an appeal shall proceed exclusively in the French language.⁶

This work by the committee culminated in the introduction on April 25, 1978 of Bill 71, An Act to amend The Judicature Act, and a companion measure, Bill 72, An Act to amend The Juries Act. Bill 72 was designed to authorize sheriffs to prepare a second list of jurors containing the names of those who speak both the French and the English languages. Bills 71 and 72 received Royal Assent and became law on May 26, 1978.

Meanwhile, on April 4, 1978, the Minister of Justice introduced in Parliament Bill C-42, An Act to amend the Criminal Code. Bill C-42 would add Part XIV.1 to the Code and would provide for the language of proceedings in cases arising under the Code. It contains a change of venue provision

which ties in with the designated area concept in Ontario's Bill 71, by authorizing the Lieutenant Governor in Council of a province to make regulations for carrying into effect the purposes and provisions of Bill C-42, including the change of venue provision. The Minister of Justice acted on this question after receiving inquiries from Mr. McMurtry about the possibility of amendments being made to the Criminal Code to facilitate French language services with respect to criminal proceedings.

As indicated at the outset, the initiative launched in the fall of 1975 included the production of bilingual forms and materials. These include the Questionnaire As To Qualifications For Jury Service; the information booklet *Your Day in Court - Jury Duty*; pamphlets outlining the French language court program; the merit point schedules relating to metric conversion; the Notice to Drivers under Suspension for a Defaulted Fine; the Undertaking by an Appellant (the first County Court form); the City of Ottawa parking summons (a co-operative undertaking with that City). The Provincial Court (Criminal Division) forms program has been implemented in the following areas: Algoma, Cochrane, Nipissing, Timiskaming, Ottawa-Carleton, Prescott and Russell, Stormont, Dundas and Glengarry. This program provides the 11 forms with which the public comes into contact most frequently. Four additional forms are being translated. Finally, all the forms associated with The Family Law Reform Act, 1978, have been translated and will be available in a bilingual format.

A key ingredient of French language services in the courts is the availability of the law in the French language. The most obvious requirement is a French language version of the Ontario statutes. Until recently individual statutes or parts of statutes have been translated. Thus, for example, The Highway Traffic Act is being translated and will be typed in a "side by side" bilingual format. More significant, however, is the Government's commitment in the Speech From the Throne on February 21, 1978:

Present government translation services will be augmented to make more public documents, publications and forms available in both French and English. Of particular importance, a special section will be established

to begin work on translating Ontario's statutes into French.

The planning for the implementation of these undertakings has been completed. The special section referred to is to be established as a part of the Ministry of the Attorney General, reporting through the Senior Legislative Counsel. This marks the beginning of a systematic and professional approach to the production of French language translations of the statutes.

As the Ministry's program expands and becomes a significant element of its operations, the need for full time attention and co-ordination becomes evident. In this regard, the necessary steps are being taken to appoint a co-ordinator of French language services for the Ministry. This should ensure that the significant momentum generated to date will be maintained and appropriate attention and study devoted to the further expansion of the program.

The Ministry initiative which was launched in the fall of 1975 has been provided with a formal and

sound statutory basis by the Legislature's approval of Bills 71 and 72. These are landmark measures which serve to confirm our commitment to a proper recognition of the French language in the laws and institutions of Ontario. Consistent with the pragmatic approach alluded to earlier, they ensure that we must continue to look forward only, to enhance established rights and to make provision for their expansion into any area where an unfulfilled need is identified.

FOOTNOTES

- ¹ The term "mother tongue" means the first language learned in childhood and which is still understood.
- ² Report of the Royal Commission on Bilingualism and Biculturalism, Book 1, p. 96.
- ³ Jones v. Attorney General of New Brunswick et al. [1975] 2 S.C.R. 182.
- ⁴ See section 11 of the Official Languages Act, R.S.C. 1970, Chap. 0-2.
- ⁵ See sections 555, 556, and 564 of the Criminal Code, R.S.C. 1970, Chap. C-34.
- ⁶ See the text of Bills 71 and 72 which constitutes the Appendix to this background paper.



The 'Original Court House, the oldest remaining courthouse in Ontario, was erected in September, 1825.

Background Papers

BILL 72

1978

An Act to amend The Juries Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Juries Act, 1974*, being chapter 63, is amended ^{s. 8.} amended by adding thereto the following subsection:
 - (1a) Where the county or Supreme Court is designated in ^{English and bilingual} a county or district under section 127 of *The Judicature Act*, ^{jury rolls} the jury roll prepared under subsection 1 shall be divided into ^{R.S.O. 1970, c. 228} two parts and,
 - (a) in one part the sheriff shall include those persons who appear, by the returns to jury service notices, to speak, read and understand the English language; and
 - (b) in the other part the sheriff shall include those persons who appear, by the returns to jury service notices, to speak, read and understand both the English and the French languages.
2. This Act comes into force on the day it receives Royal Assent. ^{Commence-}ment
3. The short title of this Act is *The Juries Amendment Act, 1978*. ^{Short title}

Loi modifiant la Loi sur les jurys, 1974

Sa Majesté, de l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, décrète:

1. L'article 8 de la *Loi sur les jurys, 1974*, chapitre 63, est modifié par l'adjonction du paragraphe suivant:

a 8
modifié

(1a) Lorsque la cour de comté ou la Cour suprême sont désignées dans un comté ou un district en vertu de l'article 127 de la *Loi sur l'organisation judiciaire*, le tableau des jurés préparé en vertu du paragraphe 1 doit être divisé en deux parties et,

Tableaux
des jurés de
langue
anglaise et
bilingues
S. R. O. 1970
c. 228

(a) dans l'une de ces deux parties, le shérif doit inclure celles des personnes qui, selon les réponses aux notifications visant la constitution du tableau des jurés, paraissent parler, lire et comprendre la langue anglaise; et,

(b) dans l'autre de ces deux parties, le shérif doit inclure celles des personnes qui, selon les réponses aux notifications visant la constitution du tableau des jurés, paraissent parler, lire et comprendre la langue anglaise ainsi que la langue française.

2. La présente loi entre en vigueur le jour de sa sanction royale.

Entrée en
vigueur

3. Le titre abrégé de cette loi est *Loi d'amendement sur les jurys, 1978*.

Titre
abrégé

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 127 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is amended by adding at the commencement thereof "Subject to subsections 2 to 9". s. 127, amended

(2) The said section 127 is further amended by adding thereto the following subsections: s. 127, amended

(2) The Regional Municipality of Ottawa-Carleton, The United Counties of Prescott and Russell, the United Counties of Stormont, Dundas and Glengarry and the Territorial Districts of Algoma, Cochrane, Nipissing, Sudbury and Timiskaming and such additional counties and districts as are designated by the Lieutenant Governor in Council under subsection 3 are designated counties and districts for the purposes of this section. Designated counties and districts

(3) The Lieutenant Governor in Council may designate, Designation of courts and additional counties and districts

(a) counties and districts in addition to those named in subsection 2; and

(b) courts in a designated county or district,

for the purposes of this section.

(4) In a proceeding in a designated court, or in any court to which an appeal therefrom is made, the court shall, upon the application of a party who speaks the French language, direct that the hearing in the proceeding be conducted before a judge who speaks both the English and French languages or, where there is a jury, before a judge and jury who speak both the English and French languages. Bilingual trier of fact

(5) Except by leave of the court, an application under subsection 4 shall be made, Time of application

(a) where the proceeding is in the Supreme Court or a county or district court before the giving of a jury notice or, if none, before the proceeding is set down for trial;

(b) where the proceeding is in a court other than the Supreme Court or a county or district court, before the hearing of any evidence in the proceeding.

(6) Where an application is made under subsection 4 and in addition to a direction made thereunder, the court may direct, ^{Hearing in French language}

(a) that the hearing or any part of the hearing be in the French language if, in the opinion of the court, the hearing or part can be so conducted effectually; and

(b) that subsection 7 apply to oral evidence given in examinations for discovery or in any other pre-hearing stage of the proceeding.

(7) Evidence given in the French language in a proceeding in respect of which a direction is made under this section shall be received and recorded in the French language and shall be transcribed in that language for all purposes. ^{Evidence recorded in French}

(8) Any document filed by a party in a proceeding in a small claims court in a designated county or district may be in the French language. ^{Pleadings in French}

(9) The Lieutenant Governor in Council may make regulations prescribing forms of documents or of parts of documents in both the English and the French languages for use in or relating to proceedings in designated courts and requiring their use. ^{Bilingual forms}

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

3. The short title of this Act is *The Judicature Amendment Act, 1978*. ^{Short title}

Background Papers

PROJET DE LOI 71

1978

Loi modifiant la Loi sur l'organisation judiciaire

Sa Majesté, de l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, décrète:

1.—(1) L'article 127 de la *Loi sur l'organisation judiciaire*, chapitre 228 des Statuts révisés de l'Ontario, 1970, est modifié par l'adjonction, au commencement dudit article, des mots " Sous réserve des paragraphes 2 à 9".

a. 127
modifié

(2) Ledit article 127 est modifié de plus par l'adjonction des paragraphes suivants:

a. 127
modifié

(2) La municipalité régionale d'Ottawa-Carleton, les comtés unis de Prescott et Russell, les comtés unis de Stormont, Dundas et Glengarry et les districts territoriaux d'Algoma, Cochrane, Nipissing, Sudbury et Timiskaming, de même que ceux des comtés et districts additionnels qui sont désignés par le lieutenant-gouverneur en conseil en vertu du paragraphe 3, sont des comtés et districts désignés aux fins de cet article.

Comtés
et
districts
désignés

(3) Le lieutenant-gouverneur en conseil peut désigner

Désignation
de tribunaux
et de comtés
et districts
additionnels

(a) des comtés et districts en plus de ceux cités dans le paragraphe 2; et

(b) des tribunaux dans un comté ou district désigné,

aux fins de cet article.

(4) Dans toute procédure devant un tribunal désigné, ou devant tout tribunal saisi d'un appel d'une décision prononcée par ledit tribunal désigné, le tribunal doit, sur la requête d'une partie qui parle la langue française, ordonner que l'audience, dans ladite procédure, soit tenue devant un juge qui parle les langues anglaise et française ou, dans le cas d'un procès par jury, devant un juge et un jury qui parlent les langues anglaise et française.

Juge et
jury
bilingues

(5) À moins d'une autorisation du tribunal, la requête prévue au paragraphe 4 doit être déposée,

Délai fixe
pour le
dépôt de
la requête

(a) lorsque la procédure est devant la Cour suprême ou devant une cour de comté ou de district, avant la notification de tenue du procès devant un jury ou, s'il ne s'agit pas de procès par jury, avant que la cause ait été mise au rôle;

(b) lorsque la procédure est devant un tribunal autre que la Cour suprême ou une cour de comté ou de district, avant l'audition de toute déposition de témoins dans la procédure.

(6) Lorsqu'une requête est déposée en vertu du paragraphe 4, et en sus d'une ordonnance émise en vertu dudit paragraphe, le tribunal peut ordonner

Audience
en langue
française

(a) que l'audience, ou toute partie de l'audience, soit tenue en langue française si, de l'avis du tribunal, l'audience, ou la partie de l'audience, peut être conduite ainsi de manière efficace;
et

(b) que le paragraphe 7 s'applique aux dépositions orales faites au cours d'interrogatoires préalables ou de tout autre stade de préenquête de la procédure.

(7) Les dépositions faites en langue française dans une procédure, à l'égard de laquelle une ordonnance a été émise en vertu de cet article, doivent être recueillies et enregistrées en langue française et doivent être transcrites en cette langue, à toutes fins.

Preuve
enregistrée
en langue
française

(8) Tout document déposé par une partie dans une procédure devant la cour des petites créances dans un comté ou district désigné peut être rédigé en langue française.

Plaidoiries en français

(9) Le lieutenant-gouverneur en conseil peut émettre des règlements stipulant le format de documents ou de parties de documents dans les langues anglaise et française pour être utilisés dans des procédures, ou se rapportant à de telles procédures, devant des tribunaux désignés, et requérant leur utilisation.

Formules
bilingues

2. La présente loi entre en vigueur le jour de sa sanction royale.

Entrée en
vigueur

3. Le titre abrégé de cette loi est "*Loi d'amendement sur l'organisation judiciaire, 1978*".

Titre
abrégé

Background Papers

Family Law Reform

On March 31, 1978, The Family Law Reform Act came into force. Together with The Unified Family Courts Act, The Succession Law Reform Act, The Children's Law Reform Act and the passage of The Marriage Act, the Government of Ontario has completed a comprehensive series of family law reforms that are unparalleled in any common law jurisdiction. Future reforms relating to custody, access and guardianship law which the Attorney General plans to introduce in the very near future will complete the family law program and updating of the law to reflect society's needs today.

Problem of Translating Social Values Into Law

Until recently, family law remained fixed in the Victorian Age which regarded women as satellites of their husbands and not as having separate, independent legal personalities. Children were essentially viewed as chattels. Over the years the changing perceptions of society with respect to the role of the family created a broad gap between the law and modern social values. While it became increasingly clear that laws which govern families must change, arriving at a consensus as to just what that change should be was a long and arduous task.

O.L.R.C. Study of Family Law

In 1965, the program of family law reform was begun when the Ontario Law Reform Commission undertook to analyze the existing law and to make recommendations as to what the law should be. In all, six reports were produced by the Commission. They are Torts (1969), Marriage (1970), Children (1973), Family Property Law (1974), Family Courts (1974), and Support Obligations (1975). As the reports were received they were tabled in the Legislature by the Attorney General. Following the tabling of these reports, a most extensive public consultation process was undertaken.

Obtaining the Views of the Public

Because family law touches everyone, unprecedented efforts were made to obtain as much public input as possible. Beginning in April, 1974, a number of widely-advertised public meetings were held throughout the province to provide background on the issues and to discuss with the

public the Commission's recommendations. At the same time, with the co-operation of the Ontario Committee on the Status of Women, a booklet summarizing the main recommendations of the Commission was distributed to the public. A film was produced which illustrated the existing

law and the effect of reform in typical family situations. More than 30 copies of this film were in constant circulation to various interested groups throughout the province over a period of two years and the film was shown on local television in several areas. In addition, a media campaign was conducted in the newspapers and on local radio talk shows.

In October, 1974, the Ontario Council on the Status of Women held a conference at which members of the Ministry of the Attorney General participated for the purpose of assisting women from across the province to study the proposal. Response from members of the public generally, and from women's groups, was substantial.

The Commencement of the Legislative Process

The Family Law Reform Act, 1975

As an initial step, pending preparation of more comprehensive legislation, The Family Law Reform Act, 1975, was passed and proclaimed in force July 10, 1975. That Act declared the principle of equal status and capacity in law for spouses of both sexes and abolished many of the legal disabilities of married women. The Act allowed recognition of the non-financial contributions of one spouse in work, money or money's worth to property held in the name of the other spouse, thus preventing in Ontario decisions such as the Supreme Court of Canada's controversial decision in *Murdoch vs. Murdoch*.

The Family Law Package

Having obtained the best available information and guidance from the public, the Policy Development Division of the Ministry reappraised the whole area of family law and developed a comprehensive package of legislative proposals.

In the fall of 1976, the Attorney General introduced The Marriage Act, which included provision for raising the minimum age for marriage; The Succession Law Reform Act, which updated and replaced The Wills, Devolution of Estates, Survivorship, and Dependents' Relief Acts; and the

proposals embodied in The Family Law Reform Act. With respect to division of family property, these proposals included recognition of the inherent mutual contributions by the spouses in a marital relationship and gave each spouse the right to an equal division of family assets upon marriage breakdown. Similarly, support obligations were based not on factors of conduct but on the core of mutual obligations between spouses and between parents and children. The matrimonial home, as the focal point of shelter for the family, was given special treatment in order to ensure that both spouses would have the right to reside in and to control dealings with respect to the home, irrespective of the manner in which title was taken. Men and women were also given the power to tailor domestic contracts, subject only to general overriding principles of public policy.

At the same time as the family law package was introduced, the Attorney General tabled an informational booklet on the proposed family law reforms. Each member of the Legislature and every lawyer in the province received a copy. As well as distributing more than 50,000 English-language copies to members of the public, the proposals were also available and distributed in the French-language. Later on, in December, 1976, The Children's Law Reform Act, which abolished the status of illegitimacy and gave all children equal rights whether or not they were born within marriage, was introduced.

Again, response from members of the public was most helpful. Further, many comments and suggestions were received from the Family Law, the Real Estate, and the Wills and Trust sub-sections of the Ontario Branch of the Canadian Bar Association, from judges and lawyers practising in the area of family law, from women's groups, and from single fathers' associations.

The family law package was referred to the Legislature's Standing Committee on the Administration of Justice in December, 1976, and many members of the public and representatives of various associations personally presented briefs to the Standing Committee. The bills died when the Session prorogued at the end of 1976.

The Unified Family Court Act

In the meantime, the government had also been considering reforms in the procedures by which family law disputes are resolved by the courts.

Often, because different courts have different areas of jurisdiction in family law matters, spouses must start proceedings in different courts and go through two or more hotly-contested trials before all the issues in their dispute are finally laid to rest. The Unified Family Court Act, S.O. 1976, c. 85, provided a family court that has the necessary range of support services to assist spouses to come to a negotiated settlement of their problems whenever possible. This bill was introduced in December of 1976 and received third reading that same month. Various sections of the Act were proclaimed in force January 17, 1977, with the remainder coming into force July 1, 1977. It created, with the assistance of the federal Minister of Justice, a three-year developmental project in Hamilton which enabled the exercise of all family law jurisdiction in one court. The Ministry of the Attorney General hopes to be able to extend the Unified Family Court across Ontario, based upon the apparent success to date of the concept in operation.

Reintroduction in the Legislature

During the interval between the end of 1976 and the commencement of the Spring Session in March of 1977, the comments and suggestions made with respect to the family law package were analyzed and considered thoroughly. As a result, some amendments to the legislation were made prior to reintroduction. The period of time during which the Legislature was prorogued pending a general election allowed time for further consultation. The family law package was again introduced into the Legislature in the fall of 1977. The Succession Law Reform Act, The Children's Law Reform Act and The Marriage Act were given third reading on November 1, 1977. The Family Law Reform Act was once again referred to the Legislature's Standing Committee on the Administration of Justice for further consideration in January of 1978.

Passage of the Family Law Reform Act

After further public hearings before the Standing Committee on the Administration of Justice, amendments to the proposed Family Law Reform Act once again were made to reflect the interests and concerns that had arisen and, finally, on March 16, 1978, the bill received third reading. Along with The Family Law Reform Act, The Children's Law Reform Act and The Succession

Background Papers

Law Reform Act came into force on March 31, 1978. The Marriage Act was proclaimed August 1, 1978.

Bringing the Law to the People

The process of public involvement did not cease with the passing of The Family Law Reform Act. Members of this Ministry assisted representatives of the Law Society of Upper Canada in planning, writing and delivering a series of one-day programs to lawyers in Toronto, Ottawa, London, Sault Ste. Marie and Thunder Bay. These programs familiarized the practising bar not only with the contents of the Act, but with the regulations and rules of practice which had been developed in conjunction with the final Act and which are so essential in making the Act work on a daily basis. Members of this Ministry also participated in affirmative action seminars and in training programs for the judiciary, court administrators, parental support workers, welfare administrators, public housing officials and agricultural officials.

Equally important have been our efforts to familiarize the general public with the changes which have been made on their behalf. The Ministry of the Attorney General has developed a booklet containing a detailed explanation and the full text of the Act. In addition, a pamphlet highlighting the changes under The Family Law Reform Act, Children's Law Reform Act, Succession Law Reform Act and Marriage Act is being distributed. Both the pamphlet and booklet are entitled Family Law Reform: Your New Rights and are available in English and French.

The availability of these publications has been well-advertised on radio and in the newspapers with the result that hundreds of thousands of copies have been distributed throughout the province. It has become an essential feature of law programs for high schools students and a focal point for discussion at teacher education conferences such as the one on Sex Role Stereotyping held on September 28 and 29, 1978.

Members of the Ministry have willingly participated in assisting various groups to obtain speakers to discuss the new Act and have themselves spoken to various groups on television talk shows and open-line radio programs in both French and English. In addition, they have responded on a daily basis to a deluge of telephone and written inquiries from the public.

A film depicting a couple whose marriage has broken down as discuss their rights and obligations towards each other and their children has been produced. This film and a teaching kit are available for use by high schools, libraries, and groups throughout the province. The foregoing reflects the development in Ontario of a unique and unprecedented process of consultation. It was a "felt need" in view of the major changes proposed to an area of the law which is all-pervasive in its impact on society, and because such a process of consultation is a vital ingredient of sensible and effective law-making. A key ingredient of this process was an unparalleled effort to "bring the law to the people" — to seek to inform citizens in order that they might be more aware of their rights and obligations under the law.

The debate on these vital issues in Ontario did not pass unnoticed elsewhere in Canada. It had both a crucible effect in refining arguments, positions, and concepts, and a demonstrative effect. The "family assets" concept, which provides that property normally used and enjoyed by the family while living together should be shared equally in the event the marriage breaks down, and the discretion given to the courts to order the sharing of other property in recognition of an indirect contribution due to homemaking, are features of the new family law reforms adopted in British Columbia and Prince Edward Island. The comprehensive Family Relations Act of British Columbia, Bill 22, was introduced on June 20, 1978, and was given second and third reading eight days later on June 28. Passage was swift, the way having been cleared by the debate which had occurred in Ontario and elsewhere in Canada.

Appendix

Acts Administered by the Ministry of the Attorney General

- Abscinding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Anti-Inflation Agreement Act, 1976
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972
Assignments and Preferences Act
- Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act
- Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Law Reform Act, 1977
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing And Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act
- Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act
- Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act
- Factors Act
Family Law Reform Act, 1978
Fatal Accidents Act
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act
- Gaming Act
General Sessions Act
- Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act
- Infants Act
Innkeepers Act
Interpretation Act
- Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act
- Landlord and Tenant Act
Law Society Act
Legal Aid Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act
- Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act
(formerly Department of Justice Act)
Minors Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972
- Negligence Act
Notaries Act
- Ontario Law Reform Commission Act
Ontario Municipal Board Act
- Partition Act
Partnership Act
Pawnbrokers Act

Appendix

Perpetuities Act
Petty Trespass Act
Powers of Attorney Act
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Courts Act
Public Accountancy Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance Orders
Act

Regulations Act
Religious Institutions Act
Replevin Act

Sale of Goods Act
Settled Estates Act
Sheriffs Act
Short Forms of Conveyances Act
Short Forms of Leases Act
Short Forms of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutory Powers Procedure Act, 1971
Succession Law Reform Act, 1977
Summary Convictions Act
Surrogate Courts Act

Ticket Speculation Act
Time Act
Trustee Act

Unconscionable Transactions Relief Act
Unified Family Court Act, 1976
University Expropriation Powers Act

Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
Warehouse Receipts Act

END