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## **SECOND ANNUAL REPORT**

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**THE LAW REFORM COMMISSION OF NOVA SCOTIA  
FISCAL YEAR APRIL 1, 1992- MARCH 31, 1993**

The Law Reform Commission of Nova Scotia was established by the Government of Nova Scotia under the *Law Reform Commission Act*, in February 1991.

The Commissioners are:

William Charles, Q.C., President  
Ronald Culley, Q.C.  
Mr. Justice John Davison  
Beverley Johnson, M.S.W.  
Dawna Ring, LL.B.

The Staff are:

Dr. Moira McConnell, Executive Director  
Anne Jackman, LL.B., Legal Research Officer  
Nancy Johnston, Administrative Assistant and provides text processing  
Marian Gillis, Financial/Library resources assistant (part-time).

The Commission offices are located at:

8th Floor, Garrison Place,  
1526 Dresden Row,  
Halifax, Nova Scotia,  
B3J 2K2

The telephone number is:  
(902) 423-2633

The telefax number is:  
(902) 423-0222.

The work of the Law Reform Commission of Nova Scotia is supported by the Department of Justice of Nova Scotia and by the Law Foundation of Nova Scotia.

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## A. OVERVIEW

Over the last few decades, there have been several advisory law reform agencies created by governments in Nova Scotia that did not, for a variety of reasons, stay in existence. There had been no law reform agency in Nova Scotia for over a decade when the current Commission was established. The Law Reform Commission of Nova Scotia was created by the government of Nova Scotia by an Order in Council which brought into force An Act to Establish an Independent Law Reform Commission, S.N.S. 1990 c. 17 (known as the *Law Reform Commission Act*)<sup>1</sup>. This statute delineates the mandate and composition of the Law Reform Commission. According to the *Law Reform Commission Act*, the Commission is an organization made up of between five and seven Commissioners, an Executive Director and legal research staff. The Commission reports to the elected representatives of Nova Scotia through the Minister of Justice for Nova Scotia but is not a government department. It is expressly designated as "independent", a fact which, however ensured, is essential to its effective functioning as an advisor to government communicating the needs of as many Nova Scotians as possible in a non partisan manner.

The Law Reform Commission of Nova Scotia has now been in operation for two years and, although there were some delays owing to the lack of institutional infrastructure when the Commission was appointed, it is now fully functional both in terms of its operational and substantive work. In January 1992, after an extensive search an Executive Director was appointed by the Commission, who for reasons relating to pre-existing professional commitments, was unable to take up the position on a full-time basis until July 1992. Since the Executive Director was appointed in January, an administrative structure had been developed which allows the Commissioners to devote their time to the significant policy law reform matters they were specifically appointed to consider. This is the appropriate division of responsibility under the governing statute of the Commission. The transition from administrative concerns to policy and substantive work has been welcomed by the Commissioners and the effectiveness of the process can be measured by the number of projects currently underway at the Commission. A working process based on delegation to Liaison Committees involving specific project assignments for the Commissioners and staff, project strategy, planning and management design approaches to implementing the law reform areas designated by the Commissioners, have assisted the Commission to carry out the maximum amount of legal research work possible, in light of the extensive professional commitments of the Commissioners. The Commission has actively involved and sought the advice of government personnel, the practising Bar and diverse community and interest groups throughout Nova Scotia. The Commission has also developed a pro-active approach to media and governmental relations. The main concern of the Executive Director has been to design and manage the work of the Commission to ensure that as much as possible is done within the available resources and the time constraints imposed by a concern for consultation and information gathering.

The Executive Director and the Commission have adopted strategies to enable the Commission to carry out the task of law reform, which has three main components.

1. **Research:** This involves the more traditional task of reform of the specifically designated area of law or the legal system. The object

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<sup>1</sup>The Act and the Order in Council appointing the Commissioners are reproduced in Appendix I.

is to determine what the law is On a particular topic in Nova Scotia, how it is working or not working and what legal mechanisms there are in other jurisdictions that might be useful to consider.

2. **Consultation and Communication:** This involves public and governmental education about the nature of law as a method of communication between society and the elected representatives, is one of the more important functions. This means that, aside from the work done on specific areas of law, the Commission is also working to educate (including government) about the idea of law and law reform and what role it and they can have on our society.
3. **Practice:** This involves adopting a progressive and active approach to implementing its mandate. For example, preparing some of publications in other languages, explicitly consulting with diverse groups of people throughout Nova Scotia, and educating and making full use of the media, all work towards this objective.

The philosophy of law reform reflected in these three components determines the kinds of projects which the Commission selects. It also requires that the Commission's success must be evaluated differently. The Law Reform Commission of Nova Scotia is distinctive in Canada because of its express independence, and because the Commission has chosen to carry out projects which are currently relevant to large sectors of the community and may be perceived as "difficult" areas. These are often areas of law which require a great deal of consultation and balancing of interests and as a consequence, they do not immediately or easily result in legislation. Historically, the successfulness of law reform commissions has been measured by the correlation between recommendations and legislation that is passed. However, the Law Reform Commission of Nova Scotia has already, in its short history, chosen projects which are challenging, and in one case have suggested that in fact no new legislation is required. This reflects the importance the Commissioners have placed on ensuring that their recommendations are directed to creating real reform or change in the legal system rather than simply adding more laws with no effective change occurring. Indeed, if anything, the Commission's view is that where there is no corresponding allocation of resources to properly deliver the promise of the law then, although creating a law may have some educational value, it ultimately constitutes a disservice to the community. In addition, the Commission has focused on a cooperative and consultative approach to its research work. Where possible every effort is made to ensure that the research carried out is made available to other agencies in both the governmental and non-governmental sectors to avoid duplication and to assist where other agencies have a similar interest in a research topic but may not have the resources to do the necessary research. It is the view of the Commission that its practice of creating public discussion and interest in the work of government and the legal system is a significant aspect of the contribution that law reform can make to developing a society which better addresses the needs of all people in the province.

The Commissioners have asked the government of Nova Scotia to consider appointing the remaining two Commissioners under the statute to more fully ensure a perspective from people whose needs differ significantly from the (numerical) majority culture and whose interests have not been especially considered in our society. This fits in with the general transition in Canadian society signalled by the *Charter of Rights*, which explicitly validated the protection of less powerful or hitherto unrecognized people, as something that is of benefit to, and

important in, the progressive development of Canadian society.

The Commission is also interested in developing its relationship with the governmental sector of the community, since its needs and resource decisions must be understood to reflect a perceived public need for reform to better service Nova Scotians.

As evident in the Project Discussion in Part C of this Report, the Commission has now planned its workload until the Autumn of 1993. This is necessary to ensure proper allocation of Commissioner time, allow time for consultation and also for fiscal planning. At present, one concern of the Commissioners, aside from the various projects they are working on, is the question of ensuring financial stability. This has required reflection on the role of an independent commission and the nature of financial partnerships with the government sector on a project by project basis.

In 1992 the Law Reform Commission began and carried substantial portions of seven different projects. These seven projects, which are discussed in detail in Part C to this Report are:

1. *Enforcement of Maintenance Obligations*
2. *Violence in a Domestic Context*
3. *Reform of Administrative Tribunals & Decisionmaking Process*
4. *The Jury in Nova Scotia*
5. *The Status of the Child*
6. *Advancing Human Rights*
7. *Adult Guardianship*

## **B. THE LAW REFORM COMMISSION**

### **1. The Purpose of the Law Reform Commission**

Under s. 4 of the *Law Reform Commission Act* the purpose of the Commission is to review the law and legal system in the Province and any matter relating to law in the Province and to make recommendations for the improvement, modernization and reform including recommendations for:

- (a) development of new approaches to, and new concepts to, law that serve the changing needs of society and of individual members of society;
- (b) clarification and simplification of the law;
- (c) removal of provisions of the law that are outdated;
- (d) improvement of the administration of justice;
- (e) review of judicial and quasi-judicial procedures.

The Commissioners, along with the Executive Director and the Legal Research Officer, have the responsibility of carrying out the work of law reform in Nova Scotia. Although the Commission reports to and is partly funded by the Department of Justice of Nova Scotia (formerly the Attorney General's Department), it has been organized to operate independently of government. Three important features of the Law Reform Commission are (a) the express inclusion of a non-legal Commissioner on the Commission, (b) the legislatively guaranteed independence of the Commission from the government that creates and in part finances its operation and (c) the ability of the Commission to review the administration of justice and not merely the statutes and regulations of the province. These three features are central to the mandate of ensuring greater public access to and participation in shaping the legal life of the community. The participation of a Commissioner who is not a lawyer and is also a member of two traditionally under-represented sectors of Nova Scotia society provides the Commission with an additional perspective on the role and impact of law on all citizens of Nova Scotia. The independence of the Commission is seen by the government and the public as essential to its ability to provide a forum for open and frank appraisal of the needs and difficulties of people who may come into contact with the legal system in Nova Scotia. Although not stated in the statute, in order to further ensure this independence, the Commission receives one-half of its operating finances from the Law Foundation of Nova Scotia.

One of the most important aspects of the work of the Commission is to discuss any possible changes in the law or administration of justice with people in Nova Scotia who will or might be affected by the law that is being reviewed. This is part of the way in which the Commission can find out whether the laws that now exist in Nova Scotia are truly serving the public or whether new or changed laws are needed. It is through a process of discussion and study that recommendations for reform which will better serve the needs of Nova Scotia can be made. The Commission actively consults as widely as possible with the public and groups with a special concern and interest in specific reform projects. This means that one of the central concerns of the Commission will be to ensure that it is fully communicating with people who are or might be affected by changes. The Commission makes extensive use of the newspapers, radio and television to inform people about its research so that there is an opportunity for response.

## **2. The People**

### ***a. The Law Reform Commissioners***

Under the statute, the Commissioners may be part-time or full-time and are to be drawn from the following sectors to ensure expertise and representation. The names of the relevant people are included:

1. Two members of the Bar Society, appointed by the Bar Council of the province (Dawna Ring, Ron Culley, Q.C.).
2. A Judge appointed after consultation with the Chief Justice appointed by the Governor in Council (Mr. Justice Davison).
3. One full-time member of the Faculty of Law at Dalhousie on the advice of the Dean (Bill Charles, Q.C. He is also President by consensus).
4. A person who is not a graduate in law (Beverley Johnson, MSW, Director for the Transition Year Programme, Dalhousie).
5. Where the Commission has more than five people, the final two people are to be appointed by the Governor-in-Council.

### **Professor William H. Charles, Q.C.**

*President*

Aside from his work with the Law Reform Commission, Professor Charles, B.A., LL.B. (Dal.), LL.M.(Harv.), LL.M.(Mich.), is currently a Professor of Law at Dalhousie Law School and was formerly Dean of Law at Dalhousie. Professor Charles is the President of the Commission. Professor Charles is also a member of the Alberta and N.S. Barristers' Societies and former member of the Uniform Law Conference of Canada.

### **Mr. J. Ronald Culley, Q.C.**

*Commissioner*

In 1972, Mr. Culley began private legal practice in the Province of Ontario. Since 1982, he has practised in the Province of Nova Scotia and is presently with the firm of Patterson Kitz in Halifax, enjoying membership in the Bars of both Provinces. His legal experience includes civil litigation and criminal law at both appellate and trial levels, plus commercial and administrative tribunal advocacy.

### **Justice John M. Davison**

*Commissioner*

Graduating with a B. Comm in 1956 and an LL.B. from Dalhousie in 1959, Justice Davison practised with the firm of McInnes Cooper & Robertson in Halifax for 28 years. In March of 1987, he was appointed to the Supreme Court of Nova Scotia.

**Ms. Beverley Johnson**  
*Commissioner*

In addition to her duties as a part-time Commissioner, Ms. Johnson is Director of the Transition Year Program of Dalhousie University. A graduate of the Maritime School of Social Work, Ms. Johnson has had many years of professional experience in the areas of child welfare, mental health, corrections and community development. She has been and continues to be involved in numerous professional and community based organizations.

**Ms. Dawna Ring**  
*Commissioner*

Graduating from Dalhousie University with a B.A.(Hon.) and an LL.B. (1980), Ms. Ring joined the firm of Flinn, Merrick. In 1984 she opened her own practice in the partnership of Buchan, Derrick & Ring, specializing in administrative law, human rights and employment law. She has been a member of numerous boards including tribunals under the Human Rights Commission and a volunteer with Bryony House.

***b. Law Reform Personnel***

There are three full-time staff people employed by the Commission, the Executive Director, the Legal Research Officer and an Office Administrator. Under the statute, the Executive Director has responsibility for the management, direction, control and administration of the day to day operation of the Commission. In addition, the Executive Director is actively involved in the substantive aspects of each project including designing the research methodology, reviewing the research, editing and/or writing reports, dealing with media, and meeting with public advisors. Both employees are part of the Civil Service of Nova Scotia, under the Department of Justice. Under its statute, the Commission is permitted to hire people on a consulting basis for its work. Since financial resources are not sufficient to take on the responsibility of more than the existing employees, the Law Reform Commission uses the services from time to time of legal researchers on short-term consulting contracts for specific research work on projects. This has ensured that there are a number of perspectives and that work is in fact carried out on every project. It has also enabled the Law Reform Commission to carry out a number of projects concurrently.

**Dr. Moira L. McConnell**  
*Executive Director*

The current (and first) Executive Director started on a contract basis January 1992 as she had teaching responsibilities at Dalhousie until June of 1992. She is appointed until July 1994 when her leave of absence from Dalhousie Law School will expire. She has a degree in English and History from the University of Victoria and an LL.B. from Dalhousie. She received her Ph.D. in Law from the University of Sydney (Aust.) in 1989. She was admitted to the N.S. Barristers' Society in 1990. As an Assistant Professor of Law at Dalhousie University, she has researched, taught and published in the legal areas of international trade, business, environment, reproductive control, constitutional law, international human rights and marine affairs.

**Ms. Anne Jackman**  
*Legal Research Officer*

Ms. Jackman is the Commission's full-time Legal Research Officer. She has a B.SC.(Hon.)

from Memorial University of Newfoundland and an LL.B. from the University of New Brunswick. Prior to her work with the Commission, she practised litigation and specialized in family law at the firm of Patterson Kitz. Ms. Jackman has worked as a volunteer with the mentally-challenged and is also a member of public interest associations and her particular interests are public health law and human rights.

The following people have provided legal consultation to the Commission in the 1992-93 fiscal year: K. Carrigan (Status of the Child, Guardianship); K. Hollett (Administrative Law Reference); Dr. S. Coughlan (Juries Project); D. Ginn (Violence (Spousal Assault)); C. Cogswell; (Violence (Spousal Assault)); R. Mapp (Human Rights); B. Francis (translation); K. Nancarrow, (translation), N. Bernard (translation) and G. Davies (Plain Language).

### **3. Financial Organization**

The Law Reform Commission was established with a budget of \$300,000 in 1991. Although not set out in the statute which merely provides for financial assistance from the Legislature to be drawn from the general revenue of the Province through the Minister of Justice of Nova Scotia, there is an agreement that the Law Foundation of Nova Scotia will pay up to 50% of the Commission's budget (matching the contribution of the Minister of Justice where it has the resources). The Minister of Justice currently contributes \$150,000 to the Law Reform Commission and the Law Foundation, despite its declining resources, has committed itself to matching this amount as need arises in the 1993-94 fiscal year. In the 1992-93 fiscal year the Law Foundation was not called upon to fully match the contribution of the government of Nova Scotia as there were funds carried forward from the first year when the Commission was not fully operable. The budget has not increased since it was formed in 1991. In addition to these amounts, the Executive Director has sought to arrange alternative sources of revenue from federal agencies and through partnerships with specific departments who are interested in the Law Reform research.

In order to carry out the projects the Commission has committed itself to, the original budget of \$300,000 has not proved to be an overestimate. A specific strategy has been developed which as much as possible allocates resources, including Commissioner time, to substantive work on the projects. The Commission incurs very few costs aside from standard operational costs such as rent which are not related to one or more projects. A copy of the externally prepared audited statement is included as Appendix II to this project. It will be noted that the Commission was able to operate at slightly below the \$300,000 budget. This reflects the initial start up phase of the Commission. In the 1993-94 fiscal year the Commission will be publishing and distributing more than double the number of Discussion Papers and Reports. The educational effect of such publications which are specifically targeted at a non legal audience is central to the effectiveness of the Commission. It is the view of the Commission that generating public communication and debate is a significant feature the Commission work. Currently all Discussion Papers and Reports are provided free of charge to any person who calls or writes to the Commission. If another Commissioner is appointed, the costs will also increase. Currently the Commission is unable to undertake more projects until after September 1993 unless the request is a Reference from the Minister of Justice and includes financial assistance. With respect to long term funding strategies, the Executive Director has been applying for external funding for specific projects and has also been working on raising the Commission's profile with the general public and educating all government departments about the potential role in the Commission's work.

It is probable that the Law Foundation of Nova Scotia will not have resources in the 1993-94

fiscal year to fulfill its interest in funding the Commission. In light of this, the Commission has considered at length whether alternative government funding would be available and, if it is available, whether being solely funded by government, would compromise the independence of the Commission. The independence of the Commission is achieved in several ways. Under the *Law Reform Commission Act* the Commission is clearly designated as an "Independent Law Reform Commission". This is reflected in several statutory provisions, notably under the statement of powers (s.8) which enables the Commission to initiate its own projects, publish papers, enter into agreement with organizations, with the agreement of the Minister of Justice and to the extent that the Commission is able to do so without, in its opinion, impairing its ability to carry out its projects. The funding arrangements provide further substance to the independence of the Commission.

The Commissioners considered the issue of independence and concluded that funds could be received from departments other than the Department of Justice even in the absence of external funding, as long as the process of the Commission is respected by a Department wishing work to be done, and as long as the project was seen by the Commission as part of its mandate. The Commission would require that the project be managed and run by the Commission although consultation and cooperation would occur with the relevant Department. It has been indicated to departments, when asked about this possibility, that the matter should come through a Reference from the Minister of Justice, and further, since resources are already quite committed, if the project was pressing, that it would require financial support other than through the Department of Justice.

#### **4. Directions, Process and Activities, 1992-93-94**

##### *a. Directions 1992-93-94*

In the Overview it was pointed out that the Law Reform Commission of Nova Scotia has now been in operation for over two years and is now fully functional both in terms of its operational and substantive work. Since the Executive Director was appointed in January, the administrative process has been structured to allow the Commissioners to devote their time to the significant policy law reform matters they were specifically appointed to consider. A working process involving delegation to Liaison Committees and specific project assignments for the Commissioners and staff, project strategy, planning and management design approaches to implementing the law reform areas designated by the Commissioners, have assisted the Commission to carry out the maximum amount of legal research work possible, in light of the extensive professional commitments of the Commissioners. In general the Commission meets on a monthly basis to make legal/policy decisions on the various projects underway. In addition each Commissioner will meet one or more times a month with an advisory group for a specific project he or she has responsibility for as a liaison Commissioner.

The Commission has asked the government of Nova Scotia to consider appointing the remaining two Commissioners under its statute to more fully ensure a range of perspectives and to assist in meeting the workload of the Commission.

The Commission is also interested in developing its relationship with the governmental sector of the community, since their needs and resource decisions must be understood to reflect a perceived public need for reform to better service Nova Scotians. The Commission has now planned its workload until the Autumn of 1993. This is necessary to ensure proper allocation of Commissioner time, to permit time for consultation and also for fiscal planning. In light of the advice received from the Law Foundation as to the likelihood of decreased resources in the

future, the Law Reform Commission has been in discussion with government and has also considered the implications of less or no external independent funding. This is a matter of pressing concern to the Commission in terms of its long-term commitments to staff, to projects and to the appointment of Commissioners from other communities in Nova Scotia. In the 1993-94 Fiscal Year, the Commission plans to sponsor several Seminars and pilot projects on topics of interest such as plain language drafting of legal documents for use by the public, as

well as travelling to areas outside the Halifax region to obtain public input into topics for new projects.

***b. Activities***

In addition to the consultation and communication work on specific level of projects, the Commission personnel and the Commissioners are actively involved in raising the awareness of law and law reform of Nova Scotia. This has involved meetings with the media, preparation and widespread distribution of a public information brochure about the Commission and its work in the English, French and Mi'kmaq languages. The Executive Director has provided information briefings to deputy ministers and other government personnel from each department to explain the role of the Commission and to discuss all projects. The Executive Director has also met with the various religious leaders in the province to discuss circulation of information about the projects as means of communication of issues and potential reforms through other community agencies. The Executive Director, the Legal Research Officer have been involved in speaking engagements and educational sessions with many different sectors of the community. In the 1993-94 fiscal year there will be several Working Papers prepared and published on topics of interest to various agencies. For example there will be a research paper prepared which will discuss the adoption and guardianship practices of the Mi'kmaq people in Nova Scotia. This will ensure that the research work the Commission carries on is used as a general information resource to the community and government. In addition the Executive Director and Legal Research Officer actively participate in other law and policy related organizations in the province and in Canada to ensure that there is communication of information and sharing of resources regarding work being done in Nova Scotia and elsewhere.

***c. Process***

The general process of the Commission is reflected in the following outline and in the Project Descriptions which follows in Part C. This process is still evolving but so far has adopted the following pattern:

**1. Project Selection:**

The Commission selects a general topic for reform based on public submissions, comments from the Bar, judiciary, media and government.

**2. Project Design:**

Staff prepares some preliminary research into the size and cost of a project to see if it is useful, viable and how it will relate to other work in the community.

**3. Research/Advisory:**

If a project is taken on, a Research Brief will be prepared for a Liaison

Committee (comprised of one or more Commissioners, the researcher and the Executive Director), setting out some possible issues. These are presented to the Commissioners in the form of a Research Brief, with proposed recommendations for reform. Generally these recommendations are developed through specific consultations and advisory meetings between the liaison committee, affected people in the community and in the government.

#### **4. Discussion Paper/Consultation:**

Once the Commissioners have determined their initial position on the various issues, a Draft Discussion Paper is prepared for public distribution. This is reviewed by the Commission as a whole then is circulated to between 500-1000 people. The Commission has a practice of providing a copy of the Discussion Paper to affected departments before it is released publically. The Discussion Paper is specifically designed and written to ensure public communication with non-lawyers. A summary of the Paper is translated to the French and Mi'kmaq languages. There is usually a period of several months to allow for public response. During this time there is media communication to ensure public discussion as well as meeting with interest groups to provide information. For the most part, the Commission has focused on the electronic media for reasons related to 1) cost; 2) accessibility (most people watch or listen to electronic media); 3) many people are illiterate or do not respond to "legal" documents.

#### **5. Final Report/Recommendations:**

The public submissions and comments are reviewed by the Commissioners and a Final Report with recommendations and draft legislation, if it is appropriate, is provided to the Minister of Justice and affected Ministers. It is also publically distributed.

The Commission has actively involved and sought the advice of government personnel, the practising Bar and diverse community and interested groups through Nova Scotia. The Commission has also developed a pro-active approach to media and governmental relations. The main concern of the Executive Director has been to design and manage the work of the Commission to ensure that as much as possible is done within the available resources and the time constraints imposed by a concern for consultation and information gathering.

## **C. LAW REFORM**

### **1. The Law Reform Project**

As described in the Overview to the Report, the Executive Director and the Commission have actively adopted strategies to enable the Commission to carry out the task of law reform which has three main components:

- 1. Research**
- 2. Consultation and Communication**
- 3. Practice**

Increasingly, there is a need to recognize the plurality of "Canada" and the diversity of people, values and requirements this creates. Many of the laws in Canada are based on a British model of political relationships, and on a very limited degree of participation by other than a particular group of people. The laws which supposedly reflect the entire community's values tend not to reflect it's actual constitution. That is, law, much of which in Nova Scotia is derived from 19th century British laws, and does not reflect the participation of women, or ethnic or racial or linguistic communities (other than English and to a lesser extent, French).

Law reform, whatever level of government, must now be based on broad consultation which explicitly discusses and considers the views of people who have not traditionally had any input into the formulation of the law. This is even more critical because the constituents of the lawmaking body in Canada, legislators and judges and senior administrators, are still, for the most part, drawn from the sector of the community which has historically formulated the laws and legal system.

An important role then for any law reform agency is to legitimate and give voice to the validity of pluralism and to provide models for law and legal writing which reflects this approach. This is a challenging mandate particularly in the context of ethnic communities. There is an obligation to actively seek this participation. Affirmative consultation means a number of things. It means recognizing that the Law Reform Commission is not only a public service but is, through its very existence, part of the law reform culture and that the way in which it acts also causes changes. It means translation into other languages, it means recognizing that Nova Scotians live in an electronic world and requires use of radio and television media and it means understanding that legal issues must be explained in a way that enables people to participate in a reasonably informed way. For example, having a non-legal member of the Commission has been very helpful in reminding the lawyers involved with Commission of many of the assumptions held by people trained in the law.

Some of the considerations that come up during the Commission's discussion on law reform projects are drawn from the *Human Rights Act* of Nova Scotia, the *Charter of Rights and Freedoms* as well as the findings and recommendations of the of the Royal Commission on the Donald Marshall Jr. Prosecution. These include:

- \* Are these laws sensitive to visible minority issues?
- \* Are there biases in the law or in the application of this law based upon race?
- \* If the laws are criminal or quasi-criminal in nature are the recommendations of the Marshall Commission being considered?

- \* Does the law respect the right to freedom of religion?
- \* Is the law biased against non-Christian faiths or "non-believers"?
- \* Do these laws specifically refer to marital status?
- \* Are these laws applied differently to de facto relationships?
- \* Are there gender biases or does the law discriminate on the basis of sex?
- \* Is the language gender neutral?
- \* Are there biases in the present law or its application based upon an individual's sexual orientation?
- \* Does this law apply differently to same-sex relationships?
- \* Are the mentally and physically challenged affected by these laws?
- \* Does this law affect First Nations persons differently?
- \* Does provincial law apply at all in light of the federal *Indian Act*?
- \* How will the law be dealt with in Native courts (e.g., such as the pilot project for the Mi'kmaq-based court for Indian Brook Community).
- \* Are ethnic minorities treated differently by these laws?
- \* Does the law respect an individual's ethnic or national background?
- \* Are language rights affected?
- \* Are the interests of all age groups being considered?
- \* Are there adequate protection for the rights of children?
- \* Does the law respect the rights of the aged?
- \* Are there economic considerations/does this law treat people differently as a "class"?
- \* Are there discriminations against individuals on social assistance or the homeless?
- \* How does this law affect people who are incarcerated or institutionalized?
- \* Does the law infringe upon an individual's freedom of association or freedom of expression?

In addition, the economic impact of the costs of implementing recommendations in an era of scarce resources is a legitimate and appropriate consideration for the Commission. Ultimately the issue for the Commission is identifying whether the problem being considered is one which

can be addressed or at lessened through a change in the law or in the implementation of the law.

## **2. Communication and Consultation**

In order to make an assessment of community needs, the Commission has devoted a great deal of time (and proposes to devote more time in the next year) to actively communicating with people who can provide the perspectives reflected in these questions. As much as possible every effort has been made to seek to include or consult with people who may be able to provide some advice as to how the existing law and proposed reforms might impact on the various communities and interests in Nova Scotia. In addition, the process of public distribution of proposals and effective communication with the media in Nova Scotia have helped to give substance to these goals. The need for ensuring that the initial assumptions about areas for law reform are correct is itself of importance. For example, in a project dealing with reforms to the administrative tribunal system in Nova Scotia, it became clear that before deciding what procedures might be useful it was necessary to develop a clear picture of the existing practices. Much of this information is not available in the legislation but requires extensive consultation and research. The empirical data collected in this manner is also useful to many other agencies in Nova Scotia who may have an interest in the results but are not organized in way which allows such research.

## **3. The Specific Projects**

Over the period 1991 to the 1992-93 fiscal year end the Commission was able to organize and carry out a great deal of work on 7 different projects. The results of the organization and start up work will be apparent in the 1993-94 fiscal year. In 1992-93 one project was completely finished. It is expected that in the 1993-94 fiscal year at least 4 more projects will be completed and Discussion Papers will have been issued in the remaining two projects. It is expected that in August 1993 the Commission will begin to consider new projects that it may take on. The areas chosen will be the result of public consultation as well as considering any projects that may be referred to it by the Government of Nova Scotia. The seven projects are:

1. Enforcement of Maintenance Obligations
2. Violence in a Domestic Context
3. Reform of Administrative Tribunals and Decisionmaking Processes
4. The Jury in Nova Scotia
5. Human Rights
6. Status of the Child
7. Adult Guardianship

The rest of this Annual Report contains a detailed discussion of each project. Copies of the Summaries of recommendations/ suggestions published to date are found in Appendix III.

## **COMPLETED WORK:**

**1. PROJECT: ENFORCEMENT OF MAINTENANCE OBLIGATIONS**

**PERSONNEL:** W. Charles, B. Johnson, Mr. Justice Davison, A. Jackman, M. McConnell

**CURRENT STATUS:** Start date - July 1991  
Discussion Paper July 1992  
Public consultation July- September 15th, 1992

**PROJECTED STATUS:** Completed: Final Report Issued December 16, 1992

**PROJECT COMMENTARY:** Approximately, 800 copies of the Discussion Paper and 500 copies of the Final Report were distributed and 26 written responses were received as well as extensive media commentary. The public communication strategy focused largely on electronic media coverage and news releases rather than newspaper advertising. This was part of a response to concerns about cost and about the high illiteracy rate in the Province. The Commission focused especially on media outside the metro area, a direction that was well received. Several days before the Paper was publically distributed and press releases sent, copies were sent to the funding sponsors, and to the relevant Minister (Community Services) to enable them to respond to press questions on release of the publication. Again, this strategy was well received and was reflected in the response of government to press inquiry.

The Commission chose to draft legislation to go along with this Report and much of the Final Report is devoted to annotation of this draft Act as well as textual discussion of recommendations as in the Discussion Paper.

In terms of substance, the recommendations set out in the draft Act and Report were based on a philosophical position which saw the failure of some people to fulfil their financial responsibilities to their families as a social wrong which could legitimately make a claim on the legal system to enforce. This view essentially answers the question of dealing with the interplay between custody, access and maintenance. The Commission's stance has been that, although the issues are emotionally linked for many people, its objective was to try to dis-entangle these problems to enable people to respond more usefully. That is, if an individual is unhappy with a custody decision it should be dealt with by a Court reviewing that decision and not by the person expressing his or her anger by withholding support from children or by forcing the family and society to incur further costs. Further, it was believed, based on experiences elsewhere, that an efficient maintenance enforcement system would provide a savings to other social assistance programs.

In many ways this fits in with the issue of violence in the family, that is, finding ways to channel anger so that innocent people are not victims of anger that is misplaced. The response to the recommendations, which mainly focused on institutional adjustments to the legal system, has been for the most part positive from both public and government. The Final Report and draft legislation was released December 16, 1992 and the Minister of Community Services has indicated that the recommendations will be substantially adopted.

## ONGOING PROJECTS:

1.     **PROJECT:**            **VIOLENCE IN A DOMESTIC CONTEXT**
- PERSONNEL:**        D. Ring, D. Ginn, C. Cogswell, M. McConnell
- CURRENT**  
**STATUS:**                Start Date- December 1991  
                              Discussion Paper distributed on March 29,1993
- PROJECTED**  
**STATUS:**                Media/Consultation- March to June 1993  
                              Commission to meet and review June 1993  
                              Final Report July 1993

**PROJECT COMMENTARY:** The Law Reform Commission's Discussion Paper entitled *Violence, In a Domestic Context* deals specifically with the legal response to spousal assaults. The Discussion Paper, based on province-wide consultation, identifies fundamental failures in the way in which the legal system in Nova Scotia has responded to violence in a domestic context, most of which is experienced by women. The Commission's Discussion Paper sets out suggestions it is considering as to how the legal system can be made more effective for women who have been assaulted by their spouses.

The approach of the Commission to law reform for spousal assault is based on four fundamental principles: first, the most important priority of the legal system at all times should be the protection of assaulted women and their children; second, assaulted women should be treated with sensitivity and respect and provided with support services while going through the legal system; third, the legal response to spousal violence should take into account the various ethnic, racial and linguistic groups that exist in Nova Scotia; and fourth, assaulted women should not have to leave their homes or take legal action, other than asking for assistance, to receive this protection.

The Commission's research and consultation has led it to conclude that the main problems arise in the delivery of legal services, rather than any gap in the law. The Discussion Paper takes the view that spousal assault is violent behaviour which should always be treated as a criminal act and that the government has an obligation to ensure that the existing criminal law is fully and effectively enforced to protect women who have suffered from spousal assault.

The Commissioners felt that rather than create a non-criminal law, it would be more useful to focus on making the existing criminal law which can deal potentially with every form of spousal assault, more effective. The real problems are in enforcement, insufficient resources and education. The Discussion Paper does, however, encourage the Minister of Justice to work to ensure changes are made to the federal criminal law to make it more responsive to spousal assault, for example, by including provisions similar to the "stalking laws" in the USA. In addition to recommending more effective enforcement of the law, the Discussion Paper suggests that, rather than passing a new law, several provisions in existing provincial laws dealing with property and custody should be altered to support the right of the woman to remain in her home and to ensure that spousal assault is a consideration in custody and access decisions. It also seeks public comment and advice as to whether health care workers should be required to report spousal assaults, how child protection workers should balance the interests of children and the assaulted mother, and whether a special criminal court should be created.

This Discussion Paper from the Law Reform Commission of Nova Scotia, coincided with the release of a Discussion Paper on Domestic Violence prepared by a senior solicitor in the Department of Justice which proposes a model for a new non-criminal provincial law. This proposed law provides for various kinds of protective orders from the Supreme Court which can be applied for by people who have suffered from domestic violence.

The Law Reform Commission and the Department of Justice co-operatively issued the press releases on these Discussion Papers expressing the view that it was in the public interest to have available these two different approaches to changing the legal system to make it more effective as it would provide people with an opportunity to fully explore and compare different options. Since the Law Reform Commission is an independent Commission, its advice to government will continue to be based on its views and on the public responses it receives to its suggestions.

**2. PROJECT: ADMINISTRATIVE LAW**

**PERSONNEL:** W. Charles, R. Culley, K. Hollett, M. McConnell

**CURRENT STATUS:** Start date: Reference in 1991  
Decision to proceed July 1992  
Survey and Premier's Letter distributed, April 12, 1993

**PROJECTED STATUS:** Surveys due May 1993  
Proposed completion of Phase I research is September 1993.  
Publish as a Working Paper September 1993  
Prepare a Discussion Paper for early 1994

**PROJECT COMMENTARY:** In 1992 the Law Reform Commission of Nova Scotia started work on a project which was formally referred to it by the then Attorney General of Nova Scotia (now Minister of Justice) in July 1991. The Minister of Justice requested that the Law Reform Commission to review the practice and procedures of administrative tribunals in Nova Scotia and to consider whether there should be a law which:

- standardizes procedures for administrative tribunals;
- guarantees the people appearing before these tribunals basic procedural rights;
- simplifies administrative law regarding appeals; and
- ensures independence when these tribunals are required to make decisions which affects the rights and entitlements of people coming under their control.

As noted publically by the Minister of Justice this Reference is part of an overall move by the government of Nova Scotia to reform the law and legal system to ensure that it is more representative and responsive to the needs of all people in Nova Scotia. The law reform project will facilitate the work of the government as a whole as these commissions and board usually report, or are under the supervision of, the various departments..

The terms of the Reference from the Attorney General came out of the 1991 *Court Structure Task Force Report*, which has resulted in the recent reforms to the court system in Nova Scotia.

The Reference is also part of the strategy initiated through the Premier and the Clerk of the Executive Council to affirmatively encourage the participation of more people in Nova Scotia in the administration of the public affairs of Nova Scotia.

This project is one of the most relevant to all Nova Scotians that the Law Reform Commission has carried out. Most people have very few encounters with the justice system. Almost everyone is affected by the administrative system in some part of their lives whether it is the Workers' Compensation Board, Human Rights tribunals, the Labour Relations Board, employee and professional qualifications associations, marketing boards, hospital boards, rent review commission and boards making decisions on social benefits to name a few boards and commissions which may be affected. There are between three and four hundred of these agencies, most of which are appointed by the government and operate under the authority of a statute or law. In many cases, the people serving on them receive an honorarium or a fee for their service but the work is generally regarded as voluntary public service. Despite the importance of these bodies, there is relatively little known about them, and practices vary from body to body.

The Law Reform Commission sent out a survey in April 1993 to over 400 agencies under cover of a letter from the Premier encouraging cooperation with the Law Reform Commission's project. Once this data is compiled it will be reviewed to see which agencies would benefit from uniform procedures. The results of this initial data collection will be made available to the government to use in evaluating its approach to use of the tribunals and to the administrative appointment process. In addition, the Commission is assisting the Clerk of the Executive Council to develop criteria and an institutional structure for appointments.

- 3. PROJECT: JURIES ACT**
- PERSONNEL:** Justice J. Davison, S. Coughlan, M. McConnell
- CURRENT STATUS:** Start date - July 1992  
Discussion Paper published May 1993
- PROJECTED STATUS:** Public Consultation May/July 1993  
Final Report and any Draft legislation September 1993

**PROJECT COMMENTARY:** In July 1992 the Law Reform Commission decided to examine the jury system in Nova Scotia to see what reforms it could recommend. The project was one recommended by the judiciary of Nova Scotia and others who were concerned that the selection process and compensation might have the inadvertent effect of narrowing the range of jury members to particular groups, a result which was a matter of concern. Reform of the jury system is a topic which is currently under extensive review in other jurisdictions such as Ontario and federally. The Commission has been given a great deal of information by the Ministry of Attorney General in Ontario regarding the resource intensive project on the Jury they have just carried out. The Ontario project reviewed the operation of the jury system and is currently looking issues such as peer representation. A number of people for the resource groups were involved in some preliminary consultation in late November and again in January to assist in preparation of the Discussion Paper. A Discussion Paper was released in early May 1993 and a Final Report is expected by August 1993. One of the central policy concerns was how best to ensure juries were more broadly representative of the Nova Scotia public. The Commission has taken the view that more inclusive source lists for jury service to ensure a more

representative and random selection, computerization, as well as fewer exemptions will assist in achieving this objective.

- 4. PROJECT: HUMAN RIGHTS**
- PERSONNEL:** B. Johnson, A. Jackman, M. McConnell
- CURRENT STATUS:** Start Date July 1992  
Round table with advisory group February 5 1993
- PROJECTED STATUS:** Empirical data and a Report on:  
racism as a case study to be racism  
published summer 1993  
Discussion Paper October/ November 1993  
Final Report February 1994

**PROJECT COMMENTARY:** Although there has been some advancement of human rights in the Province it was believed that the overall situation with respect to achieving equality was not progressing as quickly as it could. While recognizing that law alone could not create these changes the Commission decided that it would focus on examining ways of making the existing laws and institutions more effective. A recent review of the Human Rights Code Ontario has presented a useful paradigm for this project in that it too focused on making a system more effective in creating equality. The Commission has sought the cooperation of the Executive Director of the Human Rights Commission and a meeting was held to discuss reform strategies. A Round Table with people involved in human rights law from various perspectives took place in February. The Commission also submitted an application to the Federal Department of Justice for a grant to expand on the Marshall Commission study of the situation of Black Nova Scotians (the Marshall Commission was focused mainly on the criminal system (Vol 4 of the Report). In March 1993 the federal Department of Justice agreed to provide some funds for a specific study, *An Evaluation of Equality in Nova Scotia: Racism and the Black Community as a Case Study*. It is proposed that this study which will refer also the conclusion of earlier reports in Nova Scotia and will provide the empirical data for determining where law reform might be most effective. The study will involve fairly broad research in all sectors, e.g., media, institutional, educational, human rights, private sector, etc., to determine what changes have been made and what approaches seem to be effective. The Report will be oriented to identifying where, if at all, progress has been made and why. This will also include issues such as the effectiveness of individualized monetary settlements as an incentive under the human rights legislation and other legal incentives. This study will be published as an educational working paper by the Commission in the late summer or Autumn 1993.

- 5. PROJECT: STATUS OF THE CHILD**
- PERSONNEL:** R. Culley, K. Carrigan, M. McConnell
- CURRENT STATUS:** Start Date July 1992

**PROJECTED  
STATUS:**

Commission to review Discussion Paper April 1993  
Discussion Paper released end of May 1993  
Public Consultation June-August 1993  
Final Report and draft legislation released at the end of August  
1993

**PROJECT COMMENTARY:** Work had been carried out on this topic in 1989 by Counsel to the Department of Community Services, to see if the Uniform Law Conference *Status of the Child Act* could be adopted in Nova Scotia. Ultimately, nothing specific was implemented at that time and the Department of Justice has cooperated by providing the Commission with this earlier research. This project deals with the fact that the laws of Nova Scotia discriminate for some matters between children on the basis of the marital status of the child's biological parents. It was chosen as project by the Commission in 1992. The reason for this choice included the following considerations:

1. This law reform project was in keeping with the changing values and needs of society, especially with the increasing number of single parent, common law and same sex couples choosing to have children, as well as the increased availability of assisted conception technology.
2. This distinction is contrary to the *Charter of Rights*, Canada's Obligations under the United Nations *Convention on the Rights of the Child*, and probably if challenged, the *Human Rights Act*. This issue had already been identified by the Supreme Court in Nova Scotia.
3. Other jurisdictions in Canada had changed their laws or were in the process of changing them to adopt legislation compatible with reforms suggested in the Uniform Law Conference of Canada's Draft, Uniform Child Status Act.
4. Nova Scotia legislation is internally diverse in its treatment of the question. This makes it difficult for people to determine their obligations and rights.

The central question posed by this project is whether a distinction between children based the marital status of their parents should be maintained in the laws of Nova Scotia. The project requires a discussion and ultimately a policy determination of what rights and obligations should flow between people on the basis of a genetic or biological connection. Traditionally marriage and the term "parent" have been used to encapsulate social understanding of the nature of the rights and obligations that exist between people. Where these labels are not necessarily present but there is a biological connection between people then the question arises as to what, if any, rights and obligations should exist between these people. This situation is exacerbated in the context of assisted conception. To ensure a more consistent approach to the subject a law setting out a series of presumptions or tests for paternity would result in establishing the various rights and obligations which normally flow between the parent and child through the institution of marriage. A separate Act, perhaps along the lines of the Act proposed by the Uniform Law Conference, *Uniform Status of the Child Act*, would seem to be a feasible solution which would ensure equal treatment.

There are, however, some significant practical issues relating to adoption and inheritance which are being considered in discussion with an advisory group. In addition there are various other issues which are not easily resolved. For example, common law relationships are increasingly recognized for most purposes in Canadian Society, e.g., division of assets, and in some cases, tax/pension/medical benefits. However, this is still not the case of all areas. What is the effect of recognizing children of common law parents as having a wider range of rights parents may not have between themselves? Similarly, same sex couples may also seek to adopt or have a child through assisted conception. These relationships still suffer from legal disabilities in society. What are the legal implications of according rights/obligations to children of this relationship where the partners in the relationship may not have these rights between themselves. It is consistent with the *Human Rights Act* that this be the case, since discrimination on the basis of sexual orientation is not permissible. There is also debate about the validity of reproductive technologies. To draft legislation which regulates rights in light of assisted conception implicitly accords the technology some validity. The report of the National Task Force on Reproductive Technology will not be issued until June 1993, however, the Uniform Act does cover this topic as does USA legislation and, in fact, the technology is used by many people. The comparable Draft Act in the U.S. also makes provision for the status of children born of surrogate parenting technologies. Finally, there may be some legal issues may arise under the *Indian Act*, despite amendments to the Act in 1985, which included an expansion to the definition of "child". The Act now includes children "born in or out of wedlock", legally adopted children, and children adopted pursuant to aboriginal customs. Previously, the definition extended only to include a legally adopted Indian child. Determinations of Indian status through inclusion on the federal Indian Register are, however, still subject to considerations of the status of legitimacy of children born prior to the amendments. In addition the determination of status and to the recognition accorded a full status Indian turns upon an established genetic connection, although often children are "parented" by other people through a practice of adoption by other members of the community. There is little information about this practice but as part of the research work on this project the Commission will prepare a study of these practices in Nova Scotia which can be used by other agencies.

**7. PROJECT: ADULT GUARDIANSHIP**

**PERSONNEL:** Justice J. Davison, A. Jackman, M. McConnell

**CURRENT STATUS:** Start date July 1992  
Advisory group meetings January, February, April and May 1993.

**PROJECTED STATUS:** Commission Review of Issues - June 1993  
Release of Discussion paper July 1993  
Final Report October 1993

**PROJECT COMMENTARY:** This project is examining the law as it relates to adult guardianship and, in particular, the *Incompetent Persons Act* of Nova Scotia. Consideration is being given to the approach to the issue taken by Alberta and Saskatchewan's *Dependent Adult Act* as well as the new legislative package in Ontario (still in Bill form) which include the *Substitute Decisions Act*, the *Advocacy Act* and the *Consent to Treatment Act*. The Department of Justice was also interested in this project and was about to commence research in this area, but has decided to await the Commission's Discussion Paper (now scheduled for July 1993). An

advisory group has been developed representing a diversity of interests.

The project is focusing on a number of practical issues surrounding the problem of providing effective assistance to vulnerable adults in Nova Scotia. Currently, there is a gap in services available to vulnerable adults due to the lack of publically sponsored personal guardianship. Is there a need for a government service such as Alberta's Office of the Public Guardian to provide advice and information on guardianship to the general public and to professionals such as physicians and lawyers? The office in Alberta also has a role of "watchdog" similar to the one which the Public Trustee's office has with respect to estate guardianship. In Nova Scotia, however, there is no "watchdog" for either estate or personal guardianship. This is of particular significance for personal guardianship issues since decisions which are made related to the personal affairs of an individual may be more significant to the person than the estate decisions which are made. These decisions should be reviewed and monitored either by existing, but expanded, services such as the Public Trustee's Office or by a new service.

An additional matter relates to consent to treatment which is a personal guardianship issue. The decision as to whether a person is competent to consent to medical treatment is left to the individual physician who is recommending the treatment. If a physician has doubts about a person's ability to consent, he or she will usually seek the consent of the next of kin of the individual. An exception to this is what is referred to as the "emergency exception" where a doctor is unable to obtain a competent consent or a competent refusal but the medical situation is so grave that a delay in treatment is likely to result either in death or in serious and permanent physical impairment. There is in Canada a serious limitation, however, on the right of a substituted decision maker to consent to medical treatment. In *Re Eve* the Supreme Court of Canada concluded that a legally appointed substitute decision maker could not consent to non-therapeutic sterilization on behalf of a person. As a result, however, it appears that if a person is subject to a guardianship order and wants a non-therapeutic sterilization that she or he does not have the right to such treatment. If a person in a hospital is found to be incapable of consenting to treatment then that person may be treated either upon obtaining the consent of the guardian of that person, if he or she has one, or if he or she does not have a guardian upon obtaining the consent of his spouse or next of kin and where the spouse or next of kin is not available or consent is unable to be obtained upon obtaining the consent of the Public Trustee. Section 60(2) of the *Hospitals Act* also gives the Public Trustee the authority to consent to psychosurgery when there is no-one else available to consent and the person is deemed incapable of providing consent.

A policy directive issued by the Alberta Public Guardian's Office states that guardianship should be a last resort and that the "substantial benefit" test should consider the following issues. These are useful to list to give an indication of the scope of the questions to be examined in this project.

- \* What are the conditions, circumstances and needs of the individual?
- \* Is there a need for any extraordinary measures in treating or providing service to the individual, ie. confinement, use of restrictive procedure, major medical interventions?
- \* Is the individual at risk or in danger of exploitation or victimization either by others or through his or her own action?
- \* Are the person's known values and beliefs being adequately represented? By whom? Does he or she object to this representation, the care or treatment received, or the manner by which his or her views are represented?
- \* Are there family members or friends who are assisting or could assist the individual? Could they do so without legal guardianship?

- \* Are there any conflicts between the individual, the care-givers or service-providers and the family? Are there any conflicts of interest?
- \* Are services being denied or are they difficult to obtain without the authority of guardianship?
- \* Is a legal authority required? In what areas? What would be accomplished? Is there any other legal authority available besides guardianship ? Are the individual's basic rights in jeopardy?
- \* Is guardianship the most appropriate means by which the individual's needs can be met?
- \* What terminology should be used to describe the individual deemed to be in need of guardianship services as well as the state which has lead to this conclusion?

In addition, the Commissioners and the advisory group are considering questions such as:

- \* Should the legislation contain a positive presumption of capacity?
- \* What standard of proof should be required by the legislation?
- \* Should a finding of "incapacity" be automatically reviewable?
- \* Should a proposed guardian (or substitute decision maker) provide to the court a plan of their ideas for providing support and assistance to the individual in need? Should the legislation provide suitability criteria for the judge to evaluate the appropriate person?
- \* Should the assessment of the persons needs and capacity be made before the court application for appointment of a guardian (or substitute decision maker) or after the court orders the assessment?
- \* Should there be a test as to whether a person needs an assessment?
- \* What if the person refuses to be tested?
- \* Should a person subject to a "guardianship" application be entitled to a lawyer? Who pays for the lawyer?
- \* Should the statute say the person is presumed competent to instruct counsel? How does a person appeal an order?
- \* Who should be served with notice of an application for guardianship?
- \* Who are the next of kin?
- \* What type of service should be required under the legislation?
- \* What type of bonding should be required for an estate guardian?
- \* Should the Public Trustee be responsible for monitoring private estate guardians?
- \* Should an office of Public Guardian be created to offer guardianship services to people who require personal guardianship but there is no suitable person available?
- \* Should the Public Trustee receive notice of all applications for the appointment of guardians in the province? Is it appropriate for the Public Trustee to consent to treatment?
- \* Should the Elections Act be amended to remove the voting exclusion for people who are mentally incompetent?
- \* Should trust companies be considered "persons" who could be guardians of the person as well as the estate of an individual?

Through discussions with the advisory group it has become clear that further research on the use of advanced health care directives other than those currently available under the *Medical Consent Act* may be needed (ie. "living wills"). The Commission is considering developing a pilot project in cooperation with the Public Legal Education, the Provincial Health Council, and the practising Bar to develop plain language (consumer friendly) forms for the Power of Attorney and also for living wills, should they become recognized in Nova Scotia.

It is expected that a Discussion Paper on the first phase, Adult Guardianship, will be released in July 1993 and a Final Report in October 1993.