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Late news

The National Film Board of Canada won Oscars for two short films — *Sand Castle* and *I'll Find a Way* — at the Hollywood Academy Awards on April 3. Details in a subsequent issue.

Legislative reforms proposed for the criminal justice system

The criminal justice system of Canada is creaking ominously, according to the Law Reform Commission's ninth report to Parliament, which was tabled last month.

The report recommends, in its draft of a proposed statute, legislative reforms which would save time, expense and public convenience for those caught up in the criminal process — whether they be the judge, the accused, witnesses, jurors, counsel, administrative staff or police officers.

The Commission, relating information gathered at a broadly representative conference on pre-trial procedure last spring, points to current backlogs in court hearings; witnesses summoned and then kept waiting or not being heard at all; jurors having to wait through proceedings in which they have no part; and, re-election of mode of trial at a point causing upset, delay and expense, as ample evidence of the need for immediate legislative reform.

Pilot projects have already proved, the Commission argues, that if such changes were legislated they would improve the fairness and efficiency of the entire criminal justice system and lend it added credibility in the public eye. "The discovery project in Montreal avoided the appearance of 35,000 witnesses in 1976, witnesses who would have been otherwise summoned needlessly...the disclosure court in Edmonton during a six-week period in early 1977, demonstrated that over 50 per cent of the witnesses who would have been required for preliminary inquiries did not have to be called...the Pro-Forma Court system in Ottawa, between June 29 and November 30, 1976 obviated the necessity of subpoenaing 2,141 witnesses," the report cites.

Pre-trial changes

Among the major recommendations in this, the first part of a larger treatment of criminal procedure, is one that would give the pre-trial hearing judge the same powers as the trial judge in taking pleas; ruling on fitness of the accused to stand trial; ruling

on the admissibility of evidence, including the holding of a *voir dire* to determine the admissibility of a confession; and, ruling on the jurisdiction of the trial court. This reform would mean that pre-trial rulings could not be challenged by counsel except at the appeal stage. The recommendation is also designed so that local jurisdictional autonomy could be preserved.

Another recommendation would make it possible for many potential witnesses to sign a declaration which could be used as evidence of usually non-contentious facts during the trial. Such a declaration, with all the information needed for that part of the trial contained in it, would eliminate wasted time in court for the witness and aid the court in completing the trial, the report observes. If the defence demanded the presence of such a witness, however, or if the prosecution did not submit the written declaration, then the witness would have to attend.

Choice of trial

A third recommendation concerns the type of trial an accused can, in most instances, opt for: magistrate, judge alone, or judge and jury. The current Criminal Code provides for re-election under certain circumstances.

"It is frequently suggested by critics of the system that the right of re-election is sometimes exerted as a deliberate delaying tactic; and even where that is not the motive, the re-election may — and often does — cause administrative difficulties and delay." The report suggests that, in most circumstances, the accused will know within seven days whether he or she has elected the preferred form of trial. The report recommends that after that period "re-election should be possible only if the accused can show valid cause and, in addition if the Crown and the court of original election both agree".

The last section of the draft statutory provisions is concerned with limiting the length of time between being charged and

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