

Chapter 6

Thirty Years Later: The 1975 *Access to the Law Study* and the Role of Major Players in Providing Access to the Law

*Surely it is time for the law to be available to those it is meant to govern.*¹

Introduction

Thirty years ago, Professor Friedland conducted a study on access to law in Canada in what was then largely, if not entirely, a print environment for law-related materials. This final chapter will briefly review that study since Friedland's research anticipates many of the issues that have arisen in this thesis – the importance of the right to be able to access law-related information and legal help, the complexities in the legal system that hinder this access, and the nature of law-related publications in Canada. However, a number of the recommendations made by Friedland in his study have not been implemented or realized. I will therefore analyze Friedland's study with the goal of seeing what impact the Internet has had on access to law-related information and looking at his recommendations to see if they can be better adapted in the digital age. In doing so, I propose to take a brief look at the role that can be taken to improve access to the law by the major stakeholders – the government, private publishers, lawyers, universities, and other public interest groups – before proceeding with the final conclusions and recommendations section of this thesis.

¹ Friedland, *supra*, Introduction, note 3 at 9. Because of the multiple citations to the Friedland study in this chapter, all subsequent references to the Friedland study will be made in parentheses in the text.

6.1 The Friedland study

Early in his study, Friedland cites the first annual report in 1972 of the Law Reform Commission of Canada on the importance of law reform because of the impact that laws have on individuals in modern society and the importance of having the general public involved in the process of modernizing the law (p. vii). He also cites the second annual report, where the Law Reform Commission of Canada noted the need for the reform of statutes to make them easier to understand for the average citizen. In part, it were these sentiments that prompted Professor Friedland to survey Canadians on their ability to access the law – to find out “where people turn to for information about the law” (p. viii) – in addition to also looking at the legal advice that people receive and the accuracy of that advice. The stated goal was to “investigate whether any new delivery systems and print sources would improve access to the law” (p. viii). The concern was that “[g]overnments have left the task of explaining the law largely to private enterprise, and in Canada the commercial publishers and the legal profession have done relatively little to assist the lawyer or the layman” (p. 1). Because society is growing increasingly complex, “citizens . . . need to have access to the law in order to plan their affairs – financial and domestic, at home and at work” (p. 1).

Friedland and his assistants began their study facing the following questions: “what do members of the general public do when faced with simple legal problems; and, if they seek information or advice, do they receive accurate information and sound advice?” (p. 5). This first phase of their study involved 100 subjects from Ontario – with 60 from a large city (Toronto), 20 from a mid-sized city (Kitchener) and 20 from a small

city (Lindsay). These subjects were asked the following ten questions that raise law-related issues that the average citizen might face in daily life (pp. 10-11):

1. *Old Age Benefits:* You will be turning 65 years old in a few months and wish to apply for any old age benefits you are entitled to. What would you do?
2. *Leaking Roof:* You live in a rented house and your roof is leaking. What would you do if the landlord refused to fix it?
3. *Pregnancy leave:* For 18 months, a woman has been working in an office which employs 26 other employees, and she becomes pregnant. If you were the woman, what would you do to find out what benefits you would be entitled to?
4. *Door-to-door Salesman:* You agree to buy an encyclopedia for \$150 from a door-to-door salesman to be paid in monthly instalments. The next day you change your mind. What would you do?
5. *Car Repair:* You took your car to a garage to have the started repaired and paid \$200. As it was not done properly you took it to another garage and were charged another \$200. What would you do to get the \$200 back from the first garage?
6. *Deserted Wife:* A man deserts his wife and children, leaving them with no money. If you were the wife, what would you do?
7. *Popular Song:* You have written the words and music for a song that you are sure will be extremely popular. What would you do?
8. *Speeding Ticket:* You receive a speeding ticket on which your licence number is incorrect. What would you do?
9. *Swimming Pool Fence:* Your neighbours built a fence around their pool and it doesn't look high enough to you. What would you do?
10. *Criminal Code:* What would you do if you wanted to know what section 195.1 of the Criminal Code says?

From the responses, the researchers noted that that “frequency of government sources being suggested was similar for all three cities . . . and all levels of government were thought of with approximately equal frequency in each city” (p. 12). They also noted that most respondents sought information from a variety of sources, the least likely of which were lawyers (p. 14):

In general, then, it appears that people faced with simple legal problems frequently seek information or advice from some other person or organization. In seeking such information or advice, they approach a wide variety of sources, particularly government agencies. Lawyers in private practice are not approached with any regularity for help with such problems.

Based on the results of the responses to these ten questions, the researchers then telephoned the various information sources suggested by members of the sample and asked those sources for help with the problems to check the accuracy of the answers that members of the public would receive if those information sources were actually consulted by the public. Unfortunately, the researcher's general conclusion was that "the public does not receive accurate information or sound advice in relation to simple legal problems" where "an average of more than 25 percent of the sources called gave an incorrect answer or made a referral which led to an incorrect answer" (p. 14). The telephone calls to the information sources also revealed a wide range of inconsistent answers given by different information sources to the same question in addition to there being significant delays waiting on the telephone when trying to get answers to the questions (p. 18). On other questions, such as locating a section of the *Criminal Code*, many sources provided an out-of-date version of the section (since the section asked about was recently amended at the time of the study); the amended section was even missed by a police department (p. 19). In addition, "[m]ore than half the calls resulted in referrals, and close to half of all the referrals were unsatisfactory. In both cases just over half the attempted answers were correct, but still, a third of the attempted answers were not even partially correct" (p. 22).

As mentioned above, the conclusions at this stage of the research were that “members of the public often do not receive accurate information or sound advice when they approach intermediaries for assistance with legal problems” (p. 22). The researchers were also slightly surprised that many of their 100 subjects would *not* seek the advice of a lawyer for these sorts of typical legal problems (pp. 1-2):

Most people who now seek legal information or advice do not go to a lawyer in private practice. In fact, many people even when faced with serious legal difficulties are reluctant, or afraid, to approach a lawyer.

Most people attempt to get legal information from such sources as government offices, information centres, legal aid and assistance offices, public libraries, and somewhat surprisingly, the police.

As such, the researchers concluded that “the major sources of information are not meeting the need as effectively as they are potentially able to do” and that they “were surprised at the number of times they gave incomplete, inadequate, or simply wrong answers to questions about the law” (p. 3).

For their next phase of the study, the researchers tested whether members of the public were able to look up the law on their own: “Some citizens with questions like these attempt to look up the law on their own; so also do members of the various information sources approached. Can the citizen or his non-lawyer advisor now look up the law successfully?” (p. 4).

To test this, they asked 35 random visitors to the Ontario Science Centre to volunteer for their study. They put the volunteers in a room with relevant Ontario and federal statutes, provided basic instructions on how to use the material and gave the test

subjects a legal question that could be answered by using the materials on the tables (pp. 25-27):

Each subject entered a room containing two tables. On one table stood the Revised Statutes of Ontario 1970, the Statutes of Ontario, 1971-73, and the Revised Regulations of Ontario 1970; on the other table were the Revised Statutes of Canada 1970, and the Statutes of Canada, 1970-72. The subject was given a brief explanation of the meaning of "statute" and "regulation," a general description of the indexing of the statutes and regulations, and instructions on how to use the materials. Each subject was then given . . . a question . . . and asked to find the answer in the materials on the tables.

The results of this testing suggest that the average person has difficulty in using statutory material in Canada since fewer than 15% of the subject answered the questions correctly (p. 27):

Of the 35 subjects who participated, only five found the correct answer to a question. And of these five, only one used the statute volumes correctly; that is, after finding the answer in the revised statutes, he went on to check the annual volumes for amendments and to look for any regulations that might qualify the answer. In fact, all the subjects who found the correct answer were working on questions that did not involve amendments or regulations.

Since the group of 35 test subjects was highly educated, with 54 percent being college students or graduates and the remainder being high school students or graduates, and since they also received instructions on how to use the material immediately before using it (something not available in most typical settings), the researchers reasonably concluded that "in a sample of the public with average education and having no prior instructions the results of the test would have been dismal" (p. 27). In conducting these tests, it was also noted that most subjects were confused by which level of government had jurisdiction over a particular subject matter and none of the four subjects who answered the question where there was dual jurisdiction (between the federal and provincial government) knew that there could be dual jurisdiction over the subject matter (p. 27).

The study also noted that “subjects tended to stop once they had found what appeared to be a plausible answer” and that they “made no further attempt to check for exceptions or more specific sections or to go on to see if there were any relevant amendments or regulations” (pp. 27-28).

In concluding that “the legal cards are stacked against the non-lawyer,” the study highlights some of the factors that hinder access to the law, consistent with those factors already identified in previous chapters of this thesis (pp. 4-5):

Most people do not even know where to begin. They often do not know whether a particular matter is within federal or provincial jurisdiction or whether it is covered by legislation, by regulation, by municipal by-law, or by case law. Let us assume, however, that a situation is known to be covered by a federal statute. Where does the non-lawyer go to find the statutes? If a set of statutes is found, how does he or she know that there are not amendments to them, or relevant regulations, or cases that qualify the language of the statute, or other statutes that have a bearing on the question? If the relevant section is found, can it be easily understood? And when a matter is covered mainly by case law, the non-lawyer does not have a chance of discovering the law. There are relatively few legal texts produced in Canada to help even the lawyer; many important areas of law are left uncovered. Non-lawyers would obviously have great difficulty in applying a foreign text to Canada.

As part of their study, the researchers then looked at how legal information is disseminated through several major ways, including lawyers in private practice, legal aid assistance, government offices, community information centres, the police, and libraries. They were surprised to learn at the large number of inquiries made to the police every year (on all types of legal questions, not necessarily limited to emergencies): “the Metropolitan Toronto Police Department alone receives from 9 to 10 million calls per year” (p. 49). They then discuss the important role that public libraries played at that time in the provision of law-related information (p. 51):

Libraries are unique among the main sources of information and assistance in that they generally have large collections of reference materials. Many people telephone libraries seeking verbal information just as they might call other information sources. However, because libraries have reference books available for use they are also approached by members of the public who want to look up the law themselves or who are pursuing more academic questions. For example, many students approach libraries to do research into law.

However, as previously noted in Chapter 2 of this thesis, public libraries in smaller urban centres will often have very small or no law-related components to their collections and these smaller centres are not likely to have law libraries that are typically found in major centres that have law schools or large courthouses (p. 55). Law libraries, it is noted, are an excellent source of law-related information but may often be underutilized by the public because of a belief that the law library is not open to the public or is otherwise too intimidating to use (p. 58):

One reason law school libraries, like other university libraries, receive very few public inquiries may be that to the public they seem remote and intimidating. Many people think that these libraries can be used only by the students and faculty of the university. In fact, in most cases, this is not so. Nevertheless, universities are unfamiliar and rather forbidding places to people who have never been to one, and it is not surprising that people outside do not approach them.

Before discussing solutions, the study undertook an examination of existing legal materials and noted that “[a]dequate printed sources of legal information are . . . fundamental to providing access to the law” (p. 63). It was felt that a central problem in accessing the law was the nature of existing legal materials since the “central problem complained of is the existing legal materials. The available tools do not easily provide answers to specific questions” and “[e]ven lawyers in private practice and in legal aid offices have difficulty with them” (p. 63). A major concern was with the difficulty members of the public have in using statutes, which is a problem since statutes “are not only the most commonly used source of law and probably the most available source of

law, they are the most important source of law” since “[t]hey impose many positive obligations on citizens and regulate much of their daily lives” (pp. 63-64). The problem with statutes is “their technical and convoluted language, the inadequate or non-existent indexing, their complex structure, and the difficulty in keeping track of recent amendments” (p. 64). There are several reasons why legislation is so complex (p. 65):

In addition to complex sections resulting from complex concepts, statutes also contain occasional deliberately difficult or confusing sections brought about by political compromise, and sections designed to change judge-made law without adequately explaining what the former common-law rules said. Nor can one overlook the constant time pressure during the drafting process.

On the problem of indexing (and the lack thereof) in Canadian legislation, Friedland cites Professors Packer and Schabas who concluded in relation to the 1970 RSC Index that “the present index does not satisfy the criteria have been generally accepted as the hallmarks of sound indexing practice regardless of its intended users, and it is woefully inadequate to meet the needs of the layman” with there being (in the 1970 Index to the *Revised Statutes of Canada*) no “no entries for terms such as ‘children,’ ‘deportation’ and ‘fingerprints’” (p. 72). The index to the next most recent version of revised federal statutes, the *Revised Statutes of Canada 1985*, is not that much better, although it does now contain the previous three entries that were not in the 1970 Index.

In addition to being critical of the ways in which legislation is too difficult to be understood by the average person, the researchers also noted that the ways in which court decisions are written and published make their comprehension more difficult than they need to be (p. 75):

Case reports are almost impossible for the non-lawyer to deal with. They are hard to find and to interpret and it is often difficult to assess the weight to be given to

a particular case. The problem is difficult to overcome because there will continue to be cases interpreting sections of statutes and legal training will continue to be necessary to interpret the cases. But some improvements can be made.

Likewise, the study noted a number of challenges that lay persons have in using other secondary legal resources, consistent with the observations made in earlier chapters of this thesis (p. 75):

The existing legal textbooks, encyclopedias, and abridgments are also almost impossible to non-lawyers to use. Written for lawyers, they assume the reader has considerable knowledge about law and the legal system as well as full access to a full law library. In addition, they are poorly indexed, particularly for the non-lawyer. Moreover, they are found in very few places where the public can go to find legal information.

Regarding popular handbooks that are aimed at the general public and government pamphlets, the researchers were concerned that these materials were often too superficial and not that useful as a result (p. 76):

One of the major problems with them is that they are not comprehensive either in their treatment of the specific topics they deal with or in their coverage of the whole body of law. Most of the government publications are not designed to give a great deal of specific information; they tend to give a general description of an area and encourage people having specific questions to contact specific government information sources.

Solutions Proposed by Friedland:

Having noted the various challenges that the general public has in accessing the law, either on their own or through non-lawyer intermediaries who also have trouble accessing the law, Friedland proposed a number of solutions to improve access to the law. These solutions were premised on the theory that a legal system should not be designed to require the use of lawyers for all law-related transactions (p. 6):

One obvious method of giving citizens access to the law is through lawyers. But even if it were practical to do so, it is surely wrong in principle to preserve the law in a form that only lawyers can find and interpret. We should not require high priests to keep the law.

Instead, Friedland proposes that access to the law should be improved in a variety of ways, including better forms of self-help (p. 7):

We feel that a variety of measures are necessary to provide better access to the law in Canada. The public, in general, appears to know very little about law and the legal system. Increased education about the law and the legal process, both in schools and in adult education programs, would better enable people to recognize the legal aspects of day-to-day problems and to cope with them more effectively. In addition, the present systems of delivering legal information and advice could be improved by establishing more organized procedures for dealing with questions from the public and for training the staffs of various information sources in the handling of information in general and legal information in particular. Further, the expansion of legal aid into large scale clinical operation should be seriously considered.

Friedland proposed four broad areas (p. 80) in which access to the law could be improved, each of which will be discussed below briefly in turn: (i) improve existing legal materials, (ii) improve basic education for the public about law, (iii) improve the quality of legal information dispensed by intermediary organizations, and (iv) develop a new source of law for non-lawyers.

1) Improve existing legal materials

Friedland was highly critical of the then existing state of legal materials available in Canada. One particular criticism, as mentioned immediately above, was directed towards the way legislation is drafted and published. Noting that much of Canadian law is now prescribed by statute or regulation, Friedland argues that improving the way

legislation is drafted and published would go a long way towards improving access to law (p. 9):

The obligation of the government to promote the production of legal materials is overwhelming in a country like Canada, with a relatively small population, two major languages, eleven systems of law, and a complex and very sophisticated legal system. No doubt such an endeavour could not have been undertaken in the past, because it requires that enough of the law be in statutes to form a basis for intelligible exposition. But now many areas of Canadian law are almost wholly embodied in legislation or regulations: for example, unemployment insurance, workmen's compensation, landlord and tenant, income tax, copyright, criminal law, and labour law.

Friedland suggests several ways that statutes could be improved by: using more readable language; improving the sentence structure with statutes; including comments and examples after each section; using formulas, graphs and charts, where applicable; using different kinds of type/font (by putting definitions in bold throughout the statute to indicate that the word or phrase is a defined term); using explanatory memorandum to explain the statutes and its purpose; using better indexing; making more frequent revisions; and using topical, not alphabetical, arrangements of statutes (pp. 69-74). To date, there has not been too much improvement in this regard, although the Ontario government was improved the delivery of its legislation through its e-Laws website, described above.

Regarding court judgments, Friedland would put the onus on judges to improve the comprehension levels when drafting their own decisions (p. 75):

A court should be under some obligation to sit down after all the judgments have been written and explain the meaning of the reasons for judgment – in other words for the court to write its own headnotes. We feel that with comparatively little effort the writing of appellate judgments can be improved.

Arguably, some improvement has been made in this regard through courses offered to judges through the National Judicial Institute.²

2) Improve public legal education

Another way in which access to law can be improved, as suggested by Friedland, is through improved public legal education (p. 80):

An important component in improving access to the law is the education of the general public about law and the legal system. Non-lawyers should be familiar enough with the law and the legal system to recognize areas of activity covered by law. People should also be taught how to find the law in those areas where questions and problems most often arise – that is, how to use sources of law.

To make these improvements in public legal education, Friedland notes that there would need to be a greater supply of teachers, textbooks, resources and advertising to implement such changes (p. 81). Unfortunately, with government cutbacks in law reform programs and public legal education, the state of public legal education in Canada can hardly be said to be better now than it was at the time of Friedland's study. If anything, it is worse: "With a patchwork of programs in place and a lackluster government commitment to PLEI [public legal education and information], the justice system is confronted by a large number of its users labouring under massive ignorance."³ However, even Friedland acknowledges that more and better public legal education is not enough (p. 7):

At present, attention is being given to providing the public with legal education and improving delivery systems. But no matter what progress may be made in those areas, the public will continue to experience significant difficulty in obtaining access to the law either directly or through others unless better legal

² See National Judicial Institute, "Courses Offered by Category." Available online: <http://www.nji.ca/Public/courses_category.cfm>.

³ John Beaufoy, "A Plea for Better PLEI" (1999) 23(2) Can. Law. 27 at 28.

reference materials are made available. Because we feel that such materials are fundamental to providing better access to the law, and because it is an area which has received far less attention than legal education, legal aid, and information delivery systems, we have given special attention in many parts of this study to the deficiencies of present legal materials and the need for new reference sources.

However, even given this concession, the high cost of litigation, cutbacks in legal aid and the increase in the number of *pro se* litigants makes for weak programs in public legal information which, it is submitted, further strains the legal system and hampers access to justice.

3) Improve quality of legal information dispensed by intermediary organizations

Friedland identifies “better delivery systems” as a third way in which access to the law can be improved for the general public and the non-lawyer intermediaries who are approached with law-related questions; Friedland specifically looks to the positive role that the telephone can play in dispensing information (p. 82):

The existing delivery of legal information should be improved by reducing the problems facing intermediary individuals and organizations in handling legal questions and by improving the quality of the information dispensed. In every case this involves training, as well as the provision of a well-indexed source of Canadian and provincial law containing comprehensive, detailed, and up-to-date information. It also requires some recognition of the important role played by the telephone in transmitting information about law. Information is disseminated over the telephone more frequently than through face-to-face contact. It should not be treated as a second-class device interrupting the normal delivery system.

The telephone is still used as a means of providing legal information for the public – see, for example, the Dial-A-Law service provided by the B.C. Branch of the Canadian Bar

Association;⁴ however, the Internet offers similar information with the added benefit of the information being interactive, allowing the user to “click” to obtain additional information or detail. LegalLine, for example, is a free web service that provides law-related information aimed at consumers (e.g. “Tenants’ rights and responsibilities when moving out”) on 870 topics in 28 areas of law.⁵ The federal government at one point helped fund the online Access to Justice Network (“ACJNet”)⁶ (which is now affiliated with the University of Alberta); there are also numerous other websites that provide free, online law-related information.⁷

Friedland suggests that inquiries involving legislation and government services should continue to be directed towards the specific government departments since “[i]t seems reasonable that specific departments should answer the legal questions they receive that relate to their own activities and responsibilities” (p. 84). However, many government departments are not well-equipped to handle these sorts of questions, as suggested by the following statement from a supervisor of public information at Toronto City Hall, quoted by Friedland (p. 84): “In each department, it is often the lowest-paid person who gets all the inquiries, and that person often has no training at all to deal with them.”

⁴ Canadian Bar Association – B.C. Branch, “Dial-A-Law.” Available online:

<http://www.cba.org/bc/Public_Media/dal/default.aspx>. Date accessed: 24 July 2005.

⁵ Legal Information Online, “LegalLine.” Available online: <<http://www.legalline.ca>>. However, it appears that the site was last updated April 2001.

⁶ University of Alberta, Legal Studies Program, “Access to Justice Network.” Available online:

<<http://www.acjnet.org>>. Date accessed: 24 July 2005.

⁷ There are obviously too many sites to mention. To mention just two examples: there is an online guide by the Bora Laskin Law Library entitled “Finding Legal Help in Ontario” (available online at <http://www.law-lib.utoronto.ca/resguide/finding.htm>) and the “People’s Law School” in British Columbia (available online at <http://www.publiclegaled.bc.ca>), a non-profit organization with the mandate of helping people learn about their rights and responsibilities under the law.

In addition to improving the way in which government dispenses legal information, Friedland also calls for more and better community information centres that would have long term funding provided by both public and private sources (p. 86).

One final way in which “delivery systems” can be improved is to provide more training for librarians “to facilitate the provision of legal information to the public” (p. 89).

4) Develop a new legal encyclopedia for non-lawyers

The final and most dramatic recommendation by Friedland to improve access to law-related information is the creation of a multi-volume legal encyclopedia written for the non-lawyer. In coming to this recommendation, Friedland concluded that the existing “popular handbook literature” was insufficient to meet the needs of the average citizen (p. 8):

We know that many people have been turning to help to the popular legal handbooks available in bookstores. Unfortunately, these are inadequate; they are better than nothing, but no matter how well they are written they suffer from several major defects. For example, they cannot keep up with the changes in the law. And not designed to be used as quick reference tools, they tend to provide merely a general overview of an area of law rather than easily retrievable detailed information. Moreover, commercial publishers will concentrate only on major areas, like family law, and will not venture into other needed areas, such as workmen’s compensation and mechanics’ liens.

Instead, the proposed encyclopedia would “a reference tool that will give the citizen or his advisor specific information to deal with a particular question or problem at the time that it arises” (p. 8). However, Friedland appears to acknowledge the enormous challenges in trying to publish sets of such an encyclopedia (p. 8):

Who should write them? At what level of sophistication should they be written? Should descriptive material be integrated with statutory material or should it be restricted to an introductory note? How should updating be systematized? How does one [p. 9] handle areas of law, such as contracts, that are primarily case law? Is it possible to include municipal by-laws? Should one go further than telling the layman merely what the law is and describe, for example, how to incorporate a company or draft a will or conduct one's own legal proceedings? At what point should the reader be warned that the area is complex and a lawyer should be consulted? What training should be given to non-lawyers responsible for using the materials?

It would be a “multivolume legal encyclopedia, regularly updated, which could be directly available to those providing legal information and to citizens in public libraries and in such locations as government offices and school libraries” (p. 91). The format would be a set of binders that would take up to 5 to 6 feet of shelf space and the encyclopedia would be “comprehensive both in the areas of law covered and in the detail in which each area is covered” (p. 92). Because the law vary slightly from province to province, Friedland proposes that there would be a separate set of the encyclopedia for each of the provinces and territories with there being a limited number of cases and statutes referred to (p. 93). The information in the encyclopedia would be classified for non-lawyers by not using legal terms such as “torts”; instead, legal issues involving negligence would be dealt with within the topic that involves elements of negligence (such as motor vehicle law, trespass, etc.) (p. 93). The goal would be to have the information in a form that would be easily understandable for the average citizen (p. 95):

An attempt should be made to present the law in a way that would be useful both to a lawyer operating out of a legal clinic and to a reasonably intelligent citizen faced with, or assisting someone else with, a simple problem involving law. The combination of the lawyer and the professional writer would help ensure that both groups could understand and use the materials. An editorial committee would of course have overall responsibility for the content and style of all the materials.

In addition, “the reader would be warned when a particular matter was complex or required an analysis of a body of case law, and wherever appropriate the suggestion would be made that legal advice be obtained” (p. 96). The encyclopedia would be updated by the persons responsible for preparing that section of the encyclopedia; Friedland proposes that updates would be done every two months through the use of replacement pamphlets (p. 96). In addition, “[e]ach subject category would have its own index, and in addition there would be an index for the complete encyclopedia” (p. 96). He suggests a cost (at that time) of \$300,000 for a set of the encyclopedia for one province with there being 10 subject written per year over a period of 5 years, resulting in a completed encyclopedia with 50 subjects with the cost of preparation spread over 5 years (p. 97). Friedland calls upon “a diversity of funding to help ensure the objectivity of the materials” (p. 98).

Comments on the Friedland recommendations

In the next (and final) section of this thesis, I set out my own 10 recommendations of steps that can be taken to improve access to law-related information in Canada in the digital age. A number of my recommendations mirror those of Friedland, albeit updated to the age of the Internet (while a number of my recommendations are not included in Friedland’s recommendations).

Friedland’s first set of recommendations – to improve existing legal materials – really focus on the way legislation and case law is written and published in Canada. As has been noted, some improvements have been made in these areas since the time of

Friedland's study (such as the Ontario e-Laws legislative website) and better quality of judicial writing, while other recommendations made by Friedland have not been carried out, such as the continued infrequent revision of legislation and the lack of official topical indexes to legislation. In my Recommendations #1, #3, #4, #6 and #7 below, I set out a number of steps that can be taken to better improve the way legislation and case law is published in Canada.

Friedland's second set of recommendations – to improve public legal education – has not been realized as effectively as he proposed, largely as a result of cutbacks or the lack of government funding. My recommendation #2 below on ways to reduce the complexity of the legal system expand on Friedland's recommendations and introduce several new ideas.

Friedland's third set of recommendations – to improve quality of legal information dispensed by intermediary organizations – have been realized in a number of different ways through the expansion of law library collections in Canada over the last thirty years and the development of various web-sites that provide free legal information. These ideas are developed further below in Recommendations #5 and #10.

Friedland's final recommendation – a new legal encyclopedia for non-lawyers – has not been realized likely due to the cost and level of effort that would be required to fully realize the recommendation. However, in Recommendation #10 below I propose an alternative to Friedland's proposal that would take advantage of Internet technology and

be more feasible at the same time as providing the type of law-related information envisioned by Friedland.

At the time of Friedland's study in 1975, it would have been difficult if not impossible for anyone then to envision the Internet and the possibilities it would bring for the publication and dissemination of law-related material. Although computers were being introduced at the time of his study, their use in daily life had not yet been realized. Although the Internet and computer technologies do not provide a complete solution to improving access to law-related information, a number of concerns identified by Friedland can be addressed through the application of some of these new technologies. As part of this analysis, I will look below in the final section of this thesis at the roles that can be taken by the various stakeholders, including the government, private publishers, lawyers, law schools, and other public interest groups. While it is possible to speculate what impact the Internet could have on access to law-related information, what is really needed is a duplication of Friedland's study, now thirty years later, first in a similar print setting to see if conditions have changed regarding the use of print law-related materials. On this point, I would predict that conditions have not changed that much and the average person would still have a difficult time using the print *Revised Statutes of Canada 1985* and the *Revised Statutes of Ontario 1990* to answer the questions posed in Friedland's study. However, I would predict that, if surveyed, people now would identify the Internet as a major source for then to seek out law-related information. As such, the next phase of any new research would be to replicate Friedland's study in online setting to see if quality of information obtained is better using online resources. Here, I would predict that those surveyed would find it easier to find information using online resources but that they may

still have some difficulty in comprehending the information found. Regardless, the study could make comparisons on the time it took persons to find information and could assign notional costs between conducting the research in print and online and could also assess whether the use of online resources improved the speed by which information was found and the accuracy of the results obtained. With sufficient funding, the testing could be replicated on the general public on a larger scale (i.e., more than 100 respondents) and also on lawyers tests to test their information-seeking behaviours.⁸ In addition, although not specifically tested by Friedland but instead commented on by him, tests could be designed to study the comprehension levels of respondents to various forms of law-related materials, including statutes, cases and informational guides.

As already mentioned, many of the proposals made by Friedland resurface in the next and final section of this thesis, being the conclusions and recommendations I make regarding improving access to law-related information in Canada in the digital age.

⁸ There has been surprisingly little research done on the information-seeking behaviour of lawyers. Two of the better known studies include one by Mark E. Vale, *Information Structure and the Information-Seeking Behaviour of Lawyers* (Ph.D. Thesis, Stanford University, 1988) (Ann Arbor, MI: University Microfilms International, 1991) and a Canadian study by Weijing Yuan, *Longitudinal Study of End-User Searching Behaviour of Law Students in Information Retrieval* (Ph.D. Thesis, University of Toronto, 1995).