

Burbidge's Digest of the Canadian Criminal Law, and on the Canadian statutory law, and introduced by the then Minister of Justice, Sir John Thompson, passed both Houses and became law July 1, 1893.

Crimes were formerly divided into two main classes: felonies, and misdemeanours. A felony was a crime involving forfeiture of property and of civil rights. The code has abolished this distinction and has classified offences as indictable and non-indictable. The term "indictable" means an offence which is triable on an indictment, that is to say the legal process by which a bill of indictment is preferred to, and presented by, a grand jury. An indictment differs from an information which rests only on presentation by the prosecuting authority, and properly from a presentment, which is an accusation originating with the grand jury. The word is sometimes loosely used, however, to include an information or presentment or both. Many cases of indictable offences are proceeded with, without a formal indictment. Furthermore certain cases triable on indictment may also be disposed of summarily by a magistrate, according to the severity or circumstances of the cases.

Non-indictable offences include cases usually dealt with summarily by police magistrates under the Summary Convictions Act, and comprise breaches of municipal regulations and other minor offences.

According to the provisions of the code, indictable offences are triable by jury but, in cases other than those listed below, the accused is accorded the right of election whether he be tried by jury, or before a judge without the intervention of a jury under the Speedy Trials Act, or before a magistrate under the Summary Trials Act. The jurisdiction of the magistrate is absolute, however, in certain cases and does not depend on the consent of the accused. Cases triable by jury without the consent of the accused are: treason, treasonable offences, assaults on the King, mutiny, unlawfully obtaining and communicating official information, taking of oath to commit certain crimes, seditious offences, libels on foreign sovereigns, piracy, corruption of officers employed in prosecuting offenders, frauds on the Government, breach of trust of public officers, municipal corruption, selling of appointments to any office, murder, attempt to murder, conspiracy to murder, accessory after the fact to murder, manslaughter, rape, attempt to commit rape, defamatory libel, combination in restraint of trade, for conspiring or attempting to commit, or being accessory after the fact to any of the above offences, also for bribery or undue influence, personation or other corrupt practice under the Dominion Elections Act. Also, where an offence is punishable with imprisonment for a period exceeding five years the Attorney General may require the charge to be tried by a jury.

In the province of Quebec a district magistrate has powers extending beyond those of a magistrate in any other province. He has the same jurisdiction as a county court judge in Ontario, and disposes of cases under the Speedy Trials Act, whereas the jurisdiction of the magistrates of other provinces extends only to the Summary Convictions Act and the Summary Trials Act.

Capital cases for the first twelve or fifteen years after Confederation included, besides murders, death sentences for attempts at murder, piracy, burglary, violation of females and levying war. The list of capital offences is now: levying war, murder, piracy in cases of violence, rape, and treason. This is a drastic modification in