

CHAPTER VII.—CRIME AND DELINQUENCY*

CONSPECTUS

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NOTE.—The interpretation of the symbols used in the tables throughout the Year Book will be found facing p. 1 of this volume.

Section 1.—Canadian Criminal Law and Procedure†

The system under which justice is administered in a State is never rigid. This is neither expedient nor indeed possible. A judicial system must grow and adapt itself to the requirements of the people, and the exact limits of the powers of the different legislative bodies require continued definition by the courts.

The exclusive legislative authority of the Parliament of Canada extends to criminal law throughout Canada. This law is based on the common law of England, built up through the ages and consisting first of customs and usages and later of principles enunciated by generations of judges and introduced into Canada, as regards criminal law, by Royal Proclamation in 1763. For particulars of the federal judiciaries see Chapter II, pp. 45-47.

The judicial systems of the provinces as they exist to-day are based upon the British North America Act of 1867. Section 91 provides that "the exclusive legislative authority of the Parliament of Canada extends to . . . the criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters" In each province (Sect. 92, ss. 14), the legislature may, exclusively, make laws in relation to "the administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction and including procedure in civil matters in those courts". The Parliament of Canada may, however (Sect. 101), establish any additional courts for the better administration of the laws of Canada. For particulars of provincial judiciaries, see Chapter II, pp. 47-55.

It is frequently difficult to distinguish between 'law' and 'procedure'. Procedure may be interpreted to relate simply to the organic working of the courts, but, in a wider sense, it may also affect the rights or alter the legal relations arising out of any given set of facts.

* Except as otherwise credited, this Chapter has been revised in the Judicial Section, Health and Welfare Division, Dominion Bureau of Statistics.

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