

additional courts for the better administration of the laws of Canada. It should be noted that the Statute of Westminster, 1931, effected important changes particularly by abrogating the Colonial Laws Validity Act, 1865 (U.K.), and confirming the right of a dominion to make laws having extraterritorial operation. Particulars of the federal judiciaries are given in Chapter II, pp. 70-72, and provincial judiciaries are dealt with briefly at pp. 72-73; more detailed information on provincial judiciaries is given in the 1954 Year Book, pp. 48-55.

At the time of Confederation, each of the colonies affected had its own body of statutes relating to the criminal law. In 1869, in an endeavour to assimilate them into a uniform system applicable throughout Canada, Parliament passed a series of Acts some of which dealt with offences of special kinds, and others with procedure. Most notable of the latter was the Criminal Procedure Act, but other Acts provided for the speedy trial or summary trial of indictable offences, the powers and jurisdiction of justices of the peace in summary conviction matters and otherwise, and the procedure in respect of juvenile offenders.

Codification of the criminal law through a Criminal Code Bill founded on the English draft code of 1878, Stephen's *Digest of Criminal Law*, Burbidge's *Digest of the Canadian Criminal Law*, and the relevant Canadian statutes, was brought about by the Minister of Justice, Sir John Thompson, in 1892. This Bill became the Criminal Code of Canada and came into force on July 1, 1893. It must be remembered, however, that the Criminal Code was not exhaustive of the criminal law. It was still necessary to refer to English law in certain matters of procedure and it was still possible to prosecute for offences at common law. Moreover, Parliament has declared offences against certain other Acts, e.g., the Opium and Narcotic Drug Act, to be criminal offences and the same was done in the Defence of Canada Regulations and the Wartime Prices and Trade Board Regulations (neither now in force) promulgated under the authority of the War Measures Act.

It is often 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 state of facts. For present purposes, it will be useful to note that writers on jurisprudence describe law as being substantive or adjective. "Substantive law is concerned with the ends which the administration of justice seeks; procedural (adjective) law deals with the means and instruments by which these ends are to be obtained."*

With reference to the criminal law, the former may be taken to include the provisions concerning criminal responsibility, the definition of "offences" and the punishment for those offences, and the latter to include provisions for enforcement, e.g., powers to search and to arrest, for the modes of trial and for the proof of facts. Broadly speaking, the Criminal Code observes the distinction although it might appear that the provisions for preventive detention of habitual criminals and criminal sexual psychopaths partake of the nature of both classes.

In February 1952, a Royal Commission, appointed three years earlier for the purpose of making a complete revision of the Criminal Code, presented its report with a draft Bill. This has since been before successive sessions of Parliament and

* Salmond on *Jurisprudence*, 7th Edition, p. 496.