

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. 82-83 and provincial judiciaries are dealt with briefly at pp. 83-84; 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.

An examination and study of the Criminal Code was authorized by Order in Council dated Feb. 3, 1949 and the Commission which was assigned the task of revising the Code presented its report with a draft Bill in February 1952. After coming before successive sessions of Parliament it was finally passed on June 15, 1954 and the new Criminal Code (2-3 Elizabeth II, c. 51) came into effect on Apr. 1, 1955.

The new Code effects changes in detail but continues the general features of the former system. A short outline of the system that existed under the repealed Code together with the major revisions effected by the new Code is given in the 1955 Year Book, pp. 295-298.

Section 2.—Adult Offenders and Convictions

The main interest in criminal statistics is concerned with those persons guilty of the more serious crimes. Such offenders are fewer than those who commit non-indictable offences but, from the standpoint of the protection of society, they are more important.

In 1949 the basis of the statistics of indictable crimes was changed from *convictions* to *persons* so that the figures for 1949 and subsequent years are not comparable with those for previous years. Where any person is prosecuted at the same hearing for several

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