

- b. Lines of Steam Ships between the Province and any British or Foreign Country;
- c. Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
- 11. The Incorporation of Companies with Provincial Objects.
- 12. The Solemnization of Marriage in the Province.
- 13. Property and Civil Rights in the Province.
- 14. 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.
- 15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
- 16. Generally all Matters of a merely local or private Nature in the Province.

Certain important subject matters are not included in Sections 91 and 92. For example, education, which (subject to guarantees provided the Catholic or Protestant minority) falls within the exclusive jurisdiction of the provincial legislatures, is dealt with in Section 93; and agriculture and immigration, over which both levels of government have jurisdiction, are dealt with in Section 95.

3.3 The legal system

3.3.1 Common law and Quebec civil law

With one exception, in all the provinces as well as in the two territories, the legal system derives from the common law system of England. The exception is Quebec where the system has been influenced by the legal developments of France. Quebec has its own Civil Code and Code of Civil Procedure. Over the years, both Canadian common law and Quebec civil law have developed unique characteristics. The body of law changes as society changes. In many of the provinces there are now Law Reform Commissions which have been charged with the function of inquiring into matters relating to the reform of the law having regard to both the statute law and the common law. In Quebec a general revision of the Civil Code is taking place under the auspices of the Civil Code Revision Office. At the federal level there is the Law Reform Commission of Canada whose purpose is "to study and keep under review on a continuing basis the statutes and other laws comprising the law of Canada with a view to making recommendations for their improvement, modernization and reform".

3.3.2 Criminal law

The criminal law of Canada has as its foundation the criminal common law of England built up through the ages and consisting first of customs and usages and later expanded by principles enunciated by generations of judges. There is no statutory declaration of the introduction of English criminal law into those parts of Canada that are now New Brunswick, Nova Scotia and Prince Edward Island. Its introduction there depends upon a principle of the common law itself by which English law was declared to be in force in uninhabited territory discovered and planted by British subjects, except in so far as local conditions made it inapplicable. The same may be said of Newfoundland although the colony dealt with the subject in a statute of 1837. In Quebec, its reception depends upon a Royal Proclamation of 1763 and the Quebec Act of 1774. In each of the other provinces and in the Yukon and Northwest Territories, the matter has been dealt with by statute.

The judicial systems of the provinces as they exist today are based upon the British North America Act of 1867. Section 91 of the Act 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". By Section 92(14), the legislature of the province exclusively may 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 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. It should be noted that the Statute of Westminster, 1931 effected important changes, particularly by abrogating the Colonial Laws Validity Act, 1865 (Br.) and confirming the right of a Dominion to make laws having extraterritorial operation.