

continued in force for a period of five years from that day. The Act then expired and the broader definition of capital murder, introduced in 1961, again came into operation.

Some very comprehensive amendments to the criminal code are contained in the Criminal Law Amendment Act which was assented to on June 27, 1969 and, with certain exceptions, came into force on August 26, 1969. Among the changes were amendments relating to gaming and lotteries, "drinking and driving", homosexual acts and therapeutic abortion. It also affected the law relating to the publication of evidence, as mentioned above, and it affected the law relating to the issue of fitness to stand trial on the grounds of insanity.

In 1971 Parliament passed the Bail Reform Act which changed the criminal code by restricting police power of arrest for minor offences and requiring the police, as a general rule, to release persons arrested for minor or less serious offences as soon as possible. In addition, a justice is required to issue a summons unless the public interest requires a warrant of arrest. Save in very exceptional cases "cash bail" was abolished and, as a general rule, a person charged with an offence will be released simply on his written undertaking to attend court.

In 1972 the Criminal Law Amendment Act introduced a wide variety of reforms. Rules regarding jury duty were changed and men and women were made equally eligible and responsible to serve. The possibility of more flexible and appropriate law enforcement was enhanced by providing that individuals accused of certain kinds of crimes, such as obstructing the police, could be tried either by summary conviction or indictment. New offences were created with regard to hijacking and endangering the safety of aircraft, to soliciting for the purpose of prostitution by either male or female and to disturbing the peace of an apartment building. The offences of vagrancy and attempted suicide were abolished. Important changes were introduced with respect to sentencing — maximum sentences were increased for certain crimes connected with the administration of justice, whipping was abolished, and provision was made to permit a judge not to sentence an accused found guilty if the public interest would not be served by sentencing him. Provision was made whereby jail sentences under 90 days could be served at night and on weekends in order that the individual might continue to earn a living and support his family.

3.4 Courts and the judiciary

3.4.1 The federal judiciary

The Parliament of Canada is empowered by Section 101 of the British North America Act from time to time to provide for the constitution, maintenance and organization of a general Court of Appeal for Canada and for the establishment of any additional courts for the better administration of the laws of Canada. Under this provision, Parliament has established the Supreme Court of Canada, the Federal Court of Canada and certain miscellaneous courts.

Supreme Court of Canada. This Court, first established in 1875 and now governed by the Supreme Court Act (RSC 1970, c.S-19), consists of a chief justice, who is called the Chief Justice of Canada, and eight puisne judges. The chief justice and the puisne judges are appointed by the Governor in Council and hold office during good behaviour but are removable by the Governor General on address of the Senate and the House of Commons. They cease to hold office upon attaining the age of 75 years. The Court sits at Ottawa and exercises general appellate jurisdiction throughout Canada in civil and criminal cases. The Court is also required to consider and advise upon questions referred to it by the Governor in Council and it may also advise the Senate or the House of Commons on private Bills referred to the Court under any rules or orders of the Senate or of the House of Commons.

Appeals may be brought from any final judgement of the highest court of final resort in a province in any case where the amount or value of the matter in controversy exceeds the sum of \$10,000. An appeal may be brought from any other final judgement with leave of the highest court of final resort in the province; if such court refuses to grant leave, the Supreme Court of Canada may grant leave to appeal. The Supreme Court may grant leave to appeal from any judgement whether final or not. Appeals in respect of indictable offences are regulated by the criminal code. Appeals from federal courts are regulated by the statute establishing such courts. The judgement of the Supreme Court of Canada in all cases is final and conclusive.

Chief Justice and Judges of the Supreme Court of Canada as at December 31, 1972

Chief Justice of Canada, Rt. Hon. Mr. Joseph Honoré Gérard Fauteux (*Appointed March 23, 1970, first appointed a Judge of the Supreme Court, December 23, 1949*)