psychopath" was dropped and the term "dangerous sexual offender" substituted; in 1965 provision was made for the right to appeal in habeas corpus proceedings.

The concept of "non-capital murder" was introduced into Canadian criminal law in 1961. At that time, capital murder was defined to include, for example, planned and deliberate murder, murder in the course of certain violent acts and murder of peace officers and prison officers. Life imprisonment was substituted for the death penalty in cases where the accused was convicted of non-capital murder.

In 1966 the House of Commons, in a free vote, rejected a bill under which the death penalty for murder would have been completely abolished. The next year, in 1967, an Act was passed under which the definition of capital murder was restricted to the murder of police officers or prison officers. This Act was brought into force on December 29, 1967, and continued in force for a period of five years from that day. The Act then expired and was replaced by one brought into force on January 1, 1974. The new Act retains the 1967 restrictive definition of capital murder, this time using the term "murder punishable by death", for a period of four years ending December 31, 1977.

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, as well as 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 to permit jail sentences under 90 days to be served at night and on weekends so that the individual might continue to earn a living and support his family. Where an accused is found guilty of certain minor offences, the Court, where it feels it is in the best interests of the accused and is not contrary to the public interest, may order that the accused be discharged either absolutely or upon conditions prescribed in a probation order. Speaking generally, a discharged accused is deemed not to have been convicted. However, should an accused conditionally discharged subsequently be convicted of an offence, the Court may revoke the discharge and convict him of the offence to which the discharge relates.

In 1974, the Protection of Privacy Act amended the criminal code by creating an offence where a person listens to, records or acquires a private communication. Provision is made for peace or public officers obtaining authorization from a judge to intercept such communications, for the manner in which the person whose private communication is being lawfully intercepted is to be informed of this fact, and for the way in which such intercepted communications may be used in evidence.

2.4 Courts and the judiciary

2.4.1 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