

subjects had to be assigned either to the federal or provincial governments by reference to the BNA Act. Canada's emergence into the international community as a completely independent nation, which also was not foreseen in 1867, required an allocation of responsibility for new concepts such as aviation, broadcasting and citizenship between the two levels of government or in some cases to one or another government.

One significant outcome of the allocation of powers under the BNA Act has been that the expenditures of the provincial governments have often outstripped their tax resources. In 1867, the provinces were assigned responsibility for social services such as hospitals and schools as well as for municipal institutions. At that time this did not involve major expenditure of public funds. However, changing demands of society and the entry of government into the field of social welfare led to the expenditure of large sums. The provinces have power to levy direct taxation within the province for provincial purposes while the federal government has a broader authority to levy taxes by "any means of taxation". The federal government has therefore substantial tax resources. While the provinces have responsibility for many costly public institutions they often do not have the necessary financial resources. In order to redress this, numerous federal-provincial tax-sharing agreements and shared-cost programs have been entered into by the federal and provincial governments. Such agreements were not, of course, anticipated by the original drafters of the BNA Act. Nevertheless these agreements have resulted in new constitutional arrangements and techniques for dealing with federal-provincial economic relations and have come to be known collectively as "cooperative federalism".

The legal system

2.3

Common law and Quebec civil law

2.3.1

The legal system in the provinces and territories derives from the common law system of England with the exception of Quebec, where the system has been influenced by the legal developments of France. Quebec has its own Civil Code and Code of Civil Procedure. However, in the field of public law the principles of common law apply. 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. A general revision of the Civil Code is taking place in Quebec 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".

Criminal law

2.3.2

Criminal law is that branch or division of law which treats of crimes and their punishment. A crime may be described as an act against society, as distinct from a dispute between individuals. It has been defined as any act done in violation of those duties which an individual owes to the community and for the breach of which the law has provided that the offender shall make restitution to the public.

The criminal law of Canada has as its foundation the criminal 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