

lack the necessary financial resources. In order to redress this, numerous federal-provincial tax-sharing agreements and shared-cost programs have been reached 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 co-operative federalism.

2.3 The legal system

2.3.1 Common law and Quebec civil law

The legal system in the provinces and territories is derived 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 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."

2.3.2 Criminal law

Criminal law is that branch or division of law which treats 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.

Canada's criminal law 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 English law was declared to be in force in uninhabited territory discovered and planted by British subjects, except insofar 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 the Royal Proclamation of 1763 and the Quebec Act of 1774. In each of the other provinces and in the Yukon Territory and Northwest Territories, the matter has been dealt with by statute.

The criminal law systems of the provinces as they exist today are based on the British North America Act of 1867. Section 91 of the act provides that "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, 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 (Section 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 in part the Colonial Laws Validity Act, 1865 (British) and confirming the right of a dominion to make laws having extraterritorial operation.

At the time of Confederation each of the colonies affected had its own body of statutes relating to criminal law. In 1869, in an endeavour to assimilate them into a