

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 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 specialized 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 on 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 on 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 judgment of the highest court of final resort in a province by obtaining leave to do so from that court or from the Supreme Court itself. The Supreme Court may grant leave to appeal from any judgment whether final or not, and as well there is provision for appeals whereby the highest court of final resort in a province may grant leave on a question of law alone from a final judgment of some other court in that province. 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 judgment 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 January 1, 1978

Chief Justice of Canada, Rt. Hon. Bora Laskin (*appointed December 27, 1973, first appointed a Judge of the Supreme Court, March 23, 1970*)

Hon. Mr. Justice Ronald Martland (*appointed January 15, 1958*)

Hon. Mr. Justice Roland Almon Ritchie (*appointed May 5, 1959*)

Hon. Mr. Justice Wishart Flett Spence (*appointed May 30, 1963*)

Hon. Mr. Justice Louis-Philippe Pigeon (*appointed September 21, 1967*)

Hon. Mr. Justice Robert George Brian Dickson (*appointed March 26, 1973*)

Hon. Mr. Justice Joseph Philemon Jean Marie Beetz (*appointed January 1, 1974*)

Hon. Mr. Justice Willard Zebedee Estey (*appointed September 29, 1977*)

Hon. Mr. Justice Yves Pratte (*appointed October 1, 1977*).

Federal Court of Canada. The Federal Court of Canada was constituted by an act of the Parliament of Canada under Section 101 of the British North America Act, 1867, which, after authorizing the creation of the Supreme Court of Canada, confers on Parliament authority to constitute other courts for the better administration of the laws of Canada. The Federal Court of Canada is a court of law, equity and admiralty and it is a superior court of record having civil and criminal jurisdiction (Section 3 of the act). The Exchequer Court of Canada, (established in 1875), was replaced in December 1970 by the Federal Court of Canada (SC 1970-71, c.1).

The court has two divisions called the Federal Court — Appeal Division, and the Federal Court — Trial Division. The appeal division may be called the Court of Appeal or Federal Court of Appeal (Section 4 of the act). The Court of Appeal consists of the chief justice of the Federal Court of Canada and five other judges. The trial division consists of the associate chief justice of the Federal Court of Canada and nine other judges. Every judge is an ex officio member of the division of which he is not a regular member (Section 5). In addition to the establishment of full-time judges, an added