

civil case, basically, the courts try to determine the relative rights of two opposing parties. In a criminal case a court is asked to decide the guilt or innocence of a person charged with an offence.

Expenditures on court operations are divided among the various levels of government. The federal government bears the costs of the Supreme Court, the Federal Court of Canada and the Tax Court of Canada. It also appoints and pays the salaries of provincial and territorial superior court judges. The provinces are responsible for all other expenses.

A breakdown of court operation expenditures by level of government in 1981-82 shows that provincial and territorial governments contributed \$326.8 million or 84.4% of the total, and the federal government provided the remaining \$60.4 million or 15.6%.

Expenditures varied by jurisdiction. For example, the lowest costs were recorded in Yukon (\$1.2 million) and Prince Edward Island (\$1.3 million), but Ontario had the highest (\$128.8 million) for 1981-82. Person-year expenditures among the jurisdictions ranged from a low of 25 in Yukon to a high of 4,168 in Quebec.

The national per capita cost in 1981-82 was \$17.52. Again, the figures varied by jurisdiction, ranging from about \$10 in Newfoundland and Prince Edward Island to about \$50 in Yukon and in Northwest Territories.

20.2.2 Administration of criminal prosecutions

Responsibility for the prosecution of criminal cases is also divided between the federal and provincial governments. The primary basis for the division is found in Section 2 of the Criminal Code. The Attorney General of a province is given responsibility for proceedings under the Criminal Code. The Attorney General of Canada is given responsibility for criminal proceedings in Northwest Territories and Yukon, and for proceedings under federal statutes other than the Criminal Code. Provincial statute and municipal bylaw prosecutions are the responsibility of the provincial Attorney General.

Prosecutions may be carried out by the police or by lawyers, depending on the practice of the Attorney General responsible. If prosecutions are carried out by lawyers, the Attorney General may rely on full-time staff lawyers, or may engage the services of a private practitioner for individual cases.

A breakdown of criminal prosecution expenditures by level of government in 1981-82 shows that 75% was paid by the provinces (excluding Alberta), 24% by the federal government and 1% by the territories.

Quebec, Ontario and British Columbia accounted for 79.7% of provincial/territorial criminal prosecution expenditures on a dollar basis and 78.6% on a person-year basis. A comparable proportion (an estimated 80.6%) of the national population (Alberta excluded) lives in these provinces.

Nationally (federal prosecutions included), the per capita cost of criminal prosecutions in 1981-82 was \$3.56. Per capita expenditures on provincial and territorial prosecution systems ranged from \$1.49 in Newfoundland to \$5.37 in British Columbia, \$12.73 in Yukon and \$14.86 in Northwest Territories.

20.2.3 Federal judiciary

The Supreme Court of Canada was created in 1875 by an act of Parliament, eight years after Confederation. Despite its creation, cases brought before it could still be further appealed to the judicial committee of the Privy Council in England. Appeals to this committee were abolished in criminal cases in 1933 and in all other cases in 1949, when the Supreme Court Act was amended to establish firmly the court's judicial independence as Canada's ultimate court of appeal.

The court was first composed of a Chief Justice and five puisne or associate judges. In 1927 the number of judges was increased to seven and in 1949, with the abolition of appeals to the judicial committee of the Privy Council, to nine, the current number. Of these, at least three are to be appointed from Quebec.

The Supreme Court is a general court of appeal for both criminal and civil cases. Its jurisdiction embraces the civil law of Quebec as well as the common law of the nine common law provinces. In most cases, appeals are heard by the court only if permission to appeal is first given. The court will grant such leave if it is of the opinion that a question of public importance is involved, or if there is an important issue of law that ought to be decided by the court. Leave to appeal may also be given by a provincial appellate court when one of its judgments is sought to be questioned in the Supreme Court of Canada.

The court will review cases coming from the 10 provincial courts of appeal and from the appeal division of the Federal Court of Canada. The court is also required to consider and advise on questions referred to it by the Governor-in-Council. 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.