

CHAPTER VII.—CRIME AND DELINQUENCY*

CONSPECTUS

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NOTE.—The interpretation of the symbols used in the tables throughout the Year Book will be found facing p. 1 of this volume.

Section 1.—Canadian Criminal Law and Procedure†

The system under which justice is administered in a State is never rigid. To have it so would be neither expedient nor indeed possible. A judicial system has to grow and adapt itself to the requirements of the people and the exact limits of the powers of different legislative bodies require continued definition.

The criminal law of Canada has as its foundation the criminal common 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 the Provinces of 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 in so far 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 a Royal Proclamation of 1763 and the Quebec Act of 1774. In each of the other provinces and in the Yukon and Northwest Territories the matter has been dealt with by statute.

The judicial systems of the provinces as they exist today are based upon the British North America Act of 1867. Sect. 91 of that Act provides that "The 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 Sect. 92 (14), 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 its courts". The Parliament of Canada may however (Sect. 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

* Except as otherwise credited, this Chapter has been revised in the Judicial Section, Health and Welfare Division, Dominion Bureau of Statistics.

† Prepared by the Criminal Law Section, Department of Justice, Ottawa.