

With regard to the creation of courts by the Dominion Govt the scheme of the B.C.A. act is logical which it is quite the reverse as to those prov. courts mentioned in Sec. 96. It is illogical in this, that the machinery of those courts is supplied partly by the Dominion Govt and partly by the Provts with the resultant difficulty of fixing responsibility. The power of appointing judicial rests with one Govt, another Govt defines the duties of the office.

96. - Govt appoint judges of superior, district and county courts in each Prov. except those of courts of Probate in N.S. & N.B.

Sec 96  
appoint of  
judges

Sec 97  
election of  
judges in courts

VII - Judicature

96-101 of B.C.A. act (read carefully)

Judicature of Canada consists of courts of Canada & courts of provinces

The prov. courts are peculiar to courts of provinces. The provinces have jurisdiction of courts, but judges are appointed by Govt with advice of ministers

Provinces determine jurisdiction of local courts & appoint local officers except judges. The courts of provinces are a species of partnership institution created in part by local Govt, & partly by Govt with fed. ministers.

Provincial courts cannot take away any of the jurisdiction of Dominion courts (P)

The Parlt of Canada may create a general court of appeal & other courts but cannot take away any jurisdiction of local courts.

Sec. 96. This mode of appointment cannot be altered. Judges could not be made elective

Sec 97. Judges to be taken from respective bars of the province