

Provincial judiciaries

Under Section 92(14) of the British North America Act, 1867, the legislature of each province may exclusively 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. Pursuant to Sections 6 and 17 of an Act to amend the Yukon Act, the Northwest Territories Act and the Territorial Lands Act (c.48 (1st Supp.)), in 1970 Parliament extended the same legislative powers in respect of the administration of justice to the Legislative Councils of both the Yukon and Northwest Territories. These courts of provincial or territorial creation administer both provincial and federal laws to the extent that the administration of the latter is not confided exclusively to a tribunal established by Parliament under Section 101 of the B.N.A. Act, 1867.

Section 96 of the B.N.A. Act, 1867, provides that the Governor General in Council shall appoint the judges of the superior, district and county courts in each province (except those of the courts of probate in Nova Scotia and New Brunswick). The appointment of the judges of the superior, district or county courts in the Yukon and Northwest Territories is similarly made by the Governor in Council, pursuant to Sections 11 and 22 respectively of c.48, 1st Supplement RSC 1970 (in force from and after July 15, 1971, *per* SOR/71-369 and -371). Section 100 provides that the salaries, allowances and pensions of such federally-appointed judges are to be fixed and provided by Parliament, and these are set out in the Judges Act (R.S.C. 1970, c.J-1, as amended). Under Section 99(1) of the B.N.A. Act, 1867, the judges of superior courts hold office during good behaviour, and are only removable by the Governor General on address of the Senate and House of Commons. Under Section 99(2), added by the B.N.A. Act, 1960, judges of superior courts cease to hold office upon attaining 75 years of age. The tenure of office of county court judges is fixed by the Judges Act as being during good behaviour.

Magistrates, juvenile, family and similar courts and offices are staffed by officers appointed by the province in which their jurisdiction is found.