

UPDATE: Researching Canadian Law

By Ted Tjaden

Update by Kim Nayyer

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Over the years Kim has worked with the Uniform Law Commission of Canada and the Health Law Institute and has written content for Canadian legal research databases. She occasionally writes for [Slaw.ca](#) and the Canadian Bar Association publications. Most recently she wrote a chapter titled "Researching Provincial Legislation: British Columbia," in the second and third editions of *The Comprehensive Guide to Legal Research, Writing & Analysis* (Toronto: Emond, 2016, and forthcoming 2019). Kim is a member of the Canadian Association of Law Libraries, the American Association of Law Libraries, and the Canadian Bar Association, and she is an officer of the North American Cooperation Section of the Association of American Law Schools.

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1. The Canadian Legal System

Canada is a federal parliamentary democracy and a constitutional monarchy. Her Majesty Elizabeth II, Queen of Canada, thus is recognized as the head of state. This is largely symbolic, in that the Crown, or Queen, has no real juridical or direct legislative power. However, the passage of laws still requires Royal Assent, which is given by the Queen's official representative in Canada: the [Governor-General](#) federally and the Lieutenant-Governors provincially. These representatives play no other role in the drafting of legislation in Canada.

Canada began as colonies of England and France on lands of different Indigenous peoples of North America. Canada's legal system therefore derives from English common law and French civil law. More recently, legal orders by which various Indigenous peoples of different regions of Canada governed and may continue to govern themselves are gaining recognition more broadly in Canada.

The earliest sources of law in Canada include treaties between the colonies and Indigenous peoples or nations. A key document is the [Royal Proclamation of 1763](#), issued by King George III following the Treaty of Paris by which France ceded to Britain its colonial land in what is now Canada. The Royal Proclamation of 1763 is often considered Canada's earliest constitutional document. It established an administrative structure, addressed the relationship between the Crown and the First Nations or Indigenous peoples of Canada, and set the basis for treaty-making. The Royal Proclamation of 1763 also introduced British law to the former French colonial peoples. In 1774 the UK enacted the [Quebec Act](#), which restored French civil law to private law matters in what became the province of Québec. This is a foundation for the [bijural](#) nature of Canadian law that exists today.

In 1867 the United Kingdom constituted the Dominion of Canada by the [British North America Act 1867](#), itself an ordinary UK statute. It established for Canada a federal government, provincial governments, and court structures. Significantly, the BNA Act 1867 provided for the distribution of legislative authority between the federal jurisdiction and the provinces. It also continued the effects of the applicable prior Royal Proclamations.

It was only in 1982 that Canada's constitutional history was brought to its current state, with the enactment of the [Canada Act 1982](#), another UK statute. The Canada Act 1982 is a brief statute that has significant effect for the Canadian legal system. First, it enacted the [Constitution Act, 1982](#) as set out in its Schedule B. Part I of this new constitutional document enshrined the [Canadian Charter of Rights and Freedoms](#), the first constitutional protection of fundamental rights and freedoms of individuals in relation to government action. It is generally referred to as the Charter. Part II

enshrined a recognition and affirmation of the aboriginal and treaty rights of the Indigenous peoples of Canada. Second, it renamed the British North America Act 1867 to the [Constitution Act, 1867](#), removing the British connection from the title of Canada's constitutional documents. Third, it provided for authoritative French language publication of the constitutional documents. Finally, it terminated the UK's legislative authority for Canada and thus is the last UK statute to directly create Canadian law.

As noted, the [Constitution Act, 1867](#), sets out the [distribution of legislative authority](#) of the federal government (section 91) and the ten provincial governments (section 92). The three territories are within the federal legislative authority, and the federal government has devolved its legislative authority for them to the territories.

Under section 91 of the [Constitution Act, 1867](#), the federal government of Canada is given exclusive power to "make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces." Some of the federal powers to legislate cover such topics as:

- the regulation of trade and commerce
- unemployment insurance
- postal service
- militia, military and naval service, and defence
- navigation and shipping
- banking
- patents and copyright
- marriage and divorce

Under section 92 of the [Constitution Act, 1867](#), the provincial governments have exclusive power over such areas as:

- direct taxation within the province to raise revenue for provincial purposes
- prisons (but not penitentiaries)
- the incorporation of companies with provincial objects
- the solemnization of marriage in the province
- property and civil rights in the province and generally all matters of a merely local or private nature in the province.

Parliament and the provincial legislatures both have power over agriculture and immigration, and over certain aspects of natural resources; but if their laws conflict, the national law prevails. Parliament and the provincial legislatures also have power over old age, disability and survivors' pensions; but if their laws conflict, the provincial power prevails.

As the opening words to section 91 indicate, any matter not specifically assigned to the provincial jurisdiction is within the legislative authority of the federal government. This is the converse of the comparable presumption in, for example, the United States of America.

The federal [Parliament of Canada](#), modeled after the British Parliament, has two "chambers": (i) the [House of Commons](#), comprising 338 elected politicians based on representation by population system, and (ii) the [Senate](#), comprising 105 Senators appointed by the Prime Minister. Either chamber can initiate bills, but the Senate cannot initiate financial legislation. At the provincial level, there is only a single chamber for each of the provinces and territories. [Explore the Government of Canada website.](#)

The Constitution Act, 1867, also establishes the various court systems in Canada. Section 96 reserves to the federal government the power to appoint judges to the superior courts of the provinces. These courts generally have unlimited or inherent jurisdiction. The responsibility for administration of the courts system, though, is given to the provinces by section 92(14). The provinces also have the authority to create provincial courts, the judges of which are appointed by the respective provincial governments. These courts are not courts of general or inherent jurisdiction and have only the powers given to them by provincial statute. The Federal Court and Federal Court of Appeal have a [statutory](#) jurisdiction limited to matters involving federal law, including intellectual property disputes, maritime law and claims against the government. The federal courts are administered by the federal government, and their judges are likewise appointed by the federal government. The creation of the federal courts derives from the power reserved to the federal government by section 101 of the Constitution Act, 1867.

In addition to these three systems of courts, there are also generally three main levels of court in Canada: (i) a trial court, sitting with a single judge (with or without a jury, depending on the matter) who hears live witnesses, (ii) an appellate court or court of last resort in a province, usually sitting with three judges who hear the appeal presented with written factums and oral argument and based on a written trial record, and (iii) the nine-member [Supreme Court of Canada](#), an appellate court which derives its authority from section 101 of the Constitution Act, 1867 and has jurisdiction across Canada and across causes. The Supreme Court of Canada is Canada's top court (although prior to 1949, it was possible to appeal a non-criminal law decision of this court to the Judicial Committee of the Privy Council in England, but that avenue of appeal was removed in 1949).

The Supreme Court of Canada is the highest appellate court, though in most cases an appeal to it does not lie as of right. Exceptions include intergovernmental disputes and cases where the provincial or federal appellate court below or the government requests the opinion of the Supreme Court of Canada. Otherwise, a party must seek and be granted leave to appeal. The Supreme Court of Canada has developed a large body of constitutional jurisprudence, including, in the last three decades, numerous decisions interpreting and applying the Charter and the intersections of its different provisions with each other and with other laws of the country, notably but not only criminal law. More recently, the Supreme Court of Canada has made significant pronouncements on Part II of the Constitution Act, 1982, the guarantee of aboriginal and treaty rights, including their intersection with the Charter and the Crown. Before the enshrinement of the Charter, constitutional jurisprudence from the Supreme Court of Canada mainly addressed questions relating to the proper interpretation of the distribution of legislative powers. The Supreme Court of Canada has also developed a substantial body of jurisprudence on administrative law, among other matters. Decisions of the [Supreme Court of Canada](#) are highly regarded throughout the world.

Judges in Canada are appointed by the government and generally must have been a member of the Bar for at least 10 years prior to appointment. Federal judges are given tenure until age 75. Persons being considered for appointment to the Supreme Court of Canada do not face a process of public confirmation by elected officials. While some see this as an indication that these important figures are not accountable to the people, others see this as a foundation for a merit-based judiciary that is not part of a politicized process. The appointment process varies from government to government, but it generally involves input from members of different parties of government and of the bars of Canada. The appointment process also conforms to a convention of regional and linguistic representation. Several women sit or have sat on the Supreme Court of Canada (and until last year [McLachlin CJC](#), a woman and highly regarded jurist, was its longest-serving Chief Justice). To date no visible minority or Indigenous judges have been appointed to the Supreme Court of Canada, though other appellate and superior courts have had such diversity. Judges are not elected in any jurisdiction in Canada.

Canada has ten provinces - [British Columbia](#), [Alberta](#), [Saskatchewan](#), [Manitoba](#), [Ontario](#), [Québec](#), [New Brunswick](#), [Nova Scotia](#), [Prince Edward Island](#) and [Newfoundland and Labrador](#) - and three territories - [Yukon Territory](#), [The Northwest Territories](#) and [Nunavut](#).

Canada has two official languages: English and French. Federal legislation is published in both English and French, as are decisions of the Supreme Court of Canada. At the provincial level, legislation from Manitoba, Ontario, Quebec and New Brunswick is also published in both official languages. At a practical, day-to-day level, most Canadians outside of Quebec use English.

American lawyers, law librarians and legal researchers should be aware of some general differences between Canadian laws and American laws. Some of these differences include the following points:

- **Criminal law:** In Canada, criminal law is a matter of federal law under the federal [Criminal Code](#), R.S.C. 1985, c. C-46, whereas in the United States, criminal laws are largely a matter of state law, except for matters falling under U.S. federal jurisdiction. Thus, in Canada, most criminal laws are uniform across the countries (some offences, such as motor vehicle offences, may also fall under provincial jurisdiction).
- **Residual federal powers:** As mentioned above on this page, there is a constitutional principle in Canada of residual federal power that states that any matter of jurisdiction not assigned to the provinces under the [Constitution Act, 1867](#), resides with the federal government, at least in matters of national concern. This is opposite to the American situation where residual powers are given to the States.
- **Legislation:** Canadian federal and provincial legislation is generally not codified by subject matter but is instead published in its official version alphabetically by name of the statute or regulation, often with occasional consolidation of amendments. Some Canadian legal publishers publish unofficial consolidated or annotated editions of Canadian legislation.
- **Constitutional rights:** Canada's Charter of Rights and Freedoms constitutionalizes rights and freedoms that bear some similarity to those contained in the US Bill of Rights. Among other things, the Canadian Charter guarantees "right to life, liberty and security of the person" (section 7) and the "right not to be subjected to any cruel and unusual treatment or punishment" (section 12). One major difference, however, is section 1 of the Canadian Charter which "guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". In Canada, therefore, the courts must explicitly balance the rights guaranteed in the Charter against the right of the government to reasonably limit those rights as can be demonstrably justified in a free and democratic society.

Recommended further reading on the Canadian legal system:

- Forcese, Craig & Aaron Freeman. *The Laws of Government: The Legal Foundations of Canadian Democracy*. 2nd ed. Toronto: Irwin Law, 2012.
- Fitzgerald et al, *Looking at Law: Canada's Legal System*, 6th ed (Toronto: LexisNexis, 2010)

2. Legislation

Legislation in Canada is officially published in print by the applicable federal or provincial Queen's Printer. Increasingly, Canadian governments are putting their legislative materials online, although most governments also include stark disclaimers stating that the online versions are not official. Despite these warnings, many persons use the online versions of legislation, although care must be taken as to how current the online information is. [CanLII](#) (originally known as the Canadian Legal Information Institute), is a widely used unofficial online cross-Canada legal information provider supported by the Federation of Law Societies of Canada. It also provides free access to Canadian legislation and is now one of the key ways legal researchers conduct their research for current and some historical legislation. The scope of its coverage varies across the jurisdictions.

Once the draft legislation has been prepared, it will be introduced into the legislature as a bill and must pass through three stages or "readings" before it can become law (federal legislation must pass through three readings in each of the House of Commons and the Senate; at the provincial level there is only a single legislature through which bills must pass three readings). The procedure below describes the process for Ontario provincial legislation (similar procedures apply in other Canadian jurisdictions):

First reading: The bill is introduced by the minister responsible, who also explains its objectives and makes a motion for its formal introduction. If the members vote in favour of the bill, it is assigned a number, printed and given to each member of the legislative assembly and scheduled for future debate.

Second reading: The bill is debated in the House. There is then a vote whether the bill will proceed to the committee stage (or directly to third reading stage, in some cases).

Committee stage: If the bill was "sent to committee" this means it will be examined in detail by the committee for that subject matter or ministry (one of eleven standing committees in Ontario) or by a specially created committee (a select committee). The committee will usually be made of members from all political parties but controlled by the party with majority power. The bill is discussed section by section. This is the stage where changes are made, sometimes as a result of political compromise, sometimes because of a change in policy by the majority, and sometimes simply to improve clarity.

The committee process may last a few days or a few months, depending on the bill. The committee will then debate whether to send the bill to the committee of the whole House (for more study by the entire legislature) or directly into final debate.

Third reading: This is the final debate on the bill. If the vote carries, the bill is sent to the Lieutenant-Governor for approval (called "Royal Assent") (Federal bills are sent to the [Governor General](#) for Royal Assent). The bill is also given a chapter number at this time.

Federally, a bill must also pass through three readings in the House of Commons, but it then must also pass three readings through the Senate. Alternatively, the Senate itself can introduce legislation (but not money bills). In this case, the bill must pass three readings in the Senate and then pass three readings by the House of Commons.

Most bills are public bills — these are typically introduced by a member of Cabinet and relate to laws of general application throughout the jurisdiction. There are also private member bills — these can be introduced by any Member and are often introduced by members of the opposition party. If they are too controversial, they often do not pass third reading. In addition, there are also private bills — these can be introduced by any member and are not of general application but typically relate to a particular organization or individual.

When is a statute in force? Once a bill has received Royal Assent, it may not yet be in force. A statute may come into force in one of three ways:

- 1) The statute will state when it comes into force (usually at the end of the statute).
- 2) The statute will state it comes into force upon Royal Assent.
- 3) The statute will state it comes into force upon "proclamation." The date of proclamation is usually given in the *Gazette*, a publication used by the government to publish regulations and other notices. Federal bills must be published in the [Canada Gazette, Part III](#), before they are official. The advantage to the government for having a law come into force upon "proclamation" is that they may not know at the time the bill passes third reading when they and the relevant ministry will be ready for the new legislation. Brochures may be required to be printed, staff may need training, and so on. A proclamation date therefore provides flexibility since the government can cause the Lieutenant Governor (or Governor General, federally) to announce the proclamation date whenever it suits the needs of the government.

Provincial bills are assigned a (consecutive) number depending whether they are public bills (Bill 76) or private bills (Bill Pr. 7). Federal bills are also assigned numbers in addition to a letter signifying where the bill originated: bill C-5 signifies the bill originated in the House of Commons (C); bill S-11 signifies the bill originated in the Senate (S).

Recommended further reading on Canadian legislation:

- Bédard, Michel. *Coming into Force of Federal Legislation* (15 May 2009). Ottawa: Library of Parliament, 2009. Available here online
- *Guide to Making Federal Acts and Regulations*. 2nd ed. Ottawa: Government of Canada, 2001. Available here online.
- McCormack, Nancy & Melanie Bueckert. *Introduction to the Law & Legal System of Canada*. Toronto: Carswell, 2013.
- O'Brien, Audrey & Marc Bosc, eds. *House of Commons Procedure and Practice*. 2nd ed. Ottawa: Government of Canada, 2009. Available here online
- Sullivan, Ruth. *Statutory Interpretation*. 2nd ed. Toronto: Irwin Law, 2007.
- Sullivan, Ruth. *Sullivan on the Construction of Statutes*. 6th ed. Markham, ON: LexisNexis Canada, 2014.

3. Case Law

For access to free, online Canadian case law, the widely used site is [CanLII](#). CanLII even provides a basic note tool to enable the researcher to see whether decisions on CanLII have been appealed or cited by another decision. In recent years the depth and breadth of cases on CanLII has increased dramatically, including, for example, all judgments published in the *Canada Supreme Court Reports* (SCR) since its inception in 1875. CanLII has also created [CanLII Connects](#), a site which allows registered users to "bring together lawyers, scholars and others with professional competency in legal analysis to share their insights and form collective opinions."

The traditional method of finding relevant cases on a particular topic is to use a case law digest service, with the most well-known being Carswell's *Canadian Abridgment*, now in a 3rd edition. The *Canadian Abridgment*, which is also available on WestlawNext Canada and on CD-ROM, provides digests or summaries of cases, organized into discrete topics (e.g., "Constitutional Law - Charter of Rights and Freedoms - Nature of Rights and Freedoms - Mobility Rights - General Principles"). LexisNexis Canada has developed an online "Canada Digest" on LexisNexis Quicklaw; in addition, Martine Law Book has long had its own key-number classification system.

Carswell's *Canadian Case Citations* is a print publication that shows a case's judicial history (i.e., whether the case was appealed to a higher court or not) and its judicial consideration (whether later decisions cited or applied your case), also available on WestlawNext Canada. More generally, there are excellent online note tools on Lexis Advance Quickly and WestlawNext Canada for Canadian court decisions, along with the more basic noteup tools on CanLII.

In Canada, the *Supreme Court Reports* and the *Federal Court Reports* are technically the only official reporters. Most print-based case law reporters, such as the *Dominion Law Reports* (Canada Law Book) are "unofficial" but are still widely used by most lawyers and judges. There are many case law reporters in print, ranging from regional reporters (e.g., *British Columbia Law Reports*) to topical reporters (e.g., *Canadian Cases on the Law of Insurance*). Increasingly though, lawyers and judges are using online versions of case law in their books of authorities.

There are a number of commercial providers in Canada of online law-related information, for a fee. The major Canadian online providers include [Lexis Advance Quicklaw](#), [vLex Canada](#), the [Société québécoise d'information juridiques \(SOQUIJ\)](#) and [WestlawNext Canada](#). Most of these databases have extensive full-text Canadian case law searchable by keyword on various fields or segments within the judgments. These commercial

databases have much more depth and scope than what is freely available on [Canadian Legal Information Institute](#) in addition to often also having full-text legislation, journals, textbooks and newspapers.

The decisions of administrative tribunals are sometimes difficult to track down. CanLII provides access to some decisions of administrative tribunals and it is also possible to check the website of the particular tribunal to see what, if any, access is provided to their decisions. LexisNexis Quicklaw probably has the most extensive online access to administrative tribunal decisions among the commercial vendors.

Finally, access to Canadian courthouse dockets online not aggregated with no comparable service to PACER.

4. Law Schools and the Legal Profession

Depending on how one counts, there are 23 law schools in Canada. Canadian law schools operate in a similar manner to American law schools, except there are no "private" law schools in Canada. To enter Canadian law school, one usually needs strong undergraduate marks and a high Law School Admission Test (LSAT) score. Canadian law school is a 3-year program with mandatory first-year courses and a combination of electives in second and third year. Some law schools offer dual degree programs and co-op, clinical, and other experiential education opportunities. Graduates of Canadian law schools earn an LL.B. degree (although increasingly Canadian law schools are changing the name of their degrees to "J.D." to mirror the name of the degree granted by American law schools). The Council of Canadian Law Deans website provides a nice list of [Canadian law schools](#).

Graduation from a Canadian law school does not guarantee the right to practice law in Canada. To practice law, the Canadian law school graduate must satisfy the bar admission process of the province in which he or she wishes to practice law. Provincial bar or law society requirements vary, though they generally require the graduate to complete articles of clerkship about a year under the supervision of a qualified lawyer, at a court, a licensing program, or a prescribed combination of these, along with successful completion of the bar examination for that province.

It is not mandatory for Canadian lawyers to join the [Canadian Bar Association](#), which is a professional association and not a regulatory body, but many lawyers do join for the professional development benefits. There is [an online version of the CBA Code of Professional Conduct](#), although most provincial law societies are adopting a relatively uniform version of the Model Code of Professional Conduct by the Federation of Law Societies of Canada (FLSC). The FLSC is also responsible for overseeing and regulating the admission of foreign-trained lawyers through the [NCA Accreditation process](#).

Many Canadian law firms have websites. Some of these sites are a valuable source of information where lawyers at the firm have published law-related articles on their websites. The author has created a customized [Google search engine](#) to search major Canadian law firm websites, similar to the various "country" search engines at [Fee Fie Foe Firm](#). Unfortunately, Canadian law firm websites are not well indexed on the Internet, so it is difficult to find one comprehensive list. Set out below, therefore, are two ways of finding Canadian law firms: (i) using existing "meta" lists of law firms, or (ii) browsing through a select list of some of the larger Canadian law firms (the head office of the firm is indicated in parentheses after the firm name; most of the larger firms have offices or affiliations across Canada and it is often no longer appropriate to speak of a "head office"):

"Meta" lists of Canadian law firms:

- [The Canadian Law List](#)
- [Canadian Legal LEXPERT Directory](#)
- [Law Society of Upper Canada: Lawyer and Paralegal Directory](#)

Select list of larger Canadian law firms

- [Aird Berlis](#) (Toronto)
- [Alexander Holburn Beaudin & Lang](#) (Vancouver)
- [BCF \(Quebec\)](#)
- [Bennett Jones](#) (Calgary)
- [Blake Cassels & Graydon](#)
- [Blaney McMurtry](#) (Toronto)
- [Borden Ladner Gervais](#) (Toronto)
- [Burnet Duckworth & Palmer](#) (Calgary)
- [Cain Lamarre Casgrain Wells](#) (Quebec)
- [Cassels Brock](#) (Toronto)
- [Clark Wilson](#) (Vancouver)
- [Cox & Palmer](#) (Atlantic Canada)
- [Davies Ward Phillips & Vineberg](#) (Toronto)
- [Dentons \(Montreal\)](#)
- [DLA Piper \(Canada\) \(Vancouver\)](#)
- [Farris](#) (Vancouver)
- [Fasken Martineau](#) (Toronto)
- [Field Law](#) (Edmonton)
- [Goodmans](#) (Toronto)
- [Gowlings](#) (Toronto)
- [Lavery de Billy](#) (Quebec)
- [Lawson Lundell](#) (Vancouver)
- [Lerners](#) (London, Ontario)
- [MacPherson Leslie & Tyerman](#) (Regina/Saskatoon)
- [McCarthy Tetrault](#) (Toronto)
- [McInnes Cooper](#) (Atlantic Canada)
- [McMillan](#) (Toronto)
- [Miller Thomson](#) (Toronto)
- [Norton Rose Fullbright \(Montreal\)](#)
- [Osler Hoskin & Harcourt](#) (Toronto)
- [Owen Bird](#) (Vancouver)
- [Perley-Robertson, Hill & McDougall](#) (Ottawa)
- [Pushor Mitchell](#) (Kelowna, B.C.)
- [Richards Buell Sutton](#) (Vancouver)
- [Robic](#) (Montreal)
- [Stewart McKelvey](#) (Atlantic Canada)
- [Stikeman Elliott](#) (Toronto)
- [Torys](#) (Toronto)
- [Weir Foulds](#) (Toronto)

5. Law Libraries

Law libraries in Canada are generally publicly accessible (except for some of the law society law libraries which may restrict access to members). They include large academic law libraries, courthouse libraries, legislative law libraries and law society libraries. The [Canadian Association of Law Libraries/Association Canadienne des Bibliothèques de Droit](#) (CALL/ACBD) represents the interests of a wide variety of law libraries and legal information professionals across Canada.

Academic law libraries in Canada generally offer interlibrary loan services to other libraries.

6. Secondary Literature

Secondary literature in Canadian legal research generally comprises journals, encyclopedias, books and websites. These materials can sometimes be persuasive, depending on the nature of the work cited and the reputation of the author or publisher.

Canadian Law Journals

Law journals in Canada range from academic and scholarly to more practitioner-based.

The Canadian Bar Review is a widely cited journal published by the Canadian Bar Association. Law schools across Canada publish student-edited law reviews and other law journals. A substantial and growing collection is available open access in the [Commentary](#) collection on CanLII. A large and historical collection is available in the subscription database [HeinOnline](#).

Two major journal indexes are available in Canada: the *Index to Canadian Legal Literature* (Carswell), also on WestlawNext Canada and on Lexis Advance Quicklaw, and the *Index to Canadian Legal Periodical Literature* (print only). In addition, Lexis Advance Quicklaw has a unique database called the *Canadian Legal Symposium Index* (CLSI) that indexes papers presented at symposia, seminars and legal education workshops in Canada since January 1986. Increasingly, Canadian providers of continuing legal education (CLE) are making their seminar papers available online for a fee, such as the [Law Society of Upper Canada's AccessCLE service](#) (but which includes older CLE articles for free) or the service provided by the [Continuing Legal Education Society of BC](#) and the [Legal Education Society of Alberta](#).

Canadian Legal Encyclopedias

There are now three major legal encyclopedias in Canada:

- *Canadian Encyclopedic Digest* (CED) (Carswell/WestlawNext Canada): In print, there is a Western and an Ontario version. Both versions are available on WestlawNext Canada with links provided to corresponding case digests for the particular topic on the *Canadian Abridgment* on WestlawNext Canada).
- *Halsbury's Laws of Canada* (Lexis Advance Quicklaw): This set was completed in 2013, with 117 legal subjects spread across 77 volumes. It is available in print and on LexisNexis Quicklaw and is similar in scope to the *Halsbury's* encyclopedias for other commonwealth countries.

- *JurisClasseur Québec* (LexisNexis Canada): There are currently five collections in this large set focusing on the civil law of Quebec: Collection droit civil, Collection droit du travail, 3) Collection droit des affaires, 4) Collection droit public, and 5) Collection droit penal. It is available in looseleaf print and on LexisNexis Quicklaw, by subscription.

Canadian Law Books

There is a relatively healthy market for Canadian law-related books covering all legal topics. Many practitioner-oriented law books are published as loose-leaf publications so that individual pages can be easily updated, as needed.

Alternatively, the individual legal publishers listed in the next section below provide online catalogues to their own publications.

Set out below is a limited list of some leading textbooks on major areas of law.

Aboriginal Law

- Macaulay, Mary Locke. *Aboriginal & Treaty Rights Practice*. Toronto: Carswell, 2000- [looseleaf].
- Woodward, Jack. *Native Law*. Toronto: Carswell, 1989- [looseleaf].

Administrative Law

- Blake, Sara. *Administrative Law in Canada*. 5th ed. Toronto: Butterworths, 2011.
- Brown, Donald & John Evans. *Judicial Review of Administrative Action in Canada*. Toronto: Carswell, 2009- [looseleaf].
- deBeer, Jeremy et al. *Standards of Review of Federal Administrative Tribunals*. 4th ed. Markham, ON: LexisNexis Canada, 2012.
- Garant, Patrice. *Droit administratif*. 6e éd. Cowansville, QC: Éditions Y Blais, 2010.
- Jones, David Phillip & Anne S. de Villars. *Principles of Administrative Law*. 6th ed. Toronto: Carswell, 2014.
- Macaulay, Robert & James Sprague. *Practice and Procedure Before Administrative Tribunals*. Toronto: Carswell, 1991- [looseleaf].
- Régimbald, Guy. *Canadian Administrative Law*. 2nd ed. Toronto: LexisNexis Canada, 2015.

Banking Law

- Crawford, Bradley. *Law of Banking and Payment in Canada*. Toronto: Canada Law Book, 2008- [looseleaf].
- Gowling Lafleur Henderson. *Marriott and Dunn Practice in Mortgage Remedies in Ontario*. 5th ed. Toronto: Carswell, 1991- [looseleaf].
- McGuinness, Kevin. *The Law of Guarantee*. 3rd ed. Toronto: Carswell, 2013.
- Ogilvie, Margaret H. *Bank and Customer Law in Canada*. 2nd ed. Toronto: Irwin Law, 2013.

Bankruptcy Law

- Bennett, Frank. *Bennett on Bankruptcy*. 17th ed. Toronto: LexisNexis Canada, 2015.
- Houlden, Lloyd W. and C.H. Morawetz. *Bankruptcy and Insolvency Law of Canada*. 3rd ed. Scarborough: Carswell, 1992- [looseleaf].
- McElcheran, Kevin. *Commercial Insolvency in Canada*. 2nd ed. Toronto: LexisNexis Canada, 2011.
- Sarra, Janis. *Rescue! The Companies' Creditors Arrangement Act*. 2nd ed. Toronto: Carswell, 2013

- Wood, Roderick. *Bankruptcy and Insolvency Law*. Toronto: Irwin Law, 2009.

Civil Procedure

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- Thériault, Carmen, ed. *Widdifield on Executors and Trustees*. 6th ed. Toronto: Carswell, 2002- [looseleaf].
- Waters, Donovan et al. *The Law of Trusts in Canada*. 4th ed. Toronto, Carswell, 2012.

7. Legal Publishers

There are a number of major publishers of Canadian legal materials in print:

- [Carswell](#) (Thomson Reuters)
- [Emond Montgomery](#)
- [Irwin Law](#)
- [Lancaster House](#)
- [LexisNexis Canada](#)
- [Wilson & LaFleur](#)
- [Yvon Blais](#)

In recent years, there have been mergers in the Canadian legal publishing industry, with Carswell (Thomson Reuters) acquiring Canada Law Book (but still using the imprint of Canada Law Book) and LexisNexis Canada acquiring CCH Canadian.

There are also a number of commercial providers in Canada of *online* law-related information. The major Canadian online providers include:

- [Droit civil en ligne \(DCL\)](#)
- [LexisNexis Canada](#)
- [Répertoire électronique de jurisprudence du Barreau \(REJB\)](#)
- [Société québécoise d'information juridiques \(SOQUIJ\)](#)
- [WestlawNext Canada](#)

8. Law Dictionaries

There are a number of Canadian legal dictionaries, all available only in print:

- Dukelow, Daphne A. and Betsy Nuse. *The Dictionary of Canadian Law*. 4th ed. Toronto: Carswell, 2011.
- Reid, Hubert. *Dictionnaire de droit québécois et canadien : avec table des abréviations et lexique anglais-français*. 4th ed. Montreal: Wilson & LaFleur, 2010.
- Yogis, John A. *Canadian Law Dictionary*. 6th ed. New York: Barron's, 2008.

In addition, there are two major "words and phrases" services in Canada (these materials provide multiple examples of definitions drawn from court cases where the court has defined or explained the word or phrase in question):

- Carswell, *The Canadian Abridgment: Words and Phrases*. 3rd ed. Toronto: Carswell, 2003-
- Gardner, John D. *Sanagan's Words and Phrases, Legal Maxims*. 5th ed. Toronto: Carswell, 2008-

9. Law Directories

There are a number of legal directories (telephone books for lawyers and legal institutions). The major ones include:

- *Canada Legal Directory*. Toronto: Carswell. Published Annually.
- *Canadian Law List*. Aurora: Canada Law Book. Published Annually. Modified form available [online](#).
- [Lexpert.ca](#)
- *Martindale-Hubbell International Law Directory*. Published Annually. Modified form available [online](#).
- *Ontario Legal Directory* [the "orange book"]. Toronto: Distributed by University of Toronto Press. Published Annually.
- *The Ontario Legal Desk Book*. Toronto: Carswell. Published Annually.

10. Citation

Legal citation in Canada generally is not formalistically prescribed or expected by courts or in practice. For law school academic writing and for most Canadian law journal or law review publication purposes though, the red-and-white-coloured *Canadian Guide to Uniform Legal Citation* (9th ed., Carswell, 2018) is the usual standard. This guide is usually referred to as the "McGill Guide" because it is edited by the publishers of the *McGill Law Journal*. The McGill Guide provides comprehensive rules for citing case law, legislation, secondary material, parliamentary material for Canada, the U.K., the U.S. and other jurisdictions and also international documents.

A fairly straightforward open access alternative, the [Legal Citation Guide](#), is prepared by the Law Library at the UBC Allard School of Law. Some Canadian law schools recommend this for most legal writing purposes.

Courts may also set their own citation expectations in rules of procedure or practice directives. These tend to be less detailed than the McGill Guide.

11. Legal Research in Quebec

Québec is unique in Canada not only for its language and culture but also for its legal system. Unlike the other Canadian provinces, which draw upon the British common law tradition, the roots of Québec's private law stem from the civil law and the *Napoleonic Code* from France. But the common

law influence has penetrated into the Québec legal system, making it a unique hybrid, influenced both by the civil law and the common law. The website of the [Québec Department of Justice](#) has a nice overview of the [history of the legal system in Québec](#) and an explanation of the [court system in Québec](#).

The current [Civil Code of Québec](#) came into force on January 1, 1994, and contains 3,168 articles divided into ten sections or "books." For lawyers and librarians trained in the common law system, it may help to think of the Civil Code of Québec as a systematic codification of the "headnotes" or principles arising from the case law. As such, in a common law system, there are a whole series of court rulings from which one could synthesize general principles (such as the "duty of care" principle arising from *Donoghue v. Stevenson* that a person will be held liable for the damages caused by his or her negligence when it is reasonably foreseeable that a breach of duty of care by that person would cause injury to the other person). If one were to systematically codify these principles arising from the case law, one might start to approach a code of law resembling a civil code, although such a simplistic view overlooks the fact that a civil code is not actually developed in such a manner.

There are six law schools in Canada that provide a civil law course for persons to become lawyers in Québec:

- [University of Ottawa - Faculty of Law](#)
- [McGill University - Faculty of Law](#)
- [l'Université de Sherbrooke - Faculté de droit](#)
- [l'Université Laval - Faculté de droit](#)
- [l'Université de Montreal Faculté de droit](#)
- [l'Université du Québec à Montréal Département des sciences juridiques](#)

Of the foregoing schools, McGill's program including instruction in English and both McGill and Ottawa also provide a joint common law/civil law degree upon completion of an extra fourth year of law at either of these schools. Admission to the practice of law in Québec, like the other provinces in Canada, requires writing and passing provincial bar exams and then articling for a requisite period of time. Québec notaries, however, have a different status and play a more elevated role than notaries in other provinces. Hence, graduates from civil law schools in Canada have an option of attending the professional schools of either the [Barreau du Québec](#) or the [Chamber des notaires du Québec](#).

In Chapter 10 of MacEllven et al., *Legal Research Handbook* (6th ed., LexisNexis Canada), Denis Le May describes some of the similarities between Québec and the common law provinces, despite the civil code tradition in Québec:

- Like the other provinces, Québec is bound by Canadian federal laws, such as the Criminal Code or the Copyright Act. As a result, the crime of breaking and entering is the same whether it is committed in Alberta or Québec. Hence, case law regarding matters of federal jurisdiction that apply in Québec is relevant no matter where it originates.
- Judges in Québec are appointed in the same manner as judges in the other provinces in Canada. Thus, judges in Québec resemble their counterparts in other provinces more so than their counterparts in other civil law systems, such as France.
- Québec, like other provinces, also has provincial statutes and regulations of general application in the province. The Revised Statutes of Québec was last revised in 1977 (R.S.Q. 1977). They are kept current by the annual Statutes of Québec (S.Q.). The Revised Regulations of Québec 1981 are kept current by the *Gazette Officielle du Québec*: Part 2, Laws and Regulations. The government of Québec provides [Internet access to Québec legislation](#). Québec legislation and case law are also available on the web-site of [La Société québécoise d'information juridique \(SOQUIJ\)](#).

It is conceptually a little bit confusing for lawyers or librarians trained in a common law system to understand the interplay between the Civil Code of Québec and the Revised Statutes of Québec since both are statutes. Perhaps the simplest way to understand their relationship is to regard the Civil Code of Québec as stating the general principles by which the specific remedial measures set out in the Revised Statutes of Québec are governed. As such the Revised Statutes of Québec will usually legislate at a much more specific level of detail than the Civil Code of Québec.

The following resources discuss Québec's legal system in more detail:

- Brierley, John E.C. and Roderick A. Macdonald. *Québec Civil Law: An Introduction to Québec Private Law*. Toronto: Emond Montgomery Publications, 1993.
- Gall, Gerald L. *The Canadian Legal System*. 5th ed. Chapter 8 (by Pearl Eliadis and revised by France Allard). Toronto: Carswell, 2004.
- Le May, Denis. *The Civil Code of Québec in Chart Form*. Toronto: Irwin Law, 2006.
- Le May, Denis & John Eaton. *Essential Sources of Canadian Law/Les références essentielles en droit canadien*. Toronto: Irwin Law, 2009.
- Le May, Denis, Dominique Goubau & Marie-Louise Pelletier. *La recherche documentaire en droit*. 6th ed. (Montreal: Wilson & Lafleur, 2008).
- Macellven, Douglass et al. *Legal Research Handbook*. 6th ed. Chapter 10. Toronto: LexisNexis Canada, 2013.

12. Legal Classification in Canada

In the early 1970s, before the KE Class for the Law of Canada was created, several large Canadian academic law libraries made a decision to adapt the KF Class for the Law of America (created in 1968) for Canadian and commonwealth materials. Shih-Sheng Hu, the law librarian at Manitoba, devised a way of modifying the KF class for American materials to the Canadian context that would also allow all materials on a subject from different jurisdictions to be shelved together. Other members of the KF Modified School were Roger Jacobs (Windsor), and Balfour Halévy and Judith Ginsberg (York) and Diana Priestly (then of York).

For some KF classes, there is little modification: Family Law is KF 501-505 for both Canadian and U.S. family law materials. Other KF classes were modified by adding "geographical divisions" (G.D.) such that materials from the U.S. have no G.D. (and hence would be shelved first in that subject) and with all other countries being "cuttered" with "Z"; thus, KF6499 would be the range for an American book on income tax, while a Canadian book on the same subject would fall within the range KF6499 ZA2 and an Australian text would be KF6499 ZD2.

The KF Class was also modified through the use of tables for several areas of Canadian law where the American classification was not well-suited, such as constitutional law (KF 4480-4496), legal history of Commonwealth countries (KF345-349), and the Québec Civil Code. Tables assign specific numbers for this material. Cataloguers use a textbook (in a blue three-ring binder) *called KF Classification, Modified for Use in Canadian Law Libraries* to catalog legal materials for those Canadian law libraries using KF Modified as its classification scheme. This text contains a list or chart of legal subjects organized by classification number. For certain classes, the user is told to finish building the number using the tables of the back of book depending on the type of resource being catalogued and the size of the number range given for that topic.

By 1975, use of KF Modified had increased among Canadian law libraries and was in use by many of the common law Canadian academic law libraries. In April 1987, the National Library of Canada added KF Modified numbers to its CIP (Cataloging in Publication) data.

Despite this use of a special KF Modified by Canadian law libraries, the Library of Congress started to develop the KE Class (for the Law of Canada) through the help of Ann Rae, former Chief Librarian of the Bora Laskin Law Library, Faculty of Law, University of Toronto, who was seconded to the Library of Congress in Washington, D.C. in the 1970s to develop the current KE Class for the Law of Canada.

Thus, the current situation in Canada for law library classification is that a mixed system: some law libraries use KF Modified, while others (particularly the "civil law" academic law libraries in Quebec) use "pure" KE for the Law of Canada. Some law libraries, including the University of Victoria and the University of Toronto, that initially adopted the KF Modified form of classification are now moving towards "pure KE," primarily on the grounds that it is easier to buy cataloging records that use pure Library of Congress classification instead of the relatively unique KF Modified form of classification.

The following articles discuss the history and use of KF Modified cataloging in Canada for legal materials:

- Abols, Edite. "The Los Angeles County Law Library K Classification and the Department of Justice's Library Collection, Ottawa" in "Classification Schemes Used in Law Libraries in Canada. *CALL Newsl.* No. 5, 399-400 Nov. 1988, 13.
- Beresford, Anne. "Why Moys?" in "Classification Schemes Used in Law Libraries in Canada. *CALL Newsl.* No. 5, 393-394 Nov. 1988, 13.
- Ginsberg, Judith. "KF Classification Modified for Use in Canadian Law Libraries" in "Classification Schemes Used in Law Libraries in Canada. *CALL Newsl.* No. 5, 392-393 Nov. 1988, 13.
- Ginsberg, Judith. "A Note on the KF Classification Modified for Use in Canadian Law Libraries." In *Law Libraries in Canada*, ed. Joan N. Fraser, 159-161. Toronto: Carswell, 1988.
- Inselberg, Diana. "Home-Grown Classification Schemes: The Russell & DuMoulin Experience" in "Classification Schemes Used in Law Libraries in Canada. *CALL Newsl.* No. 5, 396 Nov. 1988, 13.
- Knight, Tim. "The Future of KF Modified in Canadian Law Libraries" (2002) 27 *Can. L. Libraries* 20.
- MacKellar, Marilyn. "Use of Dewey Decimal Classification for Tax Law Collections." in "Classification Schemes Used in Law Libraries in Canada. *CALL Newsl.* No. 5, 395 Nov. 1988, 13.
- Rae, E. Ann. "The Development of the KE Classification Schedule for Canadian Law: The Politics of Expediency." In *Law Libraries in Canada*, ed. Joan N. Fraser, 147-158. Toronto: Carswell, 1988.
- Rapkin, Lenore. "Classification of Books in McGill University Law Library" in "Classification Schemes Used in Law Libraries in Canada. *CALL Newsl.* No. 5, 396-397 Nov. 1988, 13.
- Rashid, H. "One Decade Later: KF Canadian Adaptation Scheme." *Canadian Library Journal* 41 (1984): 75-77.

13. Law Reform in Canada

Although law reform commissions in Canada were much more active in the 1970's, some reform work continues to be done, despite government cutbacks and the lack of funding for this sort of important work:

- [Alberta Law Reform Institute](#)
- [British Columbia Law Institute](#)
- [Manitoba Law Reform Commission](#)
- [Law Commission of Ontario](#)
- [Law Reform Commission of Nova Scotia](#)

- [Uniform Law Conference of Canada](#)

[The BC Law Institute](#) has a useful Law Reform Database law reform commission reports from the major Commonwealth countries, including Canada. Where listed reports are available online in full-text, links are provided.

14. Discussion Lists and Blogs

One of the main online discussion lists is the one unofficially associated with the Canadian Association of Law Libraries, being CALL-L. It is an un-moderated listserv used primarily by Canadian law librarians but also includes subscribers generally interested in legal research and the Canadian legal system. To subscribe to CALL-L, send an e-mail message in the following format to call-l- server@unb.ca:

subscribe call-l First_Name Last_Name

For example: subscribe call-l Wayne Gretzky

Law-related blogs in Canada have started to proliferate and are listed on [Lawblogs.ca](#). One of the oldest and most active Canadian law blogs devoted to legal research and technology is [Slaw.ca](#).

15. Miscellaneous Legal Sites

Set out below in alphabetical order are a number of the more frequently used websites for conducting legal research in Canada, some of which have already been mentioned above:

- [Courthouse Libraries BC](#)
- [Bibliothèque de droit Michel-Bastarache: Legal Research Guides](#)
- [Canadian Association of Law Libraries](#)
- [Canadian Association of Law Teachers](#)
- [Canadian Bar Association](#)
- [Canadian Legal Information Institute](#) (CanLII)
- [Centre d'accès à l'information juridique](#) (CAIJ)
- [UVic Law Library Legal Research and Writing Guide](#)
- Ted Tjaden, [Legal Research and Writing](#)