



The Courts by Jodi L. Wyman

Compared to some countries, Canada has a well-developed and sophisticated court system. Except for Quebec, Canadian courts are known as “common law” or ones that follow the precedent or judge-made system. This has evolved over the centuries from England, essentially since the Magna Carta in 1215.

Of course nowadays, the legislatures or parliaments of modern governments have a tremendous say in creating, amending, or cancelling statute laws – some of which are put in place after a court decision. The politicians may not have liked the decision and put legislation in place to counter it; or the decision may require certain legislation be created.

Courts are set up similar to a military organization, in a pyramidal form with each level of seniority having powers higher than the one below or perhaps more specialized powers.

Federally and provincially, the Supreme Court of Canada has jurisdiction (by an Act of Parliament) to hear appeals and

make orders in criminal and civil matters as a last resort. Nine judges are appointed, and sit in panels of 3, 5, or 9.

Each province then has a Court of Appeal, hearing criminal and civil appeals, as the highest court of that province. In Manitoba, nine judges are appointed and sit as panels of 3 or 5.

Below the Court of Appeal is a court of original jurisdiction and record, in Manitoba, Saskatchewan, and Alberta called the Court of Queen’s Bench. In Ontario it is called the Ontario Superior Court and in British Columbia, the British Columbia Supreme Court. Similar names exist in the rest of the provinces. These courts originated not from Statute but from the Magna Carta. They conduct appeals from administrative tribunals and lower courts as well as criminal trials, with or without a jury, and civil trials, including family issues. In Brandon, Mr. Justice Rodney Mykle and Mr. Justice John Menzies preside in this Judicial Centre as Queen’s Bench Justices.

The Federal Court of Canada has jurisdiction by statute over matters involving federal agencies and matters. It is based in Ottawa but sits in larger centers throughout Canada.

The busiest court and one that usually interfaces the most with the average citizen would be The Provincial Court of Manitoba or an equivalent in the other provinces. It only hears Criminal Code matters and Inquests . It is created by provincial statute. It is only at this level where the provincial government can appoint judges – otherwise at Queen’s Bench, Court of Appeal, the Federal Court of Canada and the Supreme Court of Canada the federal cabinet does the appointing.

In addition, there are many provincial and federal creatures that are not courts but must act in a similar way. Broadly, these are called administrative tribunals. Examples are the License Suspension Appeal Board, the Municipal Board, the Workers Compensation Board, and the HRDC Labour Code arbitration system – and dozens

of similar ones. Even cities have Tax Assessment Review Boards.

A division of the Queen's Bench is Small Claims Court. It is designed to be quick, cheap and informal. It is really designed to have no lawyers involved, although they can be. It is used for debt claims, minor injuries, minor property disputes and the like. Its monetary jurisdiction is \$10,000.00. Matters are heard by a Hearing Officer, who is usually a lawyer but not necessarily. Appeals are taken to a Queen's Bench Justice, but most claims stop at the trial stage.

The task of all courts or boards is to make decisions impartially, on the evidence, and according to the law. Winners feel a sense of justice and usually losers say there is none. Justice is a high but necessary concept. It separates nations from tyranny and dark-ages. If not for a workable, efficient court system we might still be fighting duels or using our six-shooters at high noon to settle disputes.