

## Researching Canadian Law

### Canadian Legal System

- Constitutional monarchy – symbolic – Queen has no real power
- Canada's Constitution
  - Constitution Act of 1867 <http://laws.justice.gc.ca/en/const/>
    - Creation of federal government and 10 provincial governments
    - Everything not mentioned as belonging to the provincial legislatures comes under the powers of the national Parliament
  - Charter of Rights and Freedoms  
[http://laws.justice.gc.ca/en/const/annex\\_e.html#I](http://laws.justice.gc.ca/en/const/annex_e.html#I) – added a constitutional document that guarantees certain basic rights and freedoms. Came into force in 1985. Had dramatic effect on Canadian jurisprudence. Canadian Supreme Court Judges became much more active striking down unconstitutional laws
  - The Canadian Constitution in Historical Perspective: with Clause-by-Clause analysis of the Constitution Acts and the Canada Act JL65 .R44 1992
- Government of Canada website is [www.gc.ca/](http://www.gc.ca/).
- See How Canadians Govern Themselves  
<http://www.parl.gc.ca/information/library/idb/forsey/index-e.asp> an online guide to Canadian government, for more information

### Case Law

- Three Court systems
  - Superior Courts – Federal, unlimited jurisdiction
  - Federal Courts – limited to matters involving federal law
  - Provincial Courts – limited to powers given by provincial statute
- Three levels of Courts
  - Trial courts – single judge
  - Provincial or federal appeals courts – 3 judges
  - National Supreme Court of Canada – 7 or 9 judges (top court since 1949)
- **Digests** – The main one used is Carswell's Canadian Abridgment
  - KE173 .C356 Up-to-date 3<sup>rd</sup> ed. in Deane Law library. Also available on Westlaw (ABRIDGMENT)
  - Guide to Research using the Canadian Abridgment KE173 .C36 1990
  - Family law digest 1824 – 1988 and 3<sup>rd</sup> ed. 1995 – 1998 KE536.22 .C33

- **Cases**
  - Reporters in Deane Law Library
    - Federal – Dominion Law Reports *KE132 .D66* (unofficial, just as USCA is here, all level courts) 1912-current
    - Regional
      - Manitoba Reports 1883 -1963 *KEM119 .A45M3*
      - Maritime Provinces Reports 1929-1967 *KE150 .A45M4*
      - New Brunswick Reports 1825 – 1929 *KEN118 .A45N4*
      - Nova Scotia Reports 1834 – 1929 *KEN7518 .A45N6*
    - Topical
      - Reports of Family Law 1976 – current *KE542 .R3*
      - Canadian Environmental Law Reports 1973 – current *KE3612 .C37*
      - Canadian Criminal Cases 1898 – current *KE8805.8 .C3*
  - Online
    - <http://www.canlii.org/> - all jurisdictions
    - Supreme Court of Canada <http://www.lexum.umontreal.ca/csc-scc/en/index.html>
    - Canada Human Rights Tribunal [http://www.chrt-tcdp.gc.ca/tribunal/index\\_e.asp](http://www.chrt-tcdp.gc.ca/tribunal/index_e.asp)
    - Westlaw (CAN-ALLCASES) or databases for specific province or topic: Go to Directory – International/Worldwide materials – North America – Individual Country – Canada – Cases
    - Lexis (CANCAS) or for more specific: Go to Legal excluding U.S. – Canada - Cases
- **Citator** – Canadian Case Citations 1867–current (Annual) *KE173 .C34*

## Statutes

- Legislature
  - Federal Parliament – 2 levels:
    - House of Commons
    - Senate
  - Provincial Level – Only single chamber
  - How a Government bill becomes law <http://dsp-psd.pwgsc.gc.ca/Reference/queens-e.html>
  - Federal bills must be published in the Canada Gazette <http://canadagazette.gc.ca/index-e.html> before they are official

- **Canadian statutes**
  - Statutes of Canada – Annual published chronological volumes (same as our Statutes at Large or Session Laws for NY)
  - Revised Statutes of Canada - Not consolidated by subject matter. They are arranged alphabetically by short title of the statute. A new consolidation is done every 10 or 20 years and is published in looseleaf form to keep it up to date
  - The provinces have the same arrangement
  - Criminal Law is federal, not provincial
  
- **Finding Statutes**
  - In the Deane Law Library
    - Federal
      - Statutes of Canada (Acts of the Parliament of Canada) 1909 – current *KE87 .A23*
      - Revised Statutes of Canada 1970 version (out-of-date, 1985 is the current one published) *KE173 .C38*
    - Provinces
      - Statutes of Alberta 1971-1976 *KEA41 .R4*
      - Revised Statutes of Alberta 1970 (current is 2000) *KEA41 .R4*
      - Revised Statutes of Manitoba 1970 *KEM41 .R4*
      - Statutes of Ontario 1972-1990 *KEO63 .R4*
      - Revised Statutes of Ontario 1970 (current is 1990) *KEO63 .R4*
      - Statutes of Saskatchewan 1979-2004 *KES40 .S81*
      - Revised Statutes of Saskatchewan 1965 (current is 2003) *KES40 .S81*
  - Online Statutes
    - Not considered official but use becoming very prevalent. Best place to find links to federal and all provincial statutes is <http://www.law-lib.utoronto.ca/resources/locate/canleg.htm>
    - Department of Justice Website <http://laws.justice.gc.ca/en/index.html>
    - Westlaw – (CANST-ALL) or to be more specific: Go to Directory – International/Worldwide materials – North America – Individual Country – Canada – Statutes
    - Lexis – There is no all statutes database so Go to Legal excluding U.S. – Canada – Legislation and Regulations
  
- Updating statutory research
  - Canadian statute citations = Références législatives Canadiennes *KE173 .C38*
  - For finding very recent acts, amendments or repealed acts, check the Canada Gazette, Part III <http://canadagazette.gc.ca/partIII/index-e.html>
  - We do not have print citators for the provinces

## Regulations

- Regulations consist of:
  - Rules or regulations created by federal or provincial executive agencies
  - “Subordinate legislation”, which is regulations, orders, rules, bylaws and municipal ordinances enacted by a person, body or tribunal
- Finding Regulations – We do not have any print materials for doing this in the Deane law library
  - Federal
    - Department of Justice website <http://laws.justice.gc.ca/en/index.html> (search Consolidated Regulations in drop down box instead of Consolidated Statutes)
    - Consolidated Index of Statutory Instruments  
<http://laws.justice.gc.ca/en/index/> is a finding aid
    - Canada Gazette <http://canadagazette.gc.ca/index-e.html> for updating
    - Westlaw (CANFED-REG) English and (CANFED-REG-FR) French
    - Lexis (CANREG)
  - Provinces
    - Internet Sources for Canadian legislation and Parliamentary material <http://www.law-lib.utoronto.ca/resources/locate/canleg.htm> , links to regulations and gazette, which updates both statutes and regulations
    - Westlaw has all provinces while Lexis only has the 4 largest.
      - Westlaw: Go to Directory – International/Worldwide materials – North America – Individual Country – Canada – Legislation - Regulations
      - Lexis: Go to Legal excluding U.S. – Canada – Legislation and Regulations