

## Outline of Canadian Legal System in Comparison to U.S. Legal System

1. Systems of government: parliamentary vs. republican and most significant differences between executive and legislative authority in a parliamentary system of government

2.

*Constitution Act, 1867*

*Constitution Act, 1982*

3. Divided legislative authority over Canadian Courts

a. Creation of Courts:

- s.92(14) – provincial courts (trial and intermediate appellate) – in Quebec, the Court of Quebec, the Superior Court and the Court of Appeal, plus a vast array of administrative tribunals
- s. 101 – federal courts (trial, intermediate appellate and supreme) – The Federal Court, the Tax Court, the Federal Court of Appeal, the Court Martial Appeal Court and the Supreme Court of Canada, plus a vast array of administrative tribunals (e.g. immigration, refugee claims and appeals)
- civil juries

b. Appointment of judges

- S. 96 – superior courts in the provinces (trial and appellate) – the federal government
- S. 92(14) – inferior courts and administrative tribunals in the provinces – the provincial government – variation between provinces
- S. 101 – the federal courts above mentioned

#### 4. Selection process of federally appointed trial and intermediate appellate judges

- i. Prior to current system and abuses – unfettered
- ii. Current application system (as of the mid 1980s)
- iii. Variation for the Supreme Court of Canada

#### 5. Eligibility and criteria for appointment

#### 6. Complaints procedure and removal from office (impeachment)

#### 7. Adjudication of civil (non-criminal) cases

- Language of proceedings (s. 133 *Constitution Act, 1867*)
- Judge alone, civil juries

#### 8. Adjudication of criminal cases

- Language of proceedings, including verdicts (s. 530 *Cr.C.*)
- Summary conviction, indictable and hybrid offences
- Preliminary inquiries
- Trial by judge alone or trial by jury

- Sequestration of jurors
- Confidentiality of jury deliberations
- Sentencing
- Rights of appeal (accused on conviction and prosecution on acquittal)
- Rights of appeal (sentencing)
- Parole eligibility in 1<sup>st</sup> and 2<sup>nd</sup> degree murder convictions
- Advancing dates of parole eligibility

#### 9. Standards of review for intermediate appellate courts

- Questions of law
- Questions of fact
- Mixed questions of fact and law

#### 10. Practical effect of standards of review (counsel and the courts)

#### 11. Hearings in the Supreme Court of Canada

- Criminal cases (with leave, without leave)
- Non-criminal cases (with leave)
- References (Federal and provincial)
- Written and oral argument

#### 12. Questions