



Court of Appeal File No.: CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British
Columbia et al
Intervener's Factum

COURT OF APPEAL

BETWEEN

**TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA
and KEVIN WESTELL**

APPELLANTS
(Plaintiffs)

AND

**ATTORNEY GENERAL OF BRITISH COLUMBIA
and LIEUTENANT GOVERNOR IN COUNCIL**

RESPONDENTS
(Defendants)

AND

**THE CRIMINAL DEFENCE ADVOCACY SOCIETY BRITISH COLUMBIA,
THE LAW SOCIETY OF MANITOBA, THE FEDERATION OF LAW SOCIETIES
OF CANADA, LAWYERS' RIGHTS WATCH CANADA, THE INDIGENOUS
BAR ASSOCIATION IN CANADA, BRITISH COLUMBIA PARALEGAL
ASSOCIATION, WORKERS FOR ETHICAL SUBSTANCE USE POLICY
SOCIETY, CANADIAN BAR ASSOCIATION, THE SOCIETY OF NOTARIES
PUBLIC OF BRITISH COLUMBIA, LAW FOUNDATION OF BRITISH
COLUMBIA, THE ADVOCATE'S SOCIETY and BRITISH COLUMBIA ACCESS
TO JUSTICE CENTRE FOR EXCELLENCE**

INTERVENERS

Court of Appeal File No.: CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al
Intervener's Factum

COURT OF APPEAL

BETWEEN

LAW SOCIETY OF BRITISH COLUMBIA

APPELLANT
(Plaintiff)

AND

**ATTORNEY GENERAL OF BRITISH COLUMBIA and
LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA**

RESPONDENTS
(Defendants)

AND

**THE CRIMINAL DEFENCE ADVOCACY SOCIETY BRITISH COLUMBIA,
THE LAW SOCIETY OF MANITOBA, THE FEDERATION OF LAW SOCIETIES
OF CANADA, LAWYERS' RIGHTS WATCH CANADA, THE INDIGENOUS
BAR ASSOCIATION IN CANADA, BRITISH COLUMBIA PARALEGAL
ASSOCIATION, CANADIAN BAR ASSOCIATION, THE SOCIETY OF
NOTARIES PUBLIC OF BRITISH COLUMBIA, LAW FOUNDATION OF
BRITISH COLUMBIA, THE ADVOCATE'S SOCIETY and BRITISH COLUMBIA
ACCESS TO JUSTICE CENTRE FOR EXCELLENCE**

INTERVENERS

INTERVENER'S FACTUM

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OPENING STATEMENT

An independent Bar is a hallmark of a free and democratic society. It ensures that every person can obtain access to resolute legal advocacy without interference by the state. Without an independent Bar, an independent judiciary cannot function effectively, access to justice becomes illusory, and the rule of law is jeopardized.

A large measure of independent self-governance has long been a feature, and responsibility, of the legal profession in Canada. The profession's authority to set ethical standards, determine qualifications for admission to the Bar, and discipline those who fall short, exists to protect the public interest and facilitate the lawyer's duty of undivided loyalty to the client. If legislation permits the state to take over these functions or dictate the terms on which they may be exercised, the public interest in the sanctity of the solicitor-client relationship is undermined.

The Federation of Law Societies of Canada (the "**Federation**") intervenes in these appeals to assist the Court in articulating a principled framework to determine constitutional challenges to legislation regulating the legal profession. The Federation represents the fourteen law societies that regulate the country's legal professions in the public interest.

The stakes of these appeals extend well beyond the specific legislation before the Court. The framework adopted here will shape the constitutional boundaries of legal professional regulation across the country. It is essential that the test applied by this Court be clearly articulated and faithful to the foundational role that an independent Bar plays in our constitutional order.

The Federation takes no position on the outcome of these appeals or the legislation at issue. Its intervention is directed to a broader concern: ensuring that the legal framework by which the outcome is determined appropriately safeguards the independence of the Bar as a constitutional principle, while respecting the jurisdiction of the provincial legislature to regulate the legal professions in the public interest.

PART 1: STATEMENT OF FACTS

1. The Federation takes no position with respect to the Appellants' statement of facts or the facts of the underlying dispute more generally.

PART 2: ISSUES ON APPEAL

2. The Federation takes no position on the outcome of these appeals or the constitutionality of the legislation at issue. Its positions on the issues on appeal are as follows.

3. As the Chief Justice found, the independence of the Bar is constitutionally protected as an unwritten constitutional principle. This principle informs the scope of provincial legislative authority to regulate the legal professions under ss 92(13) and (14) of the *Constitution Act, 1867*.¹

4. The legal framework for determining whether legislation regulating legal professionals is *ultra vires* should:

- (a) Consistent with the longstanding principles of federalism analysis, characterize the purpose and effect of the legislation by:
 - (i) Conducting a robust analysis of legislative purpose, including by considering the history of the subject legislation and the jurisdiction's tradition of legal professional regulation.
 - (ii) Assessing the legislation's effect on the individual and institutional dimensions of Bar independence, including the Bar's authority to set ethical and professional standards.
- (b) Assess, given the legislation's purpose and effect, whether the legislation is inconsistent with the maintenance of an independent Bar. Alternatively, the

¹ *Constitution Act, 1867*, [30 & 31 Vict, c 3 \(UK\)](#), reprinted in RSC 1985, Appendix II, No 5 [*Constitution Act, 1867*].

standard could be expressed as whether the legislation “respects” the independence of the Bar.

PART 3: ARGUMENT

A. The independence of the Bar is constitutionally protected

5. The Federation agrees with the submission of the Law Society of British Columbia that the independence of the Bar is constitutionally protected.²

6. An independent Bar is a necessary precondition to the constitutional rights that all Canadians enjoy. Where it is jeopardized, “all other constitutional rights including the rule of law are placed in jeopardy.”³ Bar independence is therefore “an important component of the fundamental legal framework of Canadian society.”⁴

B. The proper legal framework for assessing whether legal professional regulation is *ultra vires*

7. The Federation submits that the legal framework for assessing the *vires* of legislation regulating legal professionals should consider the legislation’s purpose and effect. With these purposes and effects in mind, the court should then determine whether the legislation is inconsistent with the maintenance of an independent Bar.

8. This framework is consistent with the well-established constitutional doctrine of “pith and substance” for assessing the *vires* of legislation in the context of the division of powers.⁵ While there may be no debate that the subject matter of the legislation at issue ostensibly falls under a provincial head of power, a pith and substance test may

² Factum of the Appellant, Law Society of British Columbia (August 5, 2026) [LSBC Factum] at paras 27-40.

³ *Law Society of British Columbia v British Columbia (Attorney General)*, [2026 BCSC 779](#) [Reasons for Judgment] at para [95](#), citing Jack Giles, “The Independence of the Bar” (2001) 59:4 *The Advocate* 549 at 549.

⁴ *Finney v Barreau du Québec*, [2004 SCC 36](#) at para [1](#).

⁵ *References re Greenhouse Gas Pollution Pricing Act*, [2021 SCC 11](#) [GGPA Reference] at para [51](#).

reveal that the legislation exceeds provincial authority by virtue of being inconsistent with the independence of the Bar. In that case, a remedy should follow.

9. Applying the pith and substance doctrine to interpret the limits on provincial heads of power accords with authorities interpreting limits arising from the phrase “in the Province” in s 92 of the *Constitution Act, 1867*. In that context, courts characterize the pith and substance of the legislation and the relevant provincial head of power, then ask whether it “respects the territorial limitations on that head of power.”⁶ The same analytical approach should apply here: determination of the pith and substance of legal professional regulation and then assessment of whether it respects the limitations the independence of the Bar places on provincial authority under s 92(14). While the “in the Province” authorities address a limitation in the text of the Constitution, the analytical approach is nonetheless instructive. The object of the analysis is the same: to interpret the scope of provincial legislative authority given a constitutional limitation on that authority.

1. Characterization of the purposes and effects of the legislation

(a) The need to consider legislative purpose

10. A robust analysis of legislative purpose is consistent with the pith and substance doctrine and constitutional *vires* review. To determine the purpose of the challenged statute or provision, the court can consider both intrinsic evidence, such as the legislation’s preamble or purpose clauses, and extrinsic evidence, such as Hansard or minutes of parliamentary committees.⁷ Analyzing legislative purpose also allows the court to examine the legislative history of the statute, which “helps to place the statute in its context, gives some explanation of its provisions, and articulates the policy of the government that proposed it.”⁸ This history includes “the state of law before the statute and the defect in the law (the ‘mischief’) which the statute purports to correct.”⁹

⁶ *British Columbia v Imperial Tobacco Canada Ltd.*, [2005 SCC 49](#) [*Imperial Tobacco*] at para [36](#).

⁷ [GGPA Reference](#) at para [51](#).

⁸ Peter W. Hogg & Wade Wright, *Constitutional Law of Canada*, 5th ed. (Thomson Reuters, 2007) (updated 2026, release 2) [*Hogg*] at §15:8.

⁹ *Hogg* at §15:8.

11. In this context, a jurisdiction's history or prior modes of legal professional regulation take on particular importance. Where the jurisdiction has traditionally employed a particular regulatory model to protect the independence of the Bar, wholesale legislative changes to that model beg the question: why? What "mischief" is the legislature attempting to address? If a coherent regulatory rationale is limited or lacking, evidence may lead the court to infer that one of the purposes of the legislation is to weaken the independence of the Bar in favour of increased state influence or control.

12. In assessing legislative purpose, form is not determinative of constitutional character. For example, a province may not set what are ostensibly healthcare standards for the real purpose of criminalizing abortion.¹⁰ This principle has been described as the colourability doctrine.¹¹

13. The ability to look beyond the form or stated purpose of legislation and assess its true character is particularly relevant to protecting the independence of the Bar. Presumably, a government intent on subverting Bar independence—one of the "hallmarks of a free society"¹²—would not announce its intention to do so overtly.

14. Failing to consider legislative purpose would also lead to absurd results. Once one accepts, as the Chief Justice did, that the independence of the Bar is constitutionally protected,¹³ it is "unthinkable" that a province could enact legislation for the purpose of destroying it.¹⁴

(b) Characterization of legislative effects

15. In characterizing the effects of legal professional regulation, the court should consider all matters relevant to the maintenance of an independent Bar. The Federation agrees with the Law Society of British Columbia's submission that Bar

¹⁰ See *R. v Morgentaler*, [1993 CanLII 74](#), [1993] 3 SCR 463 (SCC) [*Morgentaler*] and the discussion of *Morgentaler* in *Hogg* at §15:11.

¹¹ [Morgentaler](#) at p 496.

¹² *A.G. Can. v Law Society of B.C.*, [1982 CanLII 29](#), [1982] 2 SCR 307 (SCC) at p 335.

¹³ [Reasons for Judgment](#) at para 95.

¹⁴ [Reasons for Judgment](#) at para 137.

independence has both individual and institutional dimensions.¹⁵ The court should consider both legal effects, which flow directly from the statute, and practical or “side” effects, which flow from its application.¹⁶

(i) *Authority to determine professional codes of conduct*

16. An important aspect of the institutional dimension of the independence of the Bar is the authority to determine professional codes of conduct. The Chief Justice identified the Law Society of British Columbia’s establishment of the *BC Code of Professional Conduct*, based on the Federation’s Model Code of Professional Conduct, as a “key element” of the current regulatory model in British Columbia.¹⁷

17. Codes of professional conduct are “important statement[s] of public policy” regarding the conduct of legal professionals.¹⁸ They express “the collective views of the profession as to the appropriate standards to which the profession should adhere.”¹⁹ The purpose of such codes is to “establish general rules applicable to all members to ensure ethical conduct, protect the public and discipline lawyers who breach the rules — in short, the good governance of the profession.”²⁰

18. Because these codes establish the ethical standards to which legal professionals must adhere, or face potential disciplinary proceedings and disbarment, the risk of state interference with the independence of the Bar is acute. Constitutional jurisprudence provides concrete examples of how the imposition of regulatory standards by the state can impact legal professionals’ independence.

19. In a prior constitutional challenge brought by the Federation, this Court and the Supreme Court of Canada found that requirements placed on legal professionals under federal anti-money laundering and terrorist financing legislation were

¹⁵ LSBC Factum at paras 41-45.

¹⁶ [GGPA Reference](#) at para 51.

¹⁷ [Reasons for Judgment](#) at para 8.

¹⁸ *MacDonald Estate v Martin*, [1990 CanLII 32](#), [1990] 3 SCR 1235 (SCC) [*MacDonald Estate*] at p 1244.

¹⁹ [MacDonald Estate](#) at p 1244.

²⁰ *Canadian National Railway Co. v McKercher LLP*, [2013 SCC 39](#) at para 15.

unconstitutional.²¹ The regime required legal professionals to verify the identity of those on whose behalf they received funds and create and retain “receipt of funds” records, including about their clients. Records created by legal professionals about their clients were then subject to search and seizure by the state.²² Justice Cromwell, writing for the majority of the Supreme Court, found that the requirements violated lawyers’ duty of commitment to the client’s cause—recognizing a new principle of fundamental justice.²³

20. In doing so, Justice Cromwell highlighted the conflicting standards set by the state and the profession. Federal regulatory standards required lawyers to create records that the profession did not consider necessary for effective and ethical representation of clients. Indeed, the state’s purpose in having lawyers keep these records was to create a “paper trail” of evidence that the state could access and use against the lawyer’s client.²⁴ In contrast, the rules adopted by provincial law societies—based on a model rule created by the Federation—required lawyers to keep records necessary for ethical and professional practice.²⁵

21. The case is demonstrative of a broader point. If the state sets practice standards on what information legal professionals are required to collect about their clients, there is a real risk the purpose of such standards will be to “make lawyers the agents of the state”,²⁶ collecting information for use against clients.

22. The independence of the Bar may also be jeopardized by state influence on the professional standards that govern advocacy. As Justice Binnie wrote, quoting Henry Brougham’s address to the House of Lords:

[A]n advocate, in the discharge of his duty, knows but one person in all the world, and that person is his client. To save that client by all means and

²¹ *Federation of Law Societies of Canada v Canada (Attorney General)*, [2013 BCCA 147](#) [FLSC BCCA]; *Canada (Attorney General) v Federation of Law Societies of Canada*, [2015 SCC 7](#) [FLSC SCC].

²² [FLSC SCC](#) at paras [14-19](#).

²³ [FLSC SCC](#) at paras [102-103](#) and [109-110](#).

²⁴ [FLSC SCC](#) at para [12](#).

²⁵ [FLSC SCC](#) at paras [106-108](#).

²⁶ [FLSC BCCA](#) at para [154](#).

expedients, and at all hazards and costs to other persons, and, among them, to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, the destruction which he may bring upon others...²⁷

23. The duty of resolute advocacy exists in concert with ethical duties of civility.²⁸ But when “defining incivility and assessing whether a lawyer’s behaviour crosses the line, care must be taken to set a sufficiently high threshold that will not chill the kind of fearless advocacy that is at times necessary to advance a client’s cause.”²⁹ If the state is allowed to define incivility, it may create standards that prioritize state interests over the client’s right to fearless representation—and in so doing, jeopardize the very public interests which an independent Bar is sworn to protect.

(ii) *Relevance of a jurisdiction’s history of legal professional regulation*

24. Characterizing the effect of amendments to legal professional regulation must consider the *status quo ante* in the jurisdiction.

25. As the Chief Justice noted, at the time of Confederation, self-governance and self-regulation were not consistent features of lawyer regulation in the original provinces, and each of the provinces had a different model of lawyer regulation.³⁰ While there are now several common features of legal professional regulation across Canadian jurisdictions, the precise nature of that regulation still varies. As does the path that each jurisdiction took to arrive at its current model.³¹

26. Courts should not assess changes to legal professional regulation in the absence of this historical context. Doing so risks creating a “one-size-fits-all” approach that overlooks the distinct regulatory traditions of different jurisdictions, thereby mischaracterizing the true impact of legislative amendments on legal professional independence. It also fails to consider whether a given legislative change represents a

²⁷ *R. v Neil*, [2002 SCC 70](#) at para [12](#).

²⁸ *Groia v Law Society of Upper Canada*, [2018 SCC 27](#) [*Groia*] at para [71](#).

²⁹ *Groia* at para [76](#).

³⁰ [Reasons for Judgment](#) at para [48](#).

³¹ [Reasons for Judgment](#) at paras [49-55](#).

departure from, or continuity with, the jurisdiction's established approach to legal professional governance.

2. Assessing whether the legislation is inconsistent with the independence of the Bar

27. Once the court characterizes the purpose and effect of legal professional legislation, the court should then assess whether the legislation is inconsistent with the maintenance of an independent Bar. The Federation submits that the standard of “inconsistency” is appropriate in this context. Alternatively, the standard could be expressed as whether the legislation “respects” the independence of the Bar, and the resulting limitations on provincial jurisdiction under s 92(14).

28. In assessing the subject legislation in this case, the Chief Justice used several different terms to describe the threshold past which the impact of legal professional regulation on the independence of the Bar was *ultra vires*, including “evisceration”,³² “improperly undermining”,³³ and “improperly compromising”.³⁴ While the Chief Justice did not purport to establish the constitutional threshold in doing so, this Court’s guidance on the issue will be of assistance in future cases.

29. In the Federation's submission, the formulations of the standard in the Reasons for Judgment are inapt for the following reasons:

- (a) “Evisceration” sets the standard too high. It would permit any interference that did not, in and of itself, destroy Bar independence. The independence of the Bar should not die a death by a thousand cuts.
- (b) “Improperly undermining” or “improperly compromising” are also not appropriate standards. The modifier “improperly” adds an unnecessary subjective element to each standard. Undermining or compromising the independence of the Bar is improper in and of itself.

³² [Reasons for Judgment](#) at para [137](#).

³³ [Reasons for Judgment](#) at paras [69](#), [75](#), and [234](#).

³⁴ [Reasons for Judgment](#) at para [180](#).

30. The Federation submits that the appropriate standard is “inconsistency”. This standard reflects the text of the Constitution and provides a workable framework that has support in prior *vires* challenges under the judicature provisions of the Constitution.

31. When assessing legislation against the provisions of the Constitution, s 52(1) of the *Constitution Act, 1982* provides that “any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect” [emphasis added].³⁵

32. In *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, the Supreme Court of Canada found that provincial authority to levy court hearing fees must be exercised in a manner that is consistent with s 96 of the *Constitution Act, 1867*.³⁶ The Court concluded that “the hearing fee scheme prevents access to the courts in a manner inconsistent with s. 96 of the *Constitution Act, 1867* and the underlying principle of the rule of law” and thus “falls outside the Province’s jurisdiction under s. 92(14).”³⁷ The Court declared the hearing fee scheme unconstitutional.³⁸

33. Similarly, in *Democracy Watch v Canada (Attorney General)*, the Supreme Court of Canada concluded that a privative clause which purported to oust judicial review on questions of fact and law was “inconsistent with ss. 96 to 101 of the *Constitution Act, 1867*” [emphasis added], and declared it of no force and effect.³⁹

34. This Court also noted in *British Columbia (Attorney General) v Le* that the power to make laws in relation to the administration of justice under s 92(14) must be exercised “in a way that is consistent with s. 96.”⁴⁰

35. Alternatively, the standard can be expressed as whether the legislation “respects” the independence of the Bar, and the resulting limitations on provincial

³⁵ *Constitution Act, 1982*, Schedule B to the *Canada Act 1982*, [1982, c 11 \(UK\)](#).

³⁶ *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, [2014 SCC 59](#) [*Trial Lawyers*] at paras [36-37](#).

³⁷ *Trial Lawyers* at para [64](#).

³⁸ *Trial Lawyers* at para [68](#).

³⁹ *Democracy Watch v Canada (Attorney General)*, [2026 SCC 28](#) at para [85](#).

⁴⁰ *British Columbia (Attorney General) v Le*, [2023 BCCA 200](#) [Le] at para [178](#).

jurisdiction under s 92(14). This aligns with the terminology used in the authorities on the territorial limits of the province’s jurisdiction discussed above.⁴¹ This Court in *Le* uses both terminologies, stating that provincial legislation under s 92(14) must “respect” the constitutionally protected status of s 96 courts,⁴² and that the provincial authority to make such laws must be exercised in a way that is “consistent” with s 96.⁴³

C. Conclusion

36. The Federation submits that the Court should adopt the legal framework summarized above as governing constitutional challenges to legislation regulating the legal professions.

PART 4: NATURE OF ORDER SOUGHT

37. The Federation respectfully seeks an order that:

- (a) The Federation is permitted to make oral argument at the hearing of the Appeals, for a duration to be determined by the division hearing the Appeals.
- (b) No costs or disbursements be awarded for or against the Federation in respect of these Appeals.

Dated at the City of Vancouver in the Province of British Columbia this 5th day of October, 2026.



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⁴¹ See [Imperial Tobacco](#) at para [36](#).

⁴² [Le](#) at para [174](#).

⁴³ [Le](#) at para [178](#).

APPENDICES: LIST OF AUTHORITIES

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<i>Law Society of British Columbia v British Columbia (Attorney General)</i> , 2026 BCSC 779	2, 4, 5, 7, 8	6, 14, 16, 25, 28, 29
<i>MacDonald Estate v Martin</i> , 1990 CanLII 32, [1990] 3 SCR 1235 (SCC)	5	17
<i>R. v Morgentaler</i> , 1993 CanLII 74, [1993] 3 SCR 463 (SCC)	4	12
<i>R. v Neil</i> , 2002 SCC 70	6	22
<i>References re Greenhouse Gas Pollution Pricing Act</i> , 2021 SCC 11	2, 5	8, 15
<i>Trial Lawyers Association of British Columbia v British Columbia (Attorney General)</i> , 2014 SCC 59	9	32, 33
Secondary Sources		
Jack Giles, "The Independence of the Bar" (2001) 59:4 <i>The Advocate</i> 549	2	6
Peter W. Hogg & Wade Wright, <i>Constitutional Law of Canada</i> , 5th ed. (Thomson Reuters, 2007) (updated 2026, release 2)	3, 4	10, 12

APPENDICES: ENACTMENTS

CONSTITUTION ACT, 1867

30 & 31 Vict, c 3 (UK)

Exclusive Powers of Provincial Legislatures

Subjects of exclusive Provincial Legislation

92 In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

1. Repealed.
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:
 - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
 - (b) Lines of Steam Ships between the Province and any British or Foreign Country:

- (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

- 11. The Incorporation of Companies with Provincial Objects.
- 12. The Solemnization of Marriage in the Province.
- 13. Property and Civil Rights in the Province.
- 14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
- 15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
- 16. Generally all Matters of a merely local or private Nature in the Province.

...

VII. Judicature

Appointment of Judges

96 The Governor General 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.

Selection of Judges in Ontario, etc.

97 Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Quebec

98 The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Tenure of office of Judges

99 (1) Subject to subsection (2) of this section, the judges of the superior courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Termination at age 75

(2) A judge of a superior court, whether appointed before or after the coming into force of this section, shall cease to hold office upon attaining the age of seventy-five years, or upon the coming into force of this section if at that time he has already attained that age.

Salaries, etc., of Judges

100 The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada.

General Court of Appeal, etc.

101 The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

CONSTITUTION ACT, 1982

Schedule B to the Canada Act 1982 (UK), 1982, c 11

PART VII

General

Primacy of Constitution of Canada

52 (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.