

The Politics of Codification



The Lower Canadian Civil Code of 1866

Brian Young

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Politics Of Codification The Lower Canadian Civil Code Of 1866:

Politics of Codification Brian Young, 1994-11-17 Young interprets codification as part of a larger process that included the collapse of the Lower Canadian rebellions the decline of seigneurialism expansion of bourgeois democracy in central Canada professionalization of the bar and formation of the institutional state Central to codification was a profound ideological shift in Lower Canadian society that gave priority to exchange and individual property rights Young examines the evolution of codification from its nationalist origins in the 1820s and 1830s into a Civil Code that was integral to Confederation and became a flagship of bilingualism in Quebec The formation of the commission the work of the codifiers and the reaction of the anglophone minority and the Roman Catholic hierarchy are considered as is the Code s meticulous blending of a conservative social vision with the principles of freedom of property The Politics of Codification will be of great interest to students of law members of the legal professions and Canadian social and legal historians

A History of Law in Canada, Vol. 1 Philip Girard, Jim Phillips, R. Blake Brown, 2018-01-01 A History of Law in Canada is the first of two volumes Volume one begins at a time just prior to European contact and continues to the 1860s while volume two will start with Confederation and end at approximately 2000 The history of law includes substantive law legal institutions legal actors and legal culture The authors assume that since 1500 there have been three legal systems in Canada the Indigenous the French and the English At all times these systems have co existed and interacted with the relative power and influence of each being more or less dominant in different periods The history of law cannot be treated in isolation and this book examines law as a dynamic process shaped by and affecting other histories over the long term The law guided and was guided by economic developments was influenced and moulded by the nature and trajectory of political ideas and institutions and variously exacerbated or mediated intercultural exchange and conflict These themes are apparent in this examination and through most areas of law including land settlement and tenure and family commercial constitutional and criminal law

Within and Without the Nation Karen Dubinsky, Adele Perry, Henry Yu, 2016-01-28 In some ways Canadian history has always been international comparative and wide ranging However in recent years the importance of the ties between Canadian and transnational history have become increasingly clear Within and Without the Nation brings scholars from a range of disciplines together to examine Canada s past in new ways through the lens of transnational scholarship Moving beyond well known comparisons with Britain and the United States the fifteen essays in this collection connect Canada with Latin America the Caribbean and the wider Pacific world as well as with other parts of the British Empire Examining themes such as the dispossession of indigenous peoples the influence of nationalism and national identity and the impact of global migration Within and Without the Nation is a text which will help readers rethink what constitutes Canadian history

Misconceptions Anne Lorene Chambers, 2007-01-01 In 1921 despite the passing of legislation intended to ease the consequences of illegitimacy for children Children of Unmarried Parents Act reformers in Ontario made no effort to improve

the status of unwed mothers Furthermore the reforms that were passed served as models for legislation in other provinces and even in some American states institutionalizing in essence the prejudices evident throughout Until now historians have not sufficiently studied these measures resulting in the marginalization of unwed mothers as historical subjects In *Misconceptions* Lori Chambers seeks to redress this oversight By way of analysis and careful critique Chambers shows that the solutions to unwed pregnancy promoted in the reforms of 1921 were themselves based upon misconceptions The book also explores the experiences of unwed mothers who were subjected to the legislation of the time thus shedding an invaluable light on these formerly ignored subjects Ultimately *Misconceptions* argues that child welfare measures which simultaneously seek to rescue children and punish errant women will not and cannot succeed in alleviating child or maternal poverty

The Thousandth Man Barry Cahill, 2000-12-15 James McGregor Stewart 1889 1955 was perhaps the foremost Canadian corporate lawyer of his day He was also an appellate counsel venture capitalist Conservative Party fundraiser bibliographer of Rudyard Kipling and sometime university teacher of classics A leader of the bar in the inter war period he was the first Maritimer to serve as president of the Canadian Bar Association He distinguished himself mainly in constitutional cases before the Judicial Committee of the Privy Council During his career Stewart was also head of the leading law firm in eastern Canada now Stewart McKelvey Stirling Scales director and vice president of the Royal Bank of Canada and senior counsel to the Royal Commission on Dominion Provincial Relations Above all Stewart was committed to the idea of law as a truly learned profession and to the bar as the most important legal institution To this day no lawyer has held such prestige and power both within and outside Atlantic Canada in his time he was the only Maritime lawyer who gained full acceptance by every branch of the Canadian establishment Thematic rather than chronological in approach this fascinating legal biography provides both a history of a uniquely Canadian career and an interpretation of its significance for Stewart's time and ours

Lawyers and Legal Culture in British North America Philip Girard, Osgoode Society for Canadian Legal History, 2011-01-01 From award winning biographer Philip Girard *Lawyers and Legal Culture in British North America* is the first history of the legal profession in Canada to emphasize its cross provincial similarities and its deep roots in the colonial period Girard details how nineteenth century British North American lawyers created a distinctive Canadian template for the profession by combining the strong collective governance of the English tradition with the high degree of creativity and client responsiveness characteristic of U S lawyers a mix that forms the basis of the legal profession in Canada today Girard provides a unique window on the interconnections between lawyers' roles as community leaders and as legal professionals Centred on one pre Confederation lawyer whose career epitomizes the trends of his day Beamish Murdoch 1800 1876 *Lawyers and Legal Culture in British North America* makes an important and compelling contribution to Canadian legal history

My Life in Crime and Other Academic Adventures Martin L. Friedland, 2015-05-27 Since his call to the Bar in 1960 Martin L. Friedland has been involved in a number of important public policy issues including bail legal aid gun control

securities regulation access to the law judicial independence and accountability and national security My Life in Crime and other Academic Adventures offers a first hand account of the development of these areas of law from the perspective of a man who was heavily involved in their formation and implementation It is also the story of a distinguished academic author and former dean of law at the University of Toronto Moving beyond the boundaries of conventional memoir Friedland offers an extended meditation on public policy issues and significant events in the field of law discussing their historical impact and predicting the course of their future development Given his personal experience there is no other person more suited to discuss these hugely important issues Friedland puts the law and legal institutions into a wider context looking at the role of personalities politics and pressure groups in the establishment of laws that continue to have tremendous importance for Canadians My Life in Crime and other Academic Adventures reflects upon a life devoted to education scholarship and the law and is an insider account of public policy issues that have come to shape life in this country in the twentieth century and beyond

Doodem and Council Fire Heidi Bohaker, 2021-07-20 Providing rare insights into the doodem tradition and the concept of council fires this book explores Indigenous law and the Anishinaabe s holistic approach to governance territoriality family and kinship structures

The Persons Case Robert J. Sharpe, Patricia I. McMahon, 2017-06-22 On 18 October 1929 John Sankey England s reform minded Lord Chancellor ruled in the Persons case that women were eligible for appointment to Canada s Senate Initiated by Edmonton judge Emily Murphy and four other activist women the Persons case challenged the exclusion of women from Canada s upper house and the idea that the meaning of the constitution could not change with time The Persons Case considers the case in its political and social context and examines the lives of the key players Emily Murphy Nellie McClung and the other members of the famous five the politicians who opposed the appointment of women the lawyers who argued the case and the judges who decided it Robert J Sharpe and Patricia I McMahon examine the Persons case as a pivotal moment in the struggle for women s rights and as one of the most important constitutional decisions in Canadian history Lord Sankey s decision overruled the Supreme Court of Canada s judgment that the courts could not depart from the original intent of the framers of Canada s constitution in 1867 Describing the constitution as a living tree the decision led to a reassessment of the nature of the constitution itself After the Persons case it could no longer be viewed as fixed and unalterable but had to be treated as a document that in the words of Sankey was in a continuous process of evolution The Persons Case is a comprehensive study of this important event examining the case itself the ruling of the Privy Council and the profound affect that it had on women s rights and the constitutional history of Canada

Dewigged, Bothered, and Bewildered John McLaren, 2011-01-01 Throughout the British colonies in the nineteenth century judges were expected not only to administer law and justice but also to play a significant role within the governance of their jurisdictions British authorities were consequently concerned about judges loyalty to the Crown and on occasion removed or suspended those who were found politically subversive or personally difficult Even reasonable and well balanced

judges were sometimes threatened with removal Using the career histories of judges who challenged the system Dewigged Bothered and Bewildered illuminates issues of judicial tenure accountability and independence throughout the British Empire John McLaren closely examines cases of judges across a wide geographic spectrum from Australia to the Caribbean and from Canada to Sierra Leone who faced disciplinary action These riveting stories provide helpful insights into the tenuous position of the colonial judiciary and the precarious state of politics in a variety of British colonies *The Lazier Murder* Robert J. Sharpe,2012-10-26 In December 1883 Peter Lazier was shot in the heart during a bungled robbery at a Prince Edward County farmhouse Three local men pleading innocence from start to finish were arrested and charged with his murder Two of them Joseph Thomset and David Lowder were sentenced to death by a jury of local citizens the following May Nevertheless appalled community members believed at least one of them to be innocent even pleading with prime minister John A Macdonald to spare them from the gallows The Lazier Murder explores a community s response to a crime as well as the realization that it may have contributed to a miscarriage of justice Robert J Sharpe reconstructs and contextualizes the case using archival and contemporary newspaper accounts The Lazier Murder provides an insightful look at the changing pattern of criminal justice in nineteenth century Canada and the enduring problem of wrongful convictions **The British Columbia Court of Appeal** Christopher Moore,2010-03-15 Courts of law at once reflect and shape the society in which they reside and dispense justice To mark the 2010 centenary of BC s highest court the British Columbia Court of Appeal this book presents an institutional jurisprudential and biographical account of the court and its evolving role in the province Richly illustrated and replete with biographical sketches group portraits of judges and careful explorations of significant and representative cases this authoritative history explores how the court came into being how it has operated and who its judges have been In the process it tells the story of how the court has shaped and been shaped by the social political and legal development of British Columbia This much needed addition to the judicial history of Canada raises questions for British Columbia legal historians to pursue and for scholars judges lawyers and Canadians in general to ponder [A Legal History of Adoption in Ontario. 1921-2015](#) Lori Chambers,2016-01-01 Lori Chambers fascinating study explores the legal history of adoption in Ontario since the passage of the first statute in 1921 This volume explores a wide range of themes and issues in the history of adoption including the reasons for the creation of statutory adoption the increasing voice of unmarried fathers in newborn adoption the reasons for movement away from secrecy in adoption the evolution of step parent adoption the adoption of Indigenous children and the growth of international adoption Unlike other works on adoption Chambers focuses explicitly on statutes statutory debates and the interpretation of statutes in court In doing so she concludes that adoption is an inadequate response to child welfare and on its own cannot solve problems regarding child neglect and abuse Rather Chambers argues that in order to reform the area of adoption we must first acknowledge that it is built upon social inequalities within and between nations *Borderline Crime* Bradley Miller,2016-01-01 Borderline Crime examines how law

reacted to the challenge of the border in British North America and post Confederation Canada Miller also reveals how the law remained confused amorphous and often ineffectual at confronting the threat of the border to the rule of law

Westward Bound Lesley Erickson, 2011-08-01 Westward Bound debunks the myth of Canada's peaceful West and the masculine conceptions of law and violence upon which it rests by shifting the focus from Mounties and whisky traders to criminal cases involving women between 1886 and 1940 Erickson's analysis of these cases shows that rather than a desire to protect official responses to the most intimate or violent acts betrayed an impulse to shore up the liberal order by maintaining boundaries between men and women Native people and newcomers and capital and labour Victims and accused could only hope to harness entrenched ideas about masculinity femininity race and class in their favour This fascinating exploration of hegemony and resistance in key contact zones draws prairie Canada into larger debates about law colonialism and nation building

Labour Before the Law Judy Fudge, Eric Tucker, 2004-01-01 In this groundbreaking study of the relations between workers and the state Judy Fudge and Eric Tucker examine the legal regulation of workers' collective action from 1900 to 1948 They analyze the strikes violent confrontations lockouts union organizing drives legislative initiatives and major judicial decisions that transformed the labour relations regime of liberal voluntarism which prevailed in the later part of the nineteenth century into industrial voluntarism whose centrepiece was Mackenzie King's Industrial Disputes Investigation Act of 1907 This period was marked by coercion and compromise as workers organized and fought to extend their rights against the profit-oriented owners of capital while the state struggled to define a labour regime that contained industrial conflict The authors then trace the conflicts that eventually produced the industrial pluralism that Canadians have known in more recent years By 1948 a detailed set of legal rules and procedures had evolved and achieved a hegemonic status that no prior legal regime had even approached This regime has become so central to our everyday thinking about labour relations that one might be forgiven for thinking that everything that came earlier was truly before the law But as Labour Before the Law demonstrates workers who acted collectively prior to 1948 often found themselves before the law whether appearing before a magistrate charged with causing a disturbance facing a superior court judge to oppose an injunction or in front of a board appointed pursuant to a statutory scheme that was investigating a labour dispute and making recommendations for its resolution The book is simultaneously a history of law aspects of the state trade unions and labouring people and their interaction within the broad and shifting terrain of political economy The authors are attentive to regional differences and sectoral divergences and they attempt to address the fragmentation of class experience

Law, Rhetoric and Irony in the Formation of Canadian Civil Culture Michael Dorland, Maurice René Charland, 2002-01-01 In Rhetoric Irony and Law in the Formation of Canadian Civil Culture Michael Dorland and Maurice Charland examine how over the roughly 400 year period since the encounter of First Peoples with Europeans in North America rhetorical or discursive fields took form in politics and constitution making in the formation of a public sphere and in education and language The

study looks at how these fields changed over time within the French regime the British regime and in Canada since 1867 and how they converged through trial and error into a Canadian civil culture The authors establish a triangulation of fields of discourse formed by law as a technical discourse system rhetoric as a public discourse system and irony as a means of accessing the public realm as the key pillars upon which a civil culture in Canada took form in order to scrutinize the process of creating a civil culture By presenting case studies ranging from the legal implications of the transition from French to English law to the continued importance of the Louis Riel case and trial the authors provide detailed analyses of how communication practices form a common institutional culture As scholars of communication and rhetoric Dorland and Charland have written a challenging examination of the history of Canadian governance and the central role played by legal and other discourses in the formation of civil culture

Connecting the Dots Harry W. Arthurs, 2019-05-23 Harry W Arthurs is a name held in high esteem by labour lawyers and academics throughout the world Although many are familiar with Arthurs s contributions and accomplishments few are acquainted with the man himself or how he came to be one of the most influential figures in Canadian law and legal education In *Connecting the Dots* Arthurs recounts his adventures in academe and the people principles ideas motivations and circumstances that have shaped his thinking and his career The memoir offers intimate recollections and observations beginning with the celebrated ancestors who influenced Arthurs s upbringing and education It then sweeps through his career as an architect of important reforms in legal education and explores his research as a trailblazing commentator on the legal profession Arthurs analyzes his experiences as a legal theorist and historian and his pivotal role as a discordant voice in debates over constitutional and administrative law Along the way he muses on the intellectual projects he embraced or set in motion the institutional reforms he advocated the public policies he recommended and how they fared long term Framed with commentary on the historical context that shaped each decade of his career and punctuated by moments of personal reflection *Connecting the Dots* is a humorous frank and fearless account of the rise and fall of Canadian labour law from the man who was at the centre of it all

Law, Life, and the Teaching of Legal History Ian C. Pilarczyk, Angela Fernandez, Brian Young, 2022-07-19 As the leading legal historian of his generation in Canada and professor at McGill University for over three decades Blaine Baker 1952 2018 was known for his unique personality teaching style intellectual cosmopolitanism and deep commitment to the place of Canadian legal history in the curriculum of law faculties *Law Life and the Teaching of Legal History* examines important themes in Canadian legal history through the prism of Baker s career Essays discuss Baker s own research his influence within McGill s law faculty his complex personality and the relationship between the private and the public in the life of a university intellectual at the turn of the twenty first century Inspired by topics Baker took up in his own writing contributors use Baker s broad interests in legal culture to reflect on fundamental themes across Canadian legal history including legal education gender and race technology nation building and national identity criminal law and marginalized populations and constitutionalism *Law Life*

and the Teaching of Legal History offers a contemporary analysis of Canadian legal history and thoughtfully engages with what it means to honour one individual's enduring legacy in the study of law **Canadian State Trials, Volume V** Barry Wright, Susan Binnie, Eric Tucker, 2022-11-01 The fifth and final volume of the Canadian State Trials series examines political trials and national security measures during the period of 1939 to 1990. Essays by historians and legal scholars shed light on experiences during the Second World War and its immediate aftermath, including uses of the War Measures Act and the Official Secrets Act with the unfolding of the Cold War and legal responses to the FLQ, including the October Crisis, labour strikes and Indigenous resistance and standoffs. The volume critically examines the historical and social context of the trials and measures resulting from these events, concluding the first comprehensive series on this important area of Canadian law and politics. The fifth volume's exploration of state responses to real and perceived security threats is particularly timely as Canada faces new challenges to the established order, ranging from Indigenous nations demanding a new constitutional framework to protestors challenging discriminatory policing and contesting public health measures. Osgoode Society for Canadian Legal History

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