

The Politics of Codification



The Lower Canadian Civil Code of 1866

Brian Young

Politics Of Codification The Lower Canadian Civil Code Of 1866

Brian J. Young



Politics Of Codification The Lower Canadian Civil Code Of 1866:

Politics of Codification Brian J. Young, 1994 In this study of a pivotal event in the evolution of Quebec's legal culture Brian Young shows that codification of the Civil law was an intensely political act as well as a legal phenomenon *Essays in the History of Canadian Law* George Blaine Baker, Donald Fyson, 2013-12-06 The essays in this volume deal with the legal history of the Province of Quebec Upper and Lower Canada and the Province of Canada between the British conquest of 1759 and confederation of the British North America colonies in 1867 The backbone of the modern Canadian provinces of Ontario and Quebec this geographic area was unified politically for more than half of the period under consideration As such four of the papers are set in the geographic cradle of modern Quebec four treat nineteenth century Ontario and the remaining four deal with the St Lawrence and Great Lakes watershed as a whole The authors come from disciplines as diverse as history socio legal studies women's studies and law The majority make substantial use of second language sources in their essays which shade into intellectual history social and family history regulatory history and political history *Essays in the History of Canadian Law* J. Phillips, R. Roy McMurtry, John T. Saywell, 2008-09-18 Written to honour the life and work of the late Peter N Oliver the distinguished historian and editor in chief of the Osgoode Society for Canadian Legal History from 1979 2006 this collection assembles the finest legal scholars to reflect on the issues in and development of the field of legal history in Canada Covering a broad range of topics this volume examines developments over the last two hundred years in the legal profession and the judiciary nineteenth century prison history as well as the impact of the 1815 Treaty of Paris The introduction also provides insight into the history of the Osgoode Society and of Oliver's essential role in it along with an illuminating analysis of the Society's publications program which produced sixty six books during his tenure A fitting tribute to one of the foremost legal historians this tenth volume of *Essays in the History of Canadian Law* is a significant contribution to the discipline to which Oliver devoted so much *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 *Essays in the History of Canadian Law* G. Blaine Baker, Donald

Fyson,1981-01-01 The essays in this volume deal with the legal history of the Province of Quebec Upper and Lower Canada and the Province of Canada between the British conquest of 1759 and confederation of the British North America colonies in 1867 The backbone of the modern Canadian provinces of Ontario and Quebec this geographic area was unified politically for more than half of the period under consideration As such four of the papers are set in the geographic cradle of modern Quebec four treat nineteenth century Ontario and the remaining four deal with the St Lawrence and Great Lakes watershed as a whole The authors come from disciplines as diverse as history socio legal studies women s studies and law The majority make substantial use of second language sources in their essays which shade into intellectual history social and family history regulatory history and political history

Essays in the History of Canadian Law Christopher English,2005-12-15 The study of Canadian legal history has seen a remarkable growth in the past decade nowhere more so than in Atlantic Canada Given its early settlement and some of the liberties taken with legal procedure there as well as some creative interpretations of English law the region is ripe for close study in the legal history field This new collection examines that history on two islands Newfoundland and Prince Edward Island The essays examine legal themes developments and disputes and offer a framework for comparing ways of administering justice through the courts in the eighteenth and nineteenth centuries The cases examined are particularly interesting for the light they throw on legal process and especially on the motives of the parties Unlike in contemporary England and Upper Canada the English precedents gave way to local needs as equitable regimes emerged that put family and community interests first and treated all members of the family in ways tailored to their personal needs and circumstances This volume which includes a number of essays examining women s legal status and access to the courts is a comprehensive and fascinating examination of legal history in two Canadian provinces

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

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

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

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

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

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

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, it 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.

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