
177 Greenwood and Wright, see note 173 above, p. 12; Michel Morin, "Les changements de régimes juridiques consécutifs à la Conquête de 1760" (1997) 57 R. du B. 689.


180 Brown, see note 93 above, c. II.


184 Ibid., p. 436.

185 Morel, see note 182 above, pp. 466-467.


188 Ibid., p. 309.

189 "Considerations on the Expediency of Procuring an Act of Parliament for the Settlement of the Province of Quebec (by Baron Maseres) London Printed in the year MDCCCLXVI", in ibid., p. 179, at p. 183 ; see also Francis Maseres, "A Draught of an Intended Report of the Honourable Governor in Chief and the Council of the Province of Quebec to the King's most Excellent Majesty in his Privy Council; concerning the State of the Laws and the Administration of Justice in that Province", (hereinafter "A draught [...]"") in ibid., p. 228, at p. 244.


André Lachance, La Justice criminelle du roi au Canada au XVIIIe siècle, (Québec: PUL, 1978), pp. 84 and 130.

Morel, see note 182 above.


Morel, see note 182 above, pp. 489-499 and 507-508.

Quebec Act, s. 11.

Ibid., s. 15.

Ex parte Rousse, [1834] Stuart’s Reports 321; Morel, see note 182 above, p. 472.

Jacques Crémazie, Les lois criminelles anglaises, traduites et compilées de Blackstone, Chitty, Russell et autres criminalistes anglais, et telles que suivis au Canada: arrangées suivant le dispositions introduites dans le code criminal de cette province par les statuts provinciaux 4 et 5 Victoria, c. 24-27. Comprénant aussi un précis des statuts pénaux de la cédévant Province du Bas-Canada, (Québec: Fréchette & Cie., 1842), pp. pages 20 note (c), 61, note (b) and 265, note (b).


Crémazie, see note 204 above, pp. 281-318.


Fectreau, see note 182 above; Morel, see note 182 above, pp. 478-479.

An Act that all Proceedings in Courts of Justice within that Part of Great Britain called England, and in the Court of Exchequer in Scotland, shall be in the English Language, 4 Geo. II, 1732 (U.K.), c. 26.
PORTALIS v. BENTHAM?

211 Morel, see note 182 above, p. 536.


214 Crémaize, see note 204 above.

215 Perrault (1789), see note 213 above, p. 525.


217 Morel, see note 182 above, pp. 509-514.

218 An Act for the further introduction of the Criminal Law of England in this Province, and for the more effectual punishment of certain offenders; 40 Geo. Ill, S.H.C. 1800, c. 1.

219 Brown, see note 93 above, pp. 70-92.


222 *Ex parte Rousse*, see note 203 above.


225 An Act for the establishment of a better Court of Appeals in Lower Canada, S.P.C. 1843, 7 Vict., c. 18.


227 *Ex parte Ledoux*, (1858) 8 L.C.J. 255 (C.S.).


230 Geo. II, see note 210; Morel, see note 182 above, p. 536.


233 *Ex parte Taschemacher*, (1874) 6 R.L. 328 (C.S.).


Morel, see note 182 above, pp. 529-532; Kasirer, see note 216 above.

R. v. Barbeau, see note 229 above.

Henri-Elizéar Taschereau, The Criminal Law Consolidation and Amendment Acts of 1869, 32-33 Vict. For the Dominion of Canada, as Amended and in force on the 1st Day of November, 1874, in the Provinces Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba and on the 1st Day of January, 1875, in British Columbia, with Notes, Commentaries, Precedents of Indictments, etc., etc. (Montreal: Lovell, 1874); Ibid., (Toronto: Hunter & Rose, 1875); Henri-Elizéar Taschereau, The Criminal Statute Law of the Dominion of Canada, relating to Indictable Offences, with Full Text as Revised in 1866, and put into Force by Royal Proclamation on the 1st Day of March, 1887, and Cases, Notes, Commentaries, Forms, etc., etc. (Toronto: Carswell, 1888).


Michel Morin, see note 152 above, p. 1.


Ex parte Blossom, (1867) 10 L.C.J. 46 (B.R.), 52.


R. v. Scott, see note 243 above, p. 229.

Ex parte Blossom, see note 242 above, pp. 70-71 (Meredith, J.).


R. v. Deery, see note 235 above, 133 (the Chief Justice) and 135 (Taschereau, J.).

Notman v. The Queen, see note 248 above, pp. 258 (Badgley, J.); R. v. Scott, see note 243 above, pp. 228 (Chief Justice Dorion, diss.) and 228-229 (Sanborn, J., diss.); In re Eno, (1884) 10 Q.L.R. 194 (C.S.P.), 219 (Caron, J.).


Morin v. The Queen, see note 239 above, pp. 407, 427-428 (Strong, J.) and 436 (Fournier, J.).

Laliberté v. The Queen, (1878) 1 S.C.R. 117, 130-131 (Chief Justice Richards).
Morin v. The Queen, see note 239 above, pp. 407, 447 (Taschereau, J.), 456-458 (Gwynne, J.) and 471 (Patterson, J.).

In re Eno, see note 250 above, pp. 210 (Caron, J.); R. v. Leblanc (1885) 8 L.N. 114 (B.R.), 114 (Ramsay, J.).

Abrahams, (1880), see note 245 above, p. 341 (Ramsay, J.); R. v. Leblanc (1885) 8 L.N. 114 (B.R.), 114 (Ramsay, J.); In re Sproule, see note 239 above, p. 245 (Taschereau, J.); John v. The Queen, (1888) 15 S.C.R. 384, 387 (Strong, J.).


Ramsay v. The Queen, (1867) 11 L.C.J. 158 (B.R.), 163-164 (Badgley, J.); R. v. Roy, (1867) 11 L.C.J. 89 (B.R.), 93 (Drummond, J.); R. c. Deery, see note 235 above, p. 133 (Chief Justice Dorion, diss.); Preepor v. The Queen, see note 239 above, pp. 401, 411 (Strong, J.) and 418-419 (Gwynne, J.); Morin v. The Queen, see note 239 above, pp. 407, 442 (Fournier, J.).

R v. Wyllie, (1880) 3 L.N. 139 (B.R.), 140 (Dunkin, J.); In re Sproule, see note 239 above, pp. 140, 198 (Chief Justice Ritchie) and 247 (Taschereau, J.).

Notman v. The Queen, see note 248 above, p. 259.


Kelly v. The Queen, (1883) 3 D.C.A. 49 (B.R.), 50-51 (Chief Justice Dorion).

Lemieux, (1879) 5 C.L.R. 261 (C.S.), 262 (Routhier, J.).


R. v. Maher, (1884) 7 L.N. 82 (B.R.), 83 (Ramsay, J.; others preferred the English version if it was more favourable to the accused: Brossolt v. Turcotte, (1877) 20 L.C.J. 141 (B.R.), 143 (Chief Justice Dorion); see also Ex parte Thompson, (1863) 7 L.C.J. 10 (C.S.) (Smith, J.).


R. v. Scott, (1884) 4 D.C.A. 50 (B.R.); contra: R. v. Maher, see note 268 above.

R. v. Daoust, see note 241 above.

Laiberté v. The Queen, see note 253 above, pp. 117 and 136.

Taschereau 1875, see note 237 above, p. 375.

Ibid., p. 361.

Morin v. The Queen, see note 239 above.

Brisebois v. The Queen, see note 239 above.

Morin v. The Queen, see note 239 above.

S.C. 1892, c. 29, s. 743.


Laliberté v. The Queen, see note 253 above, pp. 117, 131 (Chief Justice Richards), 139 (Ritchie, J.), 141 (Strong, J.).

Morel, see note 182 above, p. 518.

See the title of Marriott's report, see note 183 above; letter of Wedderburn to Darmouth, May 2, 1774, reproduced Shortt and Doughty, see note 182 above, p. 377, note (1); this usage was also widespread in Quebec (see the title of the work by Crémaizie, note 204 above); Perrault 1814, see note 213 above, p. 365; also Jacques Vanderlinden, Le concept de code en Europe occidentale du XIIe au XIXe siècle, Essai de définition, (Bruxelles: Éditions de l'Institut de sociologie de l'Université Libre de Bruxelles, 1967).


Brown, see note 93 above, p. 88.


Ibid., June 5.

Ibid., June 18.

Ibid., June 23.

Ibid., July 5.

Ibid., June 23, July 1.

Ibid., June 2.

Ibid., July 5.

Ibid., July 5.

Ibid., July 5.

Kadish, see note 105 above, pp. 1099 et seq.

Normand, see note 153 above, p. 58.

Cook, see note 299 above, pp. 189-198.


Raoul Dandurand and Charles Lanctôt, Traité théorique et pratique de droit criminel, (Montréal: Périard, 1890).

Schwartz, see note 303 above.

Thomas Jean-Jacques Loranger, "De la codification des lois criminelles," (1879) 1 La Thémis 269, p. 273.

Ibid., p. 274; Nicholas Kasirer, "Canada's Criminal Law Codification Viewed and Reviewed" (1990) 35 McGill L.J. 841.


Ibid., p. 221; Gordon, see note 302 above, pp. 141-142.

[Douglas Armour], "The Consolidation of the Statutes" (1884) 4 C.L.T. 432.

Anonymous, untitled (1890) 26 C.L.J. 577.

Anonymous, "Codification," (1886) 22 C.L.J. 133; Armour, see note 321 above, pp. 432-433; Gordon, see note 302 above, p. 143.
Anonymous, untitled (1890) 13 L.N. 9.


Brown, see note 93 above, pp. 120-121; the reference to Gowan and Day serving on the same commission is found in N. Kasirer, see note 315, above, pp. 879.


National Archives of Canada, RG 13, vol. 2273-2274; excerpts of this correspondence are reproduced in Brown, see note 310 above, pp. 68-255.

Ibid., vol. 2273 (n.p.), L.P. Archambault to J.D. Thompson, 4 April 1892; "this work was long required and your bill will supply a great want in this country"; vol. 2274 (n.p.), A. Maughe to J.D. Thompson, 4 September 1891; "many difficulties which have been brought to my notice in practice have been removed"; vol. 2274 (s.p.), W.E. Rose to J.D. Thompson, 18 May 1892.

Brown, see note 310 above, pp. 14 and 18.

Brown, see note 310 above, pp. 52, 200-201, 204, 206, 234, 237.

An Act respecting the criminal law, S.C. 1892, c. 29, hereafter the Criminal Code, 1892.

Criminal Code, 1892, s. 5.

Ibid., s. 7.

Brown, see note 310 above, p. 200.

Brown, see note 310 above, p. 451.

Brown, see note 93 above, pp. 132-133.


Criminal Evidence Act, 1898 (Engl.), 61-62 Vict., c. 36; Brown, see note 339 above, pp. 363-365.

Brown, see note 310 above, p. 274.

Brown, see note 93 above, p. 139.

Brown, see note 310 above, p. 322.

Ibid., pp. 318-326 and 398; Criminal Code, 1982, s. 3(q).

Brown, see note 310 above, pp. 272-273.

Ibid., pp. 379-389.

Criminal Code, 1892, ss. 664 and 665; on the situation in Manitoba, see the letter from Mr. Justice Joseph Dubuc, Brown, see note 310 above, p. 164.
ibid., p. 378.

ibid., pp. 258-262.

Brown, see note 310 above, pp. 288-289.

ibid., pp. 308-317.


Brown, see note 310 above, pp. 352-353.

ibid., p. 405.

ibid., pp. 407-408; see also pp. 64 and 67.

ibid., p. 422.

ibid., p. 431.

ibid., pp. 410-413 and 432-434.


ibid., p. 464.

ibid., pp. 400 and 465-469; Criminal Code, 1892, s. 205; R.C. McLeod, “The Shaping of Canadian Criminal Law, 1892 to 1902” [1978] Communications Historiques 72; see also Association St-Jean-Baptiste de Montréal v. Braut, (1901) 30 S.C.R. 598.

Brown, see note 310 above, pp. 296-300, 401-403.

Brown, see note 93 above, pp. 145 and 224, note 114; Schwartz, see note 303 above.


ibid., p. 38.

ibid., p. 45.

Brown, see note 310 above, p. 250.

See note 338 above, p. 1.

ibid., pp. 3-4 and 9.

ibid., p. 4.

ibid., p. 7.

ibid., pp. 4 and 8.

ibid., p. 15.


377 Section 8(3) of the Criminal Code, which echoes section 7 of the code of 1892.
380 Ibid., pp. 735-739.
381 Ibid., pp. 742-745.
382 Ibid., pp. 774-774; Bennett, see note 375 above, pp. 105-110.
389 For an example of the use of international law in this context, see R. v. Finta, [1994] 1 S.C.R. 701.
390 United Nurses of Alberta, see note 387 above, p. 933.
391 Ibid., pp. 933-934.
392 Fernando Acosta, "Récit de voyage à l'intérieur du Code criminel de 1892, où entres autres mention est faite des peines auxquelles ses transgresseurs s'exposent," (1995) 28 Criminologie 81.
394 Ibid., pp. 266 and 301.


Lucinda Vandervort, "To Codify or Not to Codify the Principles of Criminal Responsibility: A Question of Fundamental Justice and Equality," in Stuart, Delisle and Manson, see note 397 above, p. 231; See Christine Boyle, "Commentary," in Stuart, Delisle and Manson, see note 397 above, p. 146.


Supra, Part I. C. 1

Supra, II B. 2

Supra, I. C. 2

Kasirer, see note 315 above, p. 871.

See Eric Colvin, "Criminal Law and the Rule of Law," in Fitzgerald see note 149 above, pp. 142-143.


Commission, see note 398 above; Colvin, see note 405 above, pp. 144-145.

