

Laws and Levels of Government

THE FOUNDATIONS OF CANADA'S LEGAL SYSTEM



Besides the central, federal government overseeing matters that affect the nation, and provincial governments managing issues that affect provinces, each province has also established the jurisdiction of **municipalities** (or **cities**) that make laws and decisions at the local level. Indigenous self-governments have jurisdiction over certain matters in their communities as well.

Let's take some time now to explore each jurisdiction further.

1. Federal government

No matter where we live in Canada, each one of us is subject to federal laws. The federal government creates laws for jurisdictions in its responsibility.

Examples of the areas of law the federal government oversees are:

- Criminal law
 - *Controlled Drugs and Substances Act*
 - *Criminal Code*
 - *Youth Criminal Justice Act*
- Employment insurance
- Firearms
- Hazardous materials and products
- Postal services
- Telecommunications

When the federal government creates federal laws, they begin in the legislature as **bills**. For example, Bill C-14 was passed by the Parliament of Canada in 2016 to make amendments to other acts related to medical assistance in dying, in order to allow physician-assisted suicide and euthanasia. A bill becomes law after it is approved by the Senate and given royal assent. A similar procedure is used in provincial and territorial legislatures.

Residual Powers

It was impossible for the writers of our constitution to provide a complete list of powers. How could they have thought of absolutely everything? Therefore, it became necessary to provide a blanket clause to determine which of the two levels of government (federal or provincial) would be responsible for matters that later arose. The term "residual" means "left over." So, we call these residual powers.

In Canada, residual powers are given to the federal government.

For example, back in 1867, the writers of the Constitution had no idea that air travel would become a thing. Therefore, the responsibility for airports, air traffic control, and even Canada's "national" airline fell to the federal government.

2. Provincial Government

Like the federal government, provincial governments create laws to be abided by in their jurisdictions. In other words, laws created by the Government of New Brunswick must be observed by anybody who is currently in New Brunswick. A Prince Edward Islander must respect New Brunswick laws while in New Brunswick.

Responsibilities of provincial governments include:

- Education
- Health care
- Police forces
- Property rights
- Highways and roads
- Provincial jails
- Marriage and divorce
- Motor vehicles

3. Municipal or local government

Municipal or local governments create laws dealing with local issues. These laws are referred to as **bylaws**, passed by municipal councils. For example:

- In **Quispamsis**, New Brunswick, "no fence may exceed 180 cm, (6 feet) in height in a residential zone."

- In **Bathurst**, "no child under the age of sixteen years shall be in a public place in the City of Bathurst after the hour of eleven o'clock in the evening, hereinafter called the "curfew," unless he or she is accompanied by a parent or a guardian."
- In the village of **Bath**, "no person shall ride or drive a bicycle or motorcycle upon any sidewalk except for the purpose of crossing such a footpath or sidewalk."
- In July 2018, **Moncton** proposed a bylaw that would require homeowners to keep their lawns cut short

4. Indigenous self-government

Much like municipalities, First Nations communities have local governments. Each community has some authority to make bylaws that apply to programs and services in their communities.

Good governance and institutions help First Nations communities to:

- take greater control over the decisions that affect their lives,
- carry out effective relationships with other governments,
- take advantage of economic development opportunities,
- improve programs and services,
- enhance their social and economic well-being.

Some First Nations have self-government agreements with Canada while others have minimal governance structures. Many fall somewhere in between.



Self Assessment

After completing the reading above, you should be able to distinguish among the responsibilities of the municipal, provincial, and federal governments. This self-assessment will not be graded, but you must have a strong understanding of these concepts before continuing.

Each question in this series gives you an item to categorize as a federal, provincial, or municipal responsibility. Good luck! When finished, if you could cut and copy/paste this box in an email to me, I can respond quickly with the correct responses.

Question 1:

Identify the level of government responsible for each issue by writing either Federal, Provincial, or Municipal in the blank provided.

1. Curfew _____
2. Animal Control _____
3. Parking Zones _____
4. Hospitals _____
5. Marriages _____
6. Fisheries _____
7. Higher education _____



Assignment

Your first assignment is to consider the legal jurisdictions you've just learned about. *See the assignment listed at bottom of this document.*

Before answering the questions in your assignment, explore the following websites that describe the responsibilities of each level of government. Be sure to make notes.

- [The Division of Powers](http://web.archive.org/web/20100821012534/http://www.mta.ca/faculty/arts/canadian_studies/english/about/law/index.htm#division) –
http://web.archive.org/web/20100821012534/http://www.mta.ca/faculty/arts/canadian_studies/english/about/law/index.htm#division
- [Powers of the National and Provincial Governments](https://lop.parl.ca/About/Parliament/senatoreugeneforse/Book/chapter_3-e.html) –
https://lop.parl.ca/About/Parliament/senatoreugeneforse/Book/chapter_3-e.html
- [An Introduction to How Canada's Parliament Works](https://lop.parl.ca/About/Parliament/Education/OurCountryOurParliament/html_booklet/canada-system-government-e.html) –
https://lop.parl.ca/About/Parliament/Education/OurCountryOurParliament/html_booklet/canada-system-government-e.html
- [The Constitutional Distribution of Legislative Powers](https://www.canada.ca/en/intergovernmental-affairs/services/federation/distribution-legislative-powers.html) –
<https://www.canada.ca/en/intergovernmental-affairs/services/federation/distribution-legislative-powers.html>

Division of Powers

Law 120 – Assignment

Answer the following questions in a new Microsoft Word document. When completed, you may email this to me at aaron.johnston@nbed.nb.ca

1. Explain, in your own words, why Canada has different levels of government that have different powers. In your opinion, does the division of powers make sense? Why or why not? **(2 points)**
2. How does Canada deal with matters that the Fathers of Confederation didn't think about back in 1867, like air travel, telecommunications, automobiles, etc.? Use the web resources provided in the course to help formulate your response. **(2 points)**
3. Here's a civil case for you to analyze. <https://www.canlii.org/en/nb/nbqb/doc/2016/2016nbqb12/2016nbqb12.html> Read through this case and answer the following questions. **(4 points)**
 - a. Who were the plaintiff and the defendant(s)? Who were their lawyers?
 - b. In what court was this civil case heard?
 - c. How many months did it take for the judge to come to a decision (between the hearing date and the decision date)?
 - d. In your own words, what was the hearing about?
 - e. What was the judge's decision? Did he rule for the plaintiff or for the defendant(s)?
4. Here is a case with international implications. <http://quoddytides.com/tribal-fishing-in-canada-leads-to-dispute12-14-2018.html> **(4 points)**
 - o Write a summary of the story. Include all relevant information.
 - o What was the crime?
 - o Identify the court that tried the case.
5. Find a news article online that deals with an offence that is considered criminal, and where the accused was tried in a provincial OR federal court (any province but preferably New Brunswick). The article must not be more than two years old. **(4 points)**
 - o Write a paragraph that identifies the crime and summarizes the article.
 - o Include the URL for the article.
 - o Identify the level of court that tried the case – federal court (called the Court of Queen's Bench in some provinces; Supreme or Superior Court in others) or provincial court? Explain why?
6. Find a news article online that deals with family law. The article should be less than one year old. **(4 points)**
 - o Write a brief summary of the relevant information in the article.
 - o Include the URL for the article.
 - o What court either dealt with the issue, or would end up dealing with it?