S.C.C. File No. 35315

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF BRITISH COLUMBIA)

BETWEEN:

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and CANADIAN BAR ASSOCIATION – BRITISH COLUMBIA BRANCH

APPELLANTS
(Respondents)

- and -

ATTORNEY GENERAL OF BRITISH COLUMBIA

RESPONDENTS
(Appellant)

- and -

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PART I: OVERVIEW

1. Maintaining the provincial superior courts is an expensive undertaking, and the provinces must find the funds somewhere to cover the cost. The question in this appeal is whether the provinces may do so by imposing a substantial portion of the costs of court infrastructure and administration, in the form of hearing fees, onto those litigants who proceed to adjudication. In the courts below, the Attorney General for British Columbia (the "Province") has sought to justify the hearing fees as a valid exercise of the provinces' powers under s. 92(14). The Court of Appeal expanded the indigency exemption, but otherwise agreed with the Province, relying on this Court's comments in *Christie*:[1]

> 17. The right affirmed in *B.C.G.E.U.*[2] is not absolute. The legislature has the power to pass laws in relation to the administration of justice in the province under s. 92(14) of the *Constitution Act, 1867*. This implies the power of the province to impose at least some conditions on how and when people have a right to access the courts. Therefore *B.C.G.E.U.* cannot stand for the proposition that every limit on access to the courts is automatically unconstitutional.

2. That passage from *Christie*, however, just begs the question that is at the heart of this case: are the hearing fees within the province's powers under s. 92(14)? The Advocates' Society (the "Society") submits that they are not, as they are inconsistent with the "Administration of Justice in the Province" – which defines the powers under s. 92(14) – and with the essential, public role that adjudication plays in our constitutional democracy.

PART II: POSITION ON THE QUESTIONS IN ISSUE

3. The Society submits that the hearing fees are unconstitutional on the basis that they infringe a right of access to justice and offend the rule of law, and as such are *ultra vires* the province's powers under s. 92(14) of the *Constitution Act, 1867*. The hearing fees' constitutional defects cannot be cured by reading in an expanded indigency exemption, and should be struck down.

PART III: ARGUMENT

A. Section 92(14) Obliges the Province to Maintain the Courts in a Manner Consistent with the Administration of Justice and the Courts' Function

4. In the courts below, the province has characterized s. 92(14) simply as a head of legislative

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[1] *British Columbia (Attorney General) v. Christie*, 2007 SCC 21 [*Christie*], ¶17, Appellants' Joint Book of Authorities ("AJBoA") Tab 3

[2] *B.C.G.E.U. v. British Columbia (Attorney General)*, [1988] 2 S.C.R. 214 [*B.C.G.E.U.*], AJBoA Vol. 1, Tab 4 (citation added to the quotation)

power that authorizes it to legislate in relation to the maintenance of the courts. The introductory language of s. 92 is phrased permissively ("the Legislature may exclusively make Laws..."), and in *Christie* this Court did refer to s. 92(14) as a head of legislative power.

5. But s. 92(14) does more than just *empower* the provinces to maintain the courts; when the provision is properly interpreted in light of the role of the superior courts in our constitutional structure, it is clear that s. 92(14) *obliges* the provinces to do so. The rule of law is "a fundamental postulate of our constitutional structure,"[3] and "the provincial superior courts are the foundation of the rule of law itself."[4] In *MacMillan Bloedel*, in which this Court made the latter statement, it was observed that the superior courts could not be *abolished* without constitutional amendment. Equally, it would not be constitutional for the provinces to simply refrain from establishing or maintaining the superior courts. Section 92(14) mandates the existence of provincial superior courts, and it hands the responsibility for their maintenance to the provinces.

6. That the provinces are not only empowered but are obliged to maintain the courts does not itself answer the central question of whether s. 92(14) imposes limits on how they may do so, but it does provide useful context for the analysis. The maintenance of the courts is not a policy choice on the part of the provinces; it is, rather, a constitutional responsibility arising out of the "important compromises" struck by the Fathers of Confederation in s. 92(14) and the judicature provisions of the *Constitution Act, 1867*.[5] Taken together, those provisions "impose a regime of compulsory cooperation" between the two levels of government in order to "maintain a strong unified judicial presence throughout the country."[6] The courts therefore cannot be viewed as a service that the provinces deliver to litigants; they are instead the provincial side of an agreement struck at confederation that establishes "[o]ne of the fundamental pillars on which the Canadian Constitution rests."[7] As the trial judge aptly observed, the courts are "a first charge on government"[8] that do not compete at the same level of priority as ordinary government services.

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[3] *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217 at ¶70, quoting *Roncarelli v. Duplessis*, [1959] S.C.R. 121 at p. 142, AJBoA Vol. II, Tab 27
[4] *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 S.C.R. 725 [*MacMillan Bloedel*], ¶37, AJBoA Vol. I, Tab 10
[5] *Re Residential Tenancies Act, 1979*, [1981] 1 S.C.R. 714 at 728 [*Residential Tenancies*], Society's Book of Authorities ("ASBoA") Tab 1
[6] *MacMillan Bloedel*, ¶51, AJBoA Vol. I, Tab 10
[7] *MacMillan Bloedel*, ¶51, AJBoA Vol. I, Tab 10
[8] *Vilardell v. Dunham*, 2012 BCSC 748 ("2012 Trial Reasons"), ¶429, Joint Appellants' Record ("JAR") Vol. I,

7. A number of potential sources exist for the provinces to fund the maintenance of the courts – including, among others, general taxation, probate fees, and filing fees imposed on all litigants – and certainly s. 92(14) provides the provinces with at least some discretion as to the mix of revenue sources with which they may do so. The Province has seen fit to impose hearing fees in order to recapture approximately 45% of its costs in relation to providing hearings from those individual litigants who proceed to a hearing.[9] The Province has also structured those hearing fees on an escalating scale in order to "provide an incentive for efficient use of court time and a disincentive for lengthy and inefficient trials."[10] The question is whether s. 92(14) authorizes the province to discharge its constitutional duty in this way.

8. One part of the answer to that question lies in whether the hearing fees are consistent with the "Administration of Justice in the Province," which, as the general and most fundamental head of power under s. 92(14), limits the ambit of the more specific enumerated powers. A measure implemented to maintain the courts that is inconsistent with the administration of justice is beyond the provinces' powers under the provision. The contours of the administration of justice are themselves informed by the unwritten constitutional principles, in particular the rule of law.

9. A second and related part of the answer is that the provinces' powers under s. 92(14) are limited by the essential functions of provincial superior courts within our constitutional structure. In its recent decision in *Reference re: Supreme Court Act, ss. 5 and 6*, this Court found that, based on "the Court's evolution in the structure of the Constitution", Parliament's once unilateral authority under s. 101 of the *Constitution Act, 1867* to "provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada" now requires "that Parliament maintain – and protect – the essence of what enables the Supreme Court to perform its current role."[11] The provincial superior courts are no less fundamental to our constitutional democracy; as this Court observed in *MacMillan Bloedel*, they are "the centre of the judicial system."[12] Indeed, in its seminal s. 96 cases – *Residential Tenancies, Reference re Young Offenders Act (P.E.I.)*,[13] *MacMillan Bloedel* and *Residential Tenancies (N.S.)* – this Court delineated limits on

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p. 178
[9] 2012 Trial Reasons, ¶69, JAR Vol. I, pp. 70-71
[10] 2012 Trial Reasons, ¶309, JAR Vol. I, p. 139
[11] *Reference re: Supreme Court Act, ss. 5 and 6*, 2014 SCC 21, ¶101, ASBoA Tab 3
[12] *MacMillan Bloedel*, ¶37, AJBoA Vol. I, Tab 10
[13] *Reference re Young Offenders Act (P.E.I.)*, [1991] 1 S.C.R. 252, ASBoA Tab 4

the provinces' powers under s. 92(14) to establish courts of provincial jurisdiction in order to protect "the primary and specially-entrenched place of the superior courts of the country in the function of interpreting and applying law."[14] Likewise, the superior courts must also be protected against provincial measures implemented to "maintain" them if such measures interfere with their special and essential role in our constitutional structure.

10. The Society submits that the hearing fees trespass the limits of s. 92(14) in two respects, each of which is elaborated upon under the subheadings below. First, the fees constitute a meaningful and indeed *intended* barrier to the courts which interferes with the administration of justice by preventing or deterring meritorious claims to be brought forward for adjudication. Second, by charging on a fee-for-service basis, the hearing fees misconceive of a court hearing as a service for the private benefit of the particular litigants involved, instead of as the necessary means by which the rule of law is developed and kept vital for all of society. For each of these reasons, the hearing fees fall outside the discretion granted to the Province in fulfilling its obligation under s. 92(14) to maintain the courts.

(1) The Administration of Justice Requires Equal and Effective Access to the Courts

11. In *B.C.G.E.U.*, this Court properly observed that "[t]here cannot be a rule of law without access [to the courts],"[15] and the Court upheld the injunction that had been issued against the picketing of the courthouse. In that case, the barrier to accessing the courts had both physical and psychological dimensions arising out of the actual picket line and the moral imperative felt by some litigants to maintain solidarity and not cross the line. But it is clear that monetary burdens on accessing the courts can also impair the rule of law, as this Court recently observed in *Hryniak v. Mauldin*, "when court costs and delays become too great, people look for alternatives or simply give up on justice," and "without an accessible public forum for the adjudication of disputes, the rule of law is threatened and the development of the common law undermined."[16]

12. In the case at bar, both courts below found that the hearing fees pose a meaningful impediment to accessing the courts for litigants of modest means, who are not indigent but for

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[14] *Reference re Amendments to the Residential Tenancies Act (N.S.)*, [1996] 1 S.C.R. 186 [*Residential Tenancies N.S.*], ¶26, quoting with approval W. R. Lederman, "The Independence of the Judiciary" (1956), 34 *Can. Bar Rev*. 769, 1139, at p. 1178, ASBoA Tab 2

[15] *B.C.G.E.U.*, ¶25, AJBoA Vol. I, Tab 4

[16] *Hryniak v. Mauldin*, 2014 SCC 7 [*Hryniak*], ¶¶25-26, AJBoA Vol. I, Tab 8

whom the hearing fees are nonetheless unaffordable. The shortcomings of the Court of Appeal's expanded indigency exemption as a remedy to the access problem will be returned to below. However, in light of the Province's decision not to appeal that order, it appears to be common ground that, to the extent the hearing fees are in fact payable by litigants of few or even modest means, they unconstitutionally prevent access to the courts.

13. The hearing fees' impairment of access to the courts goes further, however, in at least two respects. The first is that, while the Court of Appeal looked to issue of affordability in relation only to the hearing fees, the deterrent effect of the fees does not operate in isolation from all the other costs associated with litigation, but is rather felt by litigants *cumulatively*. A litigant who could afford the hearing fees alone will still be prevented access to the courts if she cannot afford them in combination with the other costs of litigation, such as filing fees and disbursements, and possibly legal fees. In *Hryniak*, this Court correctly observed that the total cost burden associated with full trials "denies ordinary people the opportunity to have adjudication." The Court cited the 2011 *Rule of Law Index*, which ranked Canada 9th among 12 European and North American countries in access to justice, partly because of "shortcoming in the affordability of legal advice and representation, and the lengthy duration of civil cases."[17] The report properly views access to the courts holistically: "Accessibility includes general awareness of available remedies; availability and affordability of legal advice and representation; and absence of excessive or unreasonable fees, procedural hurdles, and other barriers to access to formal dispute resolution systems."[18] Unlike with the cost of legal fees or disbursements, however, the hearing fees are directly imposed by government; and unlike the legal services taxes considered in *Carten*[19] and *Christie*, the hearing fees are an unavoidable and immediate barrier to adjudication (except where the exemption applies). The hearing fees are a direct, state-imposed limitation on justice that disproportionately affects the poor and the middle class.

14. In *Hryniak*, the Court observed that the access to justice crisis is "the greatest challenge to the rule of law in Canada today."[20] For over a decade studies across Canada have come to the

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[17] *Hryniak*, ¶24, *fn* 2, AJBoA Tab 8, citing M.D. Agrast, J.C. Botero and A. Ponce, the 2011 *Rule of Law Index* (World Justice Project) ("*2011 Rule of Law Index*"), at 23, ASBoA Tab 6
[18] *2011 Rule of Law Index*, at 13 [emphasis added], ASBoA Tab 6
[19] *John Carten Personal Law Corp. v. British Columbia (Attorney General)* (1997), 153 D.L.R. (4th) 460 (B.C.C.A.), leave to appeal denied, [1998] 2 S.C.R. viii, AJBoA Vol. I, Tab 9
[20] *Hryniak*, ¶1, AJBoA Vol. I, Tab 8

same conclusion and have made consistent recommendations:

a. "There is a serious access to justice problem in Canada. The civil and family justice system is too complex, too slow and too expensive."[21]

b. "We first need to convey the abysmal state of access to justice in Canada today. We need to make visible the pain caused by inadequate access and the huge discrepancies between the promise of justice and the lived reality of barriers and impediments."[22]

c. "While significant progress has been made within the justice system in recent years, problems of cost and delay are appearing to a degree which is increasingly unacceptable."[23]

d. "The court system is of little or no practical use to a significant number of our citizens and this should be fixed." "A wide-spread, meaningful court and administrative tribunal fee waiver policy may be another piece in the search for solutions to problems of restricted access to justice."[24]

e. "We are of the opinion that the present Family Court system is needlessly adversarial, frustratingly slow and much too expensive. We should, instead, create a model that encourages parties to look to the future and concentrate on putting the interests of their children foremost in their arrangements."[25]

f. Access to justice requires "drastic change"[26] and "a paradigm shift."[27]

15. The issues in this case must be understood against this access to justice crisis, particularly as it affects family litigants. The rate of divorce is now at 41%, an increase from 36% a decade

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[21] Canadian Forum Civil Justice, *Access to Civil & Family Justice-A Roadmap for Change*, (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013) at iii, AJBoA Vol. II, Tab 33

[22] Canadian Bar Association, Envisioning Equal Justice Project, *Equal Justice Report: An Invitation to Envision and Act* (Ottawa: Canadian Bar Association, August 2013) at 6, AJBoA Vol. II, Tab 32

[23] British Columbia Minister of Justice and Attorney General, *Modernizing British Columbia's Justice System: Green Paper* (February 2012) at 2, ASBoA, Tab 7

[24] Manitoba Law Reform Commission, *Access to Justice* (Issue Paper No. 1) (Manitoba: Manitoba Law Reform Commission, 2012) at 8, ASBoA, Tab 11

[25] *Report of the Access to Family Justice Task Force* - Presented to the Minister of Justice and Consumer Affairs, The Honourable Thomas J. Burke, Q.C., (January 23, 2009) at 9, ASBoA, Tab 5

[26] Law Commission of Ontario, *Towards a More Efficient and Responsive Family Law System*, Interim Report (Toronto: Law Commission of Ontario, February 2012) at 81, ASBoA Tab 9

[27] A.A. Mamo, P.G. Jaffe & D.G. Chiodo, *Recapturing and Renewing the Vision of the Family Court* (2007) at 93, ASBoA Tab 10

earlier.[28] Although family law cases account for one-third of civil cases, the cases do not remain in civil court for long periods of time, with only 1% of the cases proceeding to trial;[29] the costs of litigation – which in British Columbia include substantial hearing fees – are too great.

16. The hearing fees also affect access to the courts in ways that are more subtle and insidious than the straight denial of adjudication for litigants for whom the costs are simply unaffordable. As implied by the rationales for the fees proffered by the province at trial, the hearing fees are intended to disincentivize the use of court time, and the fees increase with the length of trials in order to magnify the disincentive. The province seeks to justify the escalating fee rates as providing "an incentive for efficient use of court time and a disincentive for lengthy and inefficient trials".[30] But inefficient use of court time is not a condition of the fees being charged. To the contrary, the hearing fees are a blanket disincentive on court time, no matter how economically the court's time is used relative to the questions at issue. Unlike with other tools that trial judges may employ as the circumstances require, such as awards of costs, hearing fees do not promote the *efficient* use of court time; they simply lead to *less* use of court time. The result of the hearing fees is that some litigants who are able to afford only a short trial are forced to limit their evidence and submissions in order to limit the cost of what amounts to a state-imposed tax on justice.

17. This dynamic is strongly suggested by the process in which this case unfolded. The issue for the parties – whether it was in the best interests of their daughter for the plaintiff to relocate with her outside of British Columbia – was one "of the utmost importance to them," and to their daughter, and the parties advanced their cases responsibly, such that the trial judge made no order for costs against the unsuccessful plaintiff.[31] But for the extension of the exemption in this case, hearing fees in the amount of $3,600 would have been payable regardless of the efficiency of the trial.[32] The plaintiff – who set the matter down for trial and was required to undertake to pay the fees – estimated five days for trial when she was represented by counsel. When the

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[28] "In 2008 it was estimated that 41% of marriages will end in divorce before the 30th year of marriage, an increase from 36% in 1998" M.B. Kelly, *Divorce cases in civil court, 2010/2011* (Ottawa: Statistics Canada, 2011) ("Statistics Canada 2011") at 7, ASBoA Tab 8
[29] Statistics Canada 2011 at 9, ASBoA Tab 8
[30] 2012 Trial Reasons, ¶66, JAR Vol. I, p. 70
[31] *Vilardell v. Dunham*, 2009 BCSC 434 ("2009 Trial Reasons"), ¶89, JAR Vol. I, pp. 30-31
[32] 2009 Trial Reasons, ¶90, JAR Vol. I, p. 31

unrepresented defendant estimated 10 days, the plaintiff's own counsel withdrew, and the plaintiff faced the invidious choice of either abandoning her case or potentially paying fees she could not afford.[33] That she chose to proceed with adjudication is a credit to her; it is plain that many family litigants choose otherwise.

(2) Adjudication is a Public Good

18. The other respect in which the hearing fees are *ultra vires* s. 92(14) is that they are based upon a fundamental mischaracterization of the nature of adjudication in our society. The Province's rationale for imposing the hearing fees onto litigants who go to trial appears to be that those litigants are "users" of court facilities and derive the benefit from them, and so they should pay a substantial portion of the cost through what is essentially a "user fee." The hearing fees are premised upon a conception of adjudication as a service providing private benefits to the particular litigants involved.

19. But while access to the courts is certainly of profound importance to individuals who seek to have their rights upheld, the larger benefits of adjudication are enjoyed by society at large. As noted above, in *Hryniak* this Court observed that in our common law system it is through the adjudication of individual disputes that our law is developed and clarified and kept vital. Dispute resolution can be achieved for individuals through negotiation or arbitration, but the preservation of the rule of law and the development of the common law depends upon litigants placing their faith in the public system of adjudication.

20. The courts are also critical to a functioning democracy. As the trial judge properly observed, "it is in the nature of democracy itself that there be a forum of legal adjudication".[34] Just as each adult has the right to an equal vote, each individual has equal standing to have her claims and defences heard in court through a process that is fair, open, independent and accessible. Adjudication gives reality to the democratic promise that each of us is equal under the law and equally entitled to the enforcement of our rights, regardless of whether the opposing party is wealthy or held in high esteem, or is even the state itself. Indeed, judicial review on administrative and constitutional grounds ensures that the lawmakers we vote into office and the officials that they appoint do not trespass the bounds of their authority.

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[33] 2012 Trial Reasons, ¶4, JAR Vol. I, p. 45
[34] 2012 Trial Reasons, ¶382, JAR Vol. I, p. 167

21. That individuals adjudicate their disputes is therefore to the benefit of *all* members of Canadian society, not only of the individual litigants themselves. Indeed, the individualized benefits pale in importance to the vital role that adjudication by the superior courts plays in the development of the common law and the maintenance of our democracy. In our constitutional order, adjudication is overwhelmingly a *public good*, not a private benefit. Far from being a burden on the judicial system, it is the litigants who place their faith in it and take their cases through trial that *allow the system to work*. They provide the means by which the rule of law is realized, and by which the fundamental premises of democracy – including equality, transparency and rationality – are made meaningful for the lives of ordinary Canadians. Adjudication is an essential and central element of our constitutional democracy.

22. Comparisons were made in the courts below between adjudication on the one hand and health care and education on the other. It is certainly true that all three are goods of profound importance to both individuals and society at large, and that the heavy state subsidization of the latter two urges greater support for the former. But given the profound importance of adjudication to our constitutional democracy, the case for state subsidization of the cost of the courts is far stronger. More apt analogies can be made to voting or meeting with an elected representative, as each is an activity essential to the proper functioning of any democracy. And just as a fee to vote or meet with one's representative would be abhorrent in a modern democracy, so too should be state-imposed fees to be heard in the courts.

23. Within our constitutional order, adjudication is not a government service provided to and used by litigants for their private ends; it is rather an essential element in the administration of justice. The manner in which the provinces meet their obligation to maintain the courts must reflect this public role and nature of adjudication, which the hearing fees wholly fail to do. The fees are therefore beyond the Province's powers under s. 92(14).

B. An Expanded Indigency Exemption is Insufficient

24. The Society respectfully submits that the hearing fees should be struck down in their entirety. The Court of Appeal's compromise solution of expanding the indigency exemption has three fatal shortcomings.

25. First, the Court of Appeal's sole objective in expanding the exemption was to ensure access to the courts for those who could simply not afford the fees, but in practice the exemption will

not ensure accessibility for all litigants. For one thing, the expanded exemption does not address the deterrent effects visited upon litigants who fall outside of it. As discussed above, even if the exemption were applied so as to capture all litigants who are "in need of relief or assistance in order to have their case heard before a superior court,"[35] there will still be litigants who, faced as well with the costs of filing fees, disbursements and sometimes legal fees, will find the cumulative burden of adjudication to be too great. There will also be litigants who might theoretically be entitled to the exemption, but for whom the fees will remain a practical barrier. Some of these litigants will, understandably, balk at the indignity of pleading their need or be concerned that the financial disclosure required will disadvantage them in the litigation; others will not recognize they have the option. And even for those litigants who do apply for the exemption, a test as vague as "in need" will necessarily be applied unevenly.

26. Second, even for those litigants who can afford some sort of trial, the fees still incentivize them to rush their evidence and submissions, even where doing so might tend to prejudice their case. Any significant hearing fees will cause some litigants of modest means to go short on justice; indeed, that appears to be their primary purpose.

27. Third and most centrally, regardless of whether an expanded exemption is effective, any system of hearing fees distorts the nature of adjudication from a public good to a government service provided for private benefit. No matter how little the cost or how broad the exemption, a voting fee cannot coexist with our democratic values, and neither can hearing fees with the rule of law.

PARTS IV AND V: SUBMISSIONS CONCERNING COSTS AND ORDER SOUGHT

28. The Society does not seek costs and asks that none be ordered against it, and requests leave to present at least 10 minutes of oral argument.

Dated: April 1, 2014

Joseph J. Arvay, Q.C., Tim A. Dickson and Kelly D. Jordan
Counsel for the Intervener, Advocates' Society

[35] *Vilardell v.* Dunham, 2013 BCCA 65, ¶31, JAR Vol. II, p. 14

PART VI: TABLE OF AUTHORITIES

Cases	**Paragraph(s)**
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Secondary Sources	
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A.A. Mamo, P.G. Jaffe & D.G. Chiodo, *Recapturing and Renewing the Vision of the Family Court* (2007), online: http://books2.scholarsportal.info/viewdoc.html?id=357212 at 93	14(f)
Manitoba Law Reform Commission, *Access to Justice* (Issue Paper No. 1) (Manitoba: Manitoba Law Reform Commission, 2012) at 8	14(d)

PART VII: STATUTORY PROVISIONS

Constitution Act, 1867 (U.K.). 30 & 31 Vict., c. 3, s. 92(14), reprinted in R.S.C. 1985, App. II, No. 5	1-10, 18, 23

Constitution Act, 1867 **(U.K.). 30 & 31 Vict., c. 3, s. 92(14), reprinted in R.S.C. 1985, App. II, No. 5**

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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,

…

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.

Loi constitutionnelle de 1867 **(R-U), 30 & 31 Vict, c 3**

92. Dans chaque province la législature pourra exclusivement faire des lois relatives aux matières tombant dans les catégories de sujets ci-dessous énumérés, savoir:

…

14. L'administration de la justice dans la province, y compris la création, le maintien et l'organisation de tribunaux de justice pour la province, ayant juridiction civile et criminelle, y compris la procédure en matières civiles dans ces tribunaux;