

Trials

Summary

Trial by a Provincial Court Judge

Indictable offences that must be tried by a Provincial Court judge are usually considered to be the least serious of the **indictable** offences. Most of these offences are **hybrid** offences that the Crown Attorney has decided should proceed by indictment. Examples of this type of offence are theft or possession of stolen goods valued at less than \$5,000, keeping a gaming house, and mischief under \$5,000.

Trial by King's Bench Judge and Jury

There are a number of very serious **indictable** offences that may usually be tried only by a judge of the Court of King's Bench with a jury. These offences include murder, conspiracy to commit murder and treason.

A person who is charged with a serious **indictable** offence that has a possible punishment of 14 years imprisonment or more has the right to have a **preliminary inquiry** held in the Provincial Court. A **preliminary inquiry** is a court hearing held to determine whether there is enough evidence to put the accused person on trial. Where the judge decides that there is sufficient evidence, the accused is "committed for trial" and a trial date is set in the Court of King's Bench. Where the judge decides that there is insufficient evidence, the accused person is "**discharged.**" This means that the proceedings against the accused are at an end and the accused will not be convicted of any offence arising out of that charge.

Trial Election by the Accused

For all other indictable offences, the accused person has the right to "elect" (choose) whether to be tried in Provincial Court, in the Court of King's Bench by a judge and jury or in the Court of King's Bench by a judge alone.

The accused person normally makes this **election** in Provincial Court. If the accused chooses to have the trial in Provincial Court, the trial is scheduled for a later date. If the accused chooses to have the trial in the Court of King's Bench (whether by a judge alone or by judge and jury), a date is typically set for a **preliminary inquiry** to be held in Provincial Court. An accused person who does not make an **election** or refuses to make one is automatically scheduled for a trial in the Court of King's Bench with a judge and jury, with a preliminary hearing in Provincial Court.

The accused person has the right to an election when charged with such offences as arson, robbery, aggravated assault and kidnapping.

Lesson Plan Overview

Criminal law is an area of law that deals with criminal offences and consequences when someone is found guilty.

This lesson plan introduces students to trials in the Criminal Law system.

Activities & Discussion Questions:

1) Watch the video [*Canadian Trial Process*](#).

Glossary:

Discharged – the proceedings against the accused are ended and the accused will not be convicted.

Election – accused's choice to be tried in Provincial Court, in the Court of King's Bench by a judge and jury or in the Court of King's Bench by a judge alone.

Hybrid Offence – or dual offence. Can be treated as either summary conviction or indictable.

Indictable Offence – More serious offence.

Preliminary Inquiry – a court hearing held to decide if there is enough evidence to put the accused on trial.

Summary Conviction Offence – less serious offence.

