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CRIMINAL PLEADINGS AND PRACTICE IN CANADA

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What's New in this Update:

This release updates case law and commentary in Chapters 33 to 34.

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Highlights:

- The *prime directive* in "statutory interpretation" is that, after taking into account all relevant and admissible considerations, the court must adopt an "interpretation that is appropriate". An *appropriate interpretation* is one that can be *justified* in terms of: (a) its *plausibility*, that is, its compliance with the legislative text; (b) its *efficacy*, that is, its promotion of legislative intent; *and* (c) its *acceptability*, that is, the outcome complies with accepted legal norms — it is reasonable and just: *Piekut v. Canada (National Revenue)*, 2025 SCC 13, at **33:1.50**.
- "Statutory interpretation" is *centered* on the "intent of the legislature at the *time* of *enactment*" and courts are bound to give effect to that intent. Courts must be careful *not* to "exceed their institutional role" by engaging in "political questions" raised by changes *subsequent* to enactment, which are better addressed by legislatures. This principle does *not*, however, *prevent* courts from applying statutes to "new *or* evolving circumstances". In the exercise of their legislative authority, enacting legislatures can "use broad or open-textured language" to cover "circumstances that are neither in existence nor in their contemplation": *Telus Communications Inc. v. Federation of Canadian Municipalities*, 2025 SCC 15, at **33:6.50**.
- Courts should "interpret legislation" under the *presumption* that a "legislature does *not* intend to produce absurd consequences". An interpretation of a statutory provision produces "absurd consequences" if, for example, it frustrates the purpose of the legislation; creates irrational distinctions; leads to ridiculous or futile consequences; is extremely unreasonable or unfair; leads to incoherence, contradiction, anomaly, or disproportionate or pointless hardship; undermines the efficient administration of justice; or violates established legal norms such as the rule of law: *Piekut v. Canada (National Revenue)*, 2025 SCC 13, at **33:27**.
- Parliament must be *presumed* to deal with the "'same subject matter' in different statutes" with "harmony, coherence, and consistency". However, when Parliament has chosen to use "different terms' in a statute, it is *presumed* to have done so intentionally "in order to indicate 'different meanings' ": *Telus Communications Inc. v. Federation of Canadian Municipalities*, 2025 SCC 15, at **33:32**.
- The "enforcement of legislation" is generally done in the exercise of "*executive power* by the government" of the "same legislature that enacted the legislation". "Executive power to *enforce* the statutes" of Parliament *and* of the legislatures follows upon the "legislative authority to *enact* those statutes". However, as an *exception* to the general rule, the "provincial" Attorney General *executes*, *i.e.*, prosecutes offences committed contrary to the "federal" *Criminal Code* as part of the provincial legislative jurisdiction in respect of the "Administration of Justice". In the end, the provincial Attorney General has a "concurrent jurisdiction" with the federal Attorney General in the prosecution even of "federal 'non-Code' offences" by reason of the provincial powers in respect of the "Administration of Justice", *though* Parliament may "statutorily override" the power of the provincial Attorney General to do so: *R. v. Hauser*, [1979] 1 S.C.R. 984, 8 C.R. (3d) 89 and *R. v. Sacobie and Paul*, [1983] 1 S.C.R. 241, at **34:15.70**.