

---

offence, a provision which is always supplied by intendment of law, no man being deemed guilty of an offence or liable to punishment until he has been legally convicted.—The effect of the second section of the Penitentiary Act (14, 15 V. c. 2.) declaring that every imprisonment for two years or upwards, shall be in the Penitentiary, has always been attended to in the very numerous provisions authorizing punishment by imprisonment for two years or more,—and though this enactment leaves a certain amount of doubt in a few cases which are noted, yet the practical difficulty is but little and may be removed in all cases by a very slight exercise of legislative power :—but the enactment itself is *temporary* and its expiration would lead to endless confusion ; the undersigned strongly recommend that it be made permanent.

It is a matter of great satisfaction to the Commissioners, as they believe it will be to your Excellency and to the Legislature, to find so large a body of Statute Law common to both divisions of the Province ; and the Commissioners believe that one of the great benefits to be derived from the Revision, will be the facility thereby afforded for the comparison and further assimilation of the Law on many subjects upon which it now differs in Upper and Lower Canada.

The Criminal Law, and as far as practicable, the Commercial Law, ought to be uniform throughout Canada, and we are under the impression that no very great amount of Legislation would be necessary to the attainment of this object. In the first session of the first Parliament of United Canada, the Honorable Mr. Black, the Judge of Her Majesty's Court of Vice Admiralty at Quebec, and then one of the Members of the Legislative Assembly for that City, feeling the necessity of uniformity as regards the Criminal Law, brought in and the Legislature passed the Acts 4, 5 V. cc. 24, 25, 26 and 27, which form the great bulk of our Criminal Statute Law to this day, and which had the advantage not only of making the Criminal Law more nearly uniform throughout Canada, but of assimilating it to the then state of the Law in England, these Statutes having been modelled upon the latest Imperial Statutes upon the same subjects. The English Statutes, commonly known as Sir Robert Peel's Acts, had been to a great extent previously adapted and applied to Upper Canada, by Sir John Beverly Robinson, Chief Justice, and at that time Speaker of the Legislative Council of Upper Canada ; but the honor of introducing a Criminal Code common to all Canada belongs to Mr. Black.