

As to criminal law, the Act provided that "whereas the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants from an experience of more than nine years, the same shall continue to be administered and shall be observed as law in the Province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial, and the punishments and forfeitures thereby inflicted, to the exclusion of every other rule of criminal law or mode of proceeding thereon."

The mention of the "lenity of the criminal law of England" almost provokes a smile when it is remembered that even in Blackstone's time there were one hundred and sixty offences punishable with death. "Our criminal law," says Sir Henry Fowler, "in the year 1800 was savage in its barbarity."

"The penal code was not only atrociously sanguinary and continually aggravated by the addition of new offences; it was also executed in a manner peculiarly fitted to brutalize the people. In some respects, it is true, it may be compared favourably with the criminal procedures of the continent. English law knew nothing of torture or of arbitrary imprisonment, or of the barbarous punishment of the wheel, and no English executions were quite so horrible as those which took place in the Cevennes in the early years of the 18th century, or as the prolonged and hideous agonies which Damiens endured for several hours in 1757. But this is about all that can be said." Lecky, *The 18th Century* 1, p. 505.

This provision, however, produced no dissatisfaction; in truth, even the rigour of English criminal law at that time was a welcome relief to persons accustomed to the still more cruel and uncertain laws of France where torture was frequently made use of. Mr. Lareau says in regard to this:—"Quant au droit criminel Anglais, que Murray avait illégalement mis en vigueur comme il avait agi du reste en matières civiles, nos ancêtres ne s'en plainquirent pas: ils l'acceptèrent comme une faveur. Leur substitution, dis-je, aux lois criminelles encore cruelles de la France fut dans l'ordre judiciaire un perfectionnement qui, en assurant la liberté personnelle, consolida les libertés publiques." pp. 294-295. The criminal law of England was thus retained and extended to the whole Province, including what afterwards became known as Upper Canada.