

that such act or omission amounts to a criminal offence. 55-56 V., c. 29, s. 534.

Quære: Is above section *intra vires* as to criminal proceedings in Quebec? *Paquet v. Lavoie*, Q. R. 7 Q. B. 277.

Defendant had been convicted and punished before the recorder's court, *Held*, that this was no bar to the plaintiff's action for damages for the same assault. *Marchessault v. Gregoire*, 18 L. C. J. 104 and 4 R. L. 541.

**14. DISTINCTION BETWEEN FELONY AND MISDEMEANOUR ABOLISHED.**—The distinction between felony and misdemeanour is abolished, and proceedings in respect of all indictable offences, except so far as they are herein varied, shall be conducted in the same manner. 55-56 V., c. 29, s. 535.

A provincial statute providing for the discharge of prisoners in default of indictment for felony, now applies to a person accused of an offence which was a misdemeanour before the enactment. *R. v. Cameron* (1897), 1 Can. C. C. 169.

**15. WHEN OFFENCE PUNISHABLE UNDER MORE THAN ONE ACT OR LAW.**—Where an act or omission constitutes an offence, punishable on summary conviction or on indictment, under two or more Acts, or both under an Act and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such Acts, or at common law, but shall not be liable to be punished twice for the same offence. 55-56 V., c. 29, s. 933.

A prisoner should be able to gather from the indictment whether he is charged with an offence at the common law; or under a statute, or, if there should be several statutes applicable to the subject under which statute he is charged. *per Esten, V.-C., R. v. Cummings*, 15 U. C. R. 16.

Defendant guilty of misbehaviour in office which is indictable under the common law. *Held*, it was not essential, to constitute the offence, that damage should have resulted to the public by reason of such irregular conduct, nor that the defendant should have acted from corrupt motives. *R. v. Arnoldi*, 23 O. R. 201.

This section enacts that where an offender is punishable under two or more Acts, or two or more sections of the same Act, he may be punished under either, and also leaves the common law in force. The rule is, that if a common law offence is made subject to a greater punishment by statute, it may still be proceeded against as a common law offence; but if a common law offence is made by statute punishable by a summary conviction both remedies exist. *Hamilton v. Massie*, 18 O. R. 585.

See 2 Hawk. c. 25, s. 4; *R. v. Wigg*, 2 Salk. 400; *R. v. Wright*, 1 Burr. 543; *R. v. Robinson*, 2 Burr. 800; *R. v. Carlile*, 3 B. & Ald. 161; *R. v. Gregory*, 5 B. & Ad. 555; *R. v. Crawshaw*, Bell C.C. 303; Bishop, Stat. Cr. par. 163 to 166 and s. 245; *R. v. Dickenson*, 1 Saund. 135. Also *per Williams, J.*, in *Eastern Archipelago Co. v. The Queen*, 2 E. & B. 879; *R. v. Adams, Car. and M.* 299; *R. v. Dixon*, 10 Mod. 335; *R. v. Buchanan*, 8 Q. B. 883; *R. v. Hall*, 17 Cox C.C. 278.