

have been passed, of which some are exclusively applicable to Upper or to Lower Canada respectively, and others jointly applicable to the whole Province of Canada.

32. The Schedules will exhibit the relative numbers and subjects of each, and show which have ceased to operate and which still continue in force.

33. It will be readily supposed that one point of difficulty experienced has been to determine what Acts or parts of Acts had from time to time become effete or been repealed, not specifically or in express terms, but by implication or by general references to inconsistent enactments.

34. The Public General Statutes having been selected, they were in the next place subdivided, by separating such as were joint from those applicable to Upper Canada only.

35. The last belonging exclusively to the Commissioners for Upper Canada, were placed in Schedules under what seemed the most appropriate heads, and the Acts thus arranged were then distributed among the Commissioners for consolidation.

36. The first or joint division having been arranged in like manner, the first half of it was assigned to the Commissioners for Lower Canada, and the other moiety to those for Upper Canada.

37. The Acts of the last Session of Parliament were passed after the foregoing process of expurgation and classification had been performed, and of course required a revision of the whole so far as those enactments affected former or introduced new provisions.

38. In connection with the above, the preparation of a new Municipal Bill with a view to the consolidation and amendment of the present Municipal Laws, engaged the attention of the Commissioners and consumed a great deal of their time. When it becomes a Law it will constitute the Consolidated Municipal Act for Upper Canada.

39. In that Bill the practicability of a more concise mode of expression has been attempted.

40. The Statutes at large exhibit two peculiarities which many have thought defects, namely:

1st. Long sections, with numerous provisoes and redundancy of words.

2nd. Language used in the future instead of the present tense, when the present is more appropriate.

The remedy suggested for the first is distinctness of subjects, short clauses and sentences, and the avoidance of tautology in words or in ideas.

To avoid the frequency of provisoes, substantive sections or language qualifying the text may be substituted.

The remedy for the second required the adoption of the present instead of the future tense, which is a more familiar style and prevents the frequent use of the auxiliary verb "shall," for the two-fold purpose of simply placing the verb in the future tense at one time and of expressing obligation or command at another time, frequently in the same sentence and more frequently in the same Act.

41. The propriety of the present tense depends of course upon the principle that in a Statute as at Common Law, the law is always speaking.

42. The use of the future tense rests upon the principle that a Statute is construed as speaking at and from the time of its becoming a law, and that so speaking prospectively, its provisions must be expressed not only hypothetically but in the future tense; and as the auxiliary "shall" is properly used for that purpose, its adoption (often misplaced), forms a prevailing practice in the composition of legislative enactments.

43. But if it be a correct rule of jurisprudence that a law being once enacted speaks at all times, the correctness of expressing it in the present tense, whether in reference to passing or present events, or in relation to past or future contingencies, cannot be denied.

44. Though not the usual style in England, even in modern

Statutes, it is not without precedent, as may be seen by reference to the Imperial Statutes 15 & 16 Vic., chap. 44, and 17 & 18 Vic., chap. 104. (See U. C. Vols., 16 V. & 18 V.)

45. We have attempted the Revision entrusted to us on this principle, but not, we apprehend, with uniform success, especially as respects the Real Property Acts, in which we have ventured upon little innovation.

46. If there exist any serious objection to the method pursued, the language of the revised Acts can be easily changed and made to conform to the more usual or old style of composition. If approved of, the whole can be readily expressed in a uniform style in the present tense.

47. We have omitted Local or Occasional as well as Private Acts. Of the former some would have been consolidated had the time admitted, such as the Rideau and Welland Canal Acts, the Grand Trunk Railway, and some others which relate to works either strictly public or of the highest public importance, and therefore fairly within the scope of the Commission.

48. If deemed advisable to include them in the revision, it would we think be better to consolidate all Acts of that nature separately from the general Acts.

49. We also beg to suggest the expediency of prefixing to the general Acts such extracts from the Imperial Statutes of 14 Geo. III, chap. 83,—31 Geo. III, chap. 31, and 3 & 4 Vic., chap. 35, and from Treatise, and from the Proclamations dividing the Province of Quebec, and sub-dividing Upper Canada into Counties, &c., as are essential to show the original Constitution and Territorial Divisions of what now forms the Province of Canada.

50. The Ordinances of the Province of Quebec before its division in 1792, have been long regarded as either repealed or obsolete, although no general repeal of them has been made. And we do not propose incorporating any of them in the Revised Statutes as still having force of law in Upper Canada.

51. In preparing the Statutes for consolidation it has been found convenient to set copies of the printed Acts upon strong paper and often to reset them in arranging the clauses, after which the text has been reduced by striking out expired, repealed, superseded and effete clauses, and rejecting redundant words and expressions.

52. In addition to this, it has often become necessary to rewrite sections or series of sections, as the only practicable means of effectually consolidating several Acts passed at different periods in relation to the same subject.

53. Having taken this first step in the process of consolidation, it became a question whether it would be more judicious to have manuscript copies prepared for the press or to print at once from the rough revision, though at the risk of future corrections and transpositions. Being of opinion that written copies would consume much time and create much additional expense without obviating the necessity of further corrections; considering also that the work must be ultimately printed, and finding the Queen's Printer prepared to proceed in its prompt execution, we deemed it best to have the new Bills set up from the original revision; which being done, the proofs have from time to time been revised and corrected and finally struck off.

54. Those which relate to Upper Canada only, contain 1025 pages, and have been printed in consecutive chapters without the insertion of any leading heads or titles, but (with a few accidental exceptions) in a classified order. If deemed expedient, titles can be hereafter inserted.

55. Before noticing the joint Acts, we beg to remark in reference to the Upper Canada consolidation, that it is not now reported as a finished work. It is as perfect however as we could make it without delaying this Report for another year, and will we trust be sufficient to shew the plan we have pursued and what may be accomplished in the reduction of the Statute Book. Before being submitted to the Legislature for