

L A W S

O F H I S

M A J E S T Y ' S P R O V I N C E

O F

U P P E R - C A N A D A ,

I N

N O R T H A M E R I C A ,

ENACTED IN THE FOURTH SESSION OF THE SECOND PROVINCIAL PARLIAMENT,
IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED,
AND OF HIS MAJESTY'S REIGN THE FORTIETH.

HIS EXCELLENCY PETER HUNTER, ESQUIRE, LIEUTENANT GOVERNOR.



YORK : Printed by WM. WATERS and T. G. SIMONS, Printers to the KING's most excellent Majesty, 1800.

S W A E

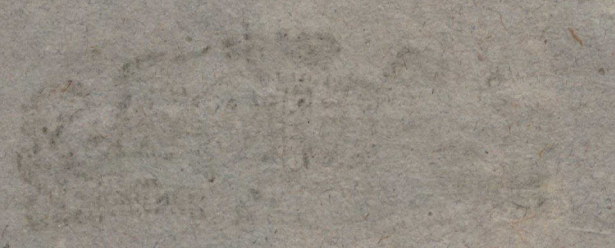
THE
OFFICE OF THE
SECRETARY OF THE

DEPARTMENT OF THE
NAVY

JOHN A. M. B. R. I. C. A.

THE SECRETARY OF THE DEPARTMENT OF THE NAVY
WASHINGTON, D. C.

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The Criminal Law of England introduced as it stood on the 17th day of Sept. 1792.

“ An Act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province,” and by the authority of the same, That the Criminal Law of England, as it stood on the seventeenth day of September, in the year of our Lord one thousand seven hundred and ninety-two, shall be, and the same is hereby declared to be the Criminal Law of this Province.

Saving of ordinances made since the 14th Geo. 3.

II. *Provided nevertheless,* That nothing herein contained shall be taken or construed to vary, repeal, or in any manner to affect any Ordinance of the late Province of Quebec, which may have been made since the said fourteenth year of his Majesty's reign.

When any person is convicted of any felony for which he is liable to be burnt in the hand, the Court may, instead of such burning, impose on him a moderate fine, or except in case of Manslaughter, order him to be whipped.

III. And whereas the punishment of burning in the hand, when any person is convicted of felony within the Benefit of Clergy, is often disregarded and ineffectual, and sometimes may fix a lasting mark of disgrace and infamy on offenders; who might otherwise become good subjects and profitable members of the community, Be it therefore enacted by the authority aforesaid, That from and after the passing of this act, when any person shall be lawfully convicted of any felony within the benefit of Clergy, for which he or she is liable by law to be burned or marked in the hand, it shall and may be lawful for the Court before which any person shall be so convicted, or any Court holden for the same place with the like authority, if such Court shall think fit, instead of such burning or marking, to impose upon such offender such a moderate pecuniary Fine as to the Court in its discretion shall seem meet; or otherwise it shall be lawful, instead of such burning or marking, in any of the cases aforesaid, except in the case of Manslaughter, to order and adjudge, that such offender shall be once, or oftener, but not more than three times, either publicly or privately Whipt; such private whipping to be inflicted in the presence of not less than two persons besides the offender and the officer who inflicts the same; and in case of female offenders, in the presence of females only; and such fine or whipping so imposed or inflicted instead of such burning or marking, shall have the like effects and consequences to the party on whom the same, or either shall be so imposed or inflicted, with respect to the discharge from the same or other felonies, or any restitution to his or her estates, capacities and credits, as if he or she had been burned or marked as aforesaid.

This act not to abridge the powers vested in the said Courts of imprisoning offenders.

IV. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this act contained, shall abridge, or deprive any Court of the powers now vested in it by law, of detaining and keeping in prison, for any time not exceeding one year, or of committing to the house of correction, or public work-house, to be kept to hard labor, for any time not exceeding one year, or of committing to the house of correction, for any time not less than six months, or exceeding two years, any such offender as aforesaid; but

that such offender may, if such court shall think fit, after such burning or marking, or after such whipping, or fine, as shall by virtue of this present act be inflicted or imposed instead thereof, be so detained or committed, and with such accumulated punishment, in case of escape from such house of correction or work-house, as if this act had never been made.

V. And whereas so much of the said criminal law of England, as relates to the transportation of certain offenders to places beyond the seas, is either inapplicable to this province, or cannot be carried into execution without great and manifest inconvenience, *Be it enacted by the authority aforesaid,* That when any person shall be convicted of any crime, for which he, or she, shall be liable by law to be transported, the court before which such person shall be so convicted, or any court holden for the same place with the like authority, instead of the sentence of transportation, shall order and adjudge, that such person be banished from this province, for and during the same number of years, or term for which he, or she would be liable by law to be transported, and do remove him, or herself therefrom within a space of time to be then fixed and declared by the court, and which shall, in no instance, be less than two days nor more than eight, including the day on which such sentence of banishment shall be passed.

Banishment substituted for transportation.

VI. *And be it further enacted by the authority aforesaid,* That if any person on whom such sentence of banishment shall have been passed as aforesaid, or to whom his Majesty, his heirs or successors, shall hereafter be graciously pleased to extend the Royal mercy upon condition of his, or her, leaving the province for any term of years, or for life, shall be found at large in any part thereof, without some lawful cause, after the time within which he, or she, shall have been so banished, or shall have so consented to leave the province, and before the expiration of the term for which he, or she, shall have been so banished, or shall have so consented to leave the same, every such offender being thereof lawfully convicted, shall suffer death as in cases of felony without benefit of Clergy; and such offender may be tried either before Justices of assize, oyer and terminer or goal delivery, for the District, County or place where such offender shall be apprehended and taken, or where he, or she, may have received such sentence of banishment; and the Clerk of the Crown, Clerk of the peace or other officer, having the custody of the records where such sentence of banishment shall have been pronounced, or the Register of the province in the case of such conditional pardon as aforesaid, shall at the request of any person on his Majesty's behalf, and without fee or reward, make out and give a certificate in writing signed by him the said Clerk of the Crown, Clerk of the peace or other officer, or by the said Register, respectively, containing the effect and substance, omitting the formal part of every indictment and conviction of such offender, and of the sentence of banishment, or of such conditional pardon respectively, to the Justices of assize, oyer and terminer and goal delivery, where such offender shall be indicted, which cer-

Provisions in case of return from banishment, or being found at large in the province before the period is expired.

tificate shall be sufficient proof of such conviction and sentence of banishment, or of such conditional pardon respectively.

Not to restrain the power of his Majesty to pardon.

VII. *Provided nevertheless,* That nothing herein contained shall be construed in any manner to restrain, or prevent his Majesty, his heirs or successors, to grant an absolute and unconditional pardon to such offender, and to allow of his, or her return to this province.

C H A P. I I.

An ACT for the Regulation of Special Juries.

I. **B**E it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great Britain, entitled an act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, "An Act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province;" and by the authority of the same, That from and after the first day of March next, no person shall be returned by the Sheriff to serve on any special jury, who shall not be assessed, and pay assessments on the sum of three hundred pounds, or upwards.

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C H A P. III.

*An ACT for the more equal Representation of the Commons of this Province in Parliament,
and for the better defining the Qualification of Electors.*

I. **F**OR the better representation of the commons of this province in parliament,
Be it enacted by the King's most excellent Majesty, by and with the
advice and consent of the Legislative Council and Assembly of the pro-
vince of Upper Canada, constituted and assembled by virtue of, and under the
authority of an act passed in the parliament of Great-Britain, entitled an act
to repeal certain parts of an act passed in the fourteenth year of his Ma-
jesty's reign, entitled, " An Act for making more effectual provision for the
government of the province of Quebec in North America, and to make further
provision for the government of the said province ;" and by the authority of
the same, That from and after the end of the present parliament, the represen-
tation of the commons of this province in the House of Assembly, shall be in
manner and form following, that is to say :

The counties of Glengary and Prescott, shall be together represented by two *Representation.*
members.

The counties of Stormont and Ruffel, shall together be represented by one
member.

The counties of Dundas, Grenville, Leeds, Frontenac, and Prince Edward, be each
represented by one member.

The incorporated counties of Ienox and Addington, be together represented by
one member.

The counties of Hastings and Northumberland, be together represented by one
member.

The county of Durham, the East Riding of the county of York, and the county
of Simcoe, be together represented by one member.

The West Riding of the county of York, the first Riding of the county of Lincoln,

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and the county of Haldimand, be together represented by two members.

The second, third, and fourth Ridings of the county of Lincoln, be together represented by two members.

The counties of Oxford, Middlesex and Norfolk, shall together be represented by one member.

The county of Kent, shall be represented by one member.

The county of Essex, shall be represented by two members.

Qualification of
electors.

II. *And be it further enacted by the authority aforesaid, That no person shall be considered as qualified to vote, or shall vote at the ensuing election for a member to represent the commons of this province in provincial parliament, who shall have sworn allegiance to any foreign state, or have been a stated resident in the dominions of the same, unless such person shall have been previously and bona fide resident in this province, or in some other of the dominions of his Majesty, for, and during the term of four years then next preceding, and shall have taken the oath of allegiance to his Majesty; and that on any future election, no such person or persons shall vote as aforesaid, until he, or they shall have been previously and bona fide resident in this province, or in some other of his Majesty's dominions, for, and during the term of seven years next preceding, and shall have taken the oath of allegiance to his Majesty.*

No 82

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C H A P. IV.

An ACT for the summary conviction of persons selling Spirituous Liquor by retail without Licence.

I. FOR the summary conviction of persons selling spirituous liquor by retail without licence, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled an act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, "An Act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province;" and by the authority of the same, That if any person or persons shall, directly or indirectly, sell any wine, brandy, rum, or other spirituous liquor by retail without licence for that purpose previously obtained, such person or persons having, if resident in the District in which the offence shall have been committed, been summoned to appear before any three or more of his Majesty's Justices of the peace, who are hereby authorized and empowered to hear and determine the matter, and being lawfully convicted thereof, by the oath of one credible witness, shall forfeit and pay the sum of twenty pounds of lawful money of this province, to be levied with costs of suit, by distress and sale of the goods and chattels of such offender or offenders, one half of which penalty shall be paid to the person or persons informing, and the other half into the hands of his Majesty's Receiver-General, to and for the public uses of this province; and in default of the said offender or offenders, having goods and chattels, from which the said penalty may be raised, it shall and may be lawful for the said Justices to commit him, her or them to the goal of the District in which the offence shall have been committed, for, and during the space of three calendar months.

Manner of conviction when offender resides in the district.

II. And be it further enacted by the authority aforesaid, That if any such offender or offenders, be not usually resident within the District in which the offence shall have been committed, it shall and may be lawful to, and for any one of his Majesty's Justices of the peace in, and for the District in which the offence shall have been committed, upon information upon oath made before him, to issue his warrant for apprehending such offender or offenders, and to oblige him, her or them, to enter into recognizances with one or more suf-

Manner of conviction when offender does not reside within the district.

LAWS OF THE PROVINCE OF UPPER CANADA,

efficient sureties for his, her or their appearance at such time and place as shall be appointed for the hearing of the said complaint, or in default thereof, to commit him, her or them for safe custody to the common goal of the District, until the said complaint shall have been finally heard and determined.

No shop-keeper to sell less than one quart of wine, brandy, &c.

III. And be it further enacted by the authority aforesaid, That from and after the fifth day of April now next ensuing, it shall not be lawful to or for any shop-keeper licenced to sell wine, Brandy, rum and other spirituous liquors by retail, to sell or vend the same, in any less quantity, or by any smaller measure than one quart; and if any shop-keeper or shop-keepers shall from and after the said fifth day of April sell, or vend any wine, brandy, rum or other spirituous liquors, in less quantity, or by smaller measure, than one quart, he, she, or they shall, for such offence, forfeit and pay the sum of twenty pounds, to be levied in manner and form herein before mentioned, and the monies arising therefrom, shall be divided and applied in like manner and to the same uses as herein before is directed.

Limitation of prosecution.

IV. Provided also, and be it further enacted by the authority aforesaid, That no information, or complaint, shall be received under this act, if more than six calendar months have elapsed since the time of the offence committed.

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~~1083~~
C H A P. V.

An Act to revive and continue an Act entitled "An Act to provide for the appointment of Returning Officers for the several Counties within this Province."

I. WHEREAS an act passed in the thirty-third year of his Majesty's reign, entitled "An act to provide for the appointment of returning officers for the several counties within this province," was limited to be and continue in force for, and during the space of seven years; and whereas the time limited in the said act is now expired, and it being necessary that the same should be revived and continued, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great Britain, entitled an act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, "An Act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province;" and by the authority of the same, That the said act of the thirty-third year of his Majesty's reign, and every part thereof, and every clause, matter and thing therein contained, are by the present act revived and continued for, and during the space of eight years, and no longer.

C H A P. VI.

An ACT for making a temporary provision for the regulation of trade, between this Province and the United States of America, by Land or by Inland Navigation.

I. **WHEREAS** it may be expedient to carry into effect that part of the treaty of amity, commerce and navigation, concluded between his Majesty and the United States of America, and signed at London in the year of our Lord one thousand seven hundred and ninety-four, which authorizes the levying and collecting the same duties upon articles imported into this province, from the United States of America, by land or inland navigation, as the same would be liable to if imported by the port of Quebec, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great Britain, entitled an act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, "An Act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province;" and by the authority of the same, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of this province, by and with the advice and consent of his Majesty's Executive Council, by order, or orders to be from time to time issued, and published, to establish such ports of entry, and to make such other regulations for the purposes aforesaid, and for carrying on the trade by land or inland navigation, between the people and territories of his Majesty in this province, and the people and territories of the United States of America, as may be necessary, in order to carry such parts of the said treaty into effect, and all, and every such orders, and regulations shall have the same force, effect, and validity, as if the same were herein particularly repeated and enacted; any law, statute, custom, or usage to the contrary notwithstanding.

Governor in council may establish ports of entry, and make regulations for carrying on the trade between this Province and the United States.

II. *And be it further enacted by the authority aforesaid, That this act shall be in force until the first day of June, which will be in the year of our Lord one thousand eight hundred and one, and from thence to the end of the next session of the provincial parliament, and no longer.*