

STATUTES OF CANADA

PASSED IN THE SESSION HELD IN THE

THIRTY-SECOND AND THIRTY-THIRD YEARS OF THE REIGN
OF HER MAJESTY

32 - 33 Vict.
1869

QUEEN VICTORIA,

BRING THE SECOND SESSION OF THE FIRST PARLIAMENT OF CANADA,

Began and holden at Ottawa, on the Fifteenth day of April, 1869, and closed
by prorogation on the Twenty-second day of June, in the same year.



HIS EXCELLENCY

THE RIGHT HONORABLE SIR JOHN YOUNG,

GOVERNOR GENERAL.

OTTAWA:

PRINTED BY MALCOLM CAMERON,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1869.

fine is also intended to be imposed, then proceed.) And I also adjudge that the said E. F. do forthwith pay to and for the use of Her Majesty a fine of _____ dollars, and in default of payment that the said fine with the costs of collection be levied by distress and sale of the goods and chattels of the said E. F. (*or in case a fine alone is imposed, then the clause for imprisonment will be omitted.*)

Given under my hand at _____ in the said (County or District) of _____ the day and year first above mentioned.

J. S.

Judge.

CAP. XXXVI.

An Act respecting the Criminal Law, and to repeal certain enactments therein mentioned.

[Assented to 22nd June, 1869.]

WHEREAS by the several Acts of the Parliament of Canada, Preamble. passed in the now last Session and present Session thereof respectively, and mentioned in the Schedule A to this Act, divers Acts and parts of Acts and provisions of law, heretofore in force in the late Province of Canada, and in the Provinces of Nova Scotia and New Brunswick, have been assimilated, amended and consolidated, and it is expedient to provide for the repeal thereof, and of so much of any other Acts or provisions of law as may be contrary to or superseded by the said Acts mentioned in Schedule A; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The Acts and parts of Acts mentioned in Schedule B hereunto annexed, are hereby repealed, as are also all other Acts and parts of Acts and provisions of law, contrary to or inconsistent with the Acts mentioned in Schedule A or any of them, subject to the following provisions: Acts and enactments in Schedule B. repealed.

Such repeal shall not extend to matters relating solely to subjects as to which the Provincial Legislatures have, under the British North America Act, 1867, exclusive powers of legislation, or to any enactment of any such Legislature for enforcing by fine, penalty or imprisonment any law in relation to any such subject as last aforesaid, or to any municipal By-law relating to any offence within the scope of the powers of the municipality: Exception as to subjects under control of Local Legislatures.

Such repeal shall not extend to any provision of any Act of the Parliament of Canada, creating, or providing for the punishment of, any offence against such Act, or for the proceedings for enforcing such provision,—or to any other Act or enactment not mentioned as repealed in Schedule B, and not contrary to the Acts mentioned Not to affect certain Acts of the Dominion, or Acts making provision on the same subject as Acts in

Schedule A,
&c.

mentioned in Schedule A, or any of them, but making special provision for the punishment of any offence, or as to the proceedings for the prosecution and conviction of the offender, other than that made in the Acts in Schedule A or any of them for a like purpose;—but in any such case the offender may be indicted or otherwise proceeded against, and convicted (summarily or otherwise as the case may be,) and punished, either under any of the Acts mentioned in Schedule A, or any other Act of the Parliament of Canada, or under any such Act or enactment as aforesaid not mentioned as repealed in Schedule B:—

As to offences
committed
and things
done prior to
such repeal.

Every offence wholly or partly committed against any Act or enactment hereby repealed, prior to such repeal, shall be dealt with, inquired of, tried, determined and punished, and every penalty in respect of any such offence shall be recovered, in the same manner as if the said Acts and enactments had not been repealed; and every act duly done, and every Warrant and other instrument duly made or granted before such repeal, shall continue and be of the same force and effect as if the said Acts and enactments had not been repealed; and every right, liability, privilege and protection in respect of any matter or thing committed or done before such repeal, shall continue and be of the same force and effect as if the said Acts and enactments had not been repealed, and every action, prosecution or other proceeding commenced before such repeal, or thereafter commenced in respect of any such matter or thing, may be prosecuted, continued and defended as if such Acts and enactments had not been repealed.

As to crime of
High Treason.

2. Nothing in any of the Acts mentioned in Schedule A shall affect the crime of High Treason, except only as respects cases punishable under the provisions of the *Act for the better security of the Crown and of the Government*, mentioned in the said Schedule.

Special pro-
vision as to
peremptory
challenges and
warrants in
New Brun-
swick.

3. The provisions in the Act respecting procedure in criminal cases and other matters relating to criminal law, as to the number of peremptory challenges allowed to prisoners in criminal cases, shall not apply to any trial to be had in the Province of New Brunswick, before the first day of January, in the year of Our Lord one thousand eight hundred and seventy-one; and until after the said day, a Warrant issued by a Justice of the Peace in the said Province, may as heretofore be executed in any part thereof, without being backed.

And as to
seals to war-
rants, there
and in other
parts of Ca-
nada.

4. No provision in any of the Acts mentioned in the said Schedule A requiring any warrant or document issued or granted by any Justice of the Peace, to be under seal, shall apply to any such instrument or document issued or granted in the Province of New Brunswick before the day last aforesaid; and if in any such instrument or document issued in any Province in Canada at any time, it is stated, that the same is given under the hand and seal of any Justice signing it, such seal shall be presumed to have been affixed

affixed by him, and its absence shall not invalidate the instrument, or such Justice may at any time thereafter affix such seal with the same effect as if it had been affixed when such instrument was signed.

5. Notwithstanding any provision in any of the Acts mentioned in Schedule A, that any term of imprisonment less than two years shall be in some gaol or place of confinement other than the Penitentiary, any offender sentenced under any such Act before the day last aforesaid in New Brunswick or Nova Scotia, to imprisonment for a term less than two years, may in the discretion of the Court passing such sentence be sentenced to undergo such imprisonment in the Penitentiary of the Province where the sentence is passed, instead of being sentenced to undergo the same in any other gaol or place of confinement, and any such provision as first aforesaid, shall be construed subject to this section:

Special provision as to imprisonment in New Brunswick or Nova Scotia.

6. In all cases when a party who has entered into a recognizance under the Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders, has failed to appear according to the condition of such recognizance, and his default has been certified by the Justice or Justices as therein provided, the proper Officer to whom the recognizance and certificate of default are to be transmitted in the Province of Ontario, shall be the Clerk of the Peace of the County for which such Justice or Justices are appointed or are acting, and the Court of General Sessions of the Peace for such County shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such Court; and in the other Provinces of Canada, the "proper Officer" to whom any such recognizance and certificate shall be transmitted, shall be the Officer to whom like recognizances have been heretofore accustomed to be transmitted under the law in force before the coming into force of the said Act, and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been.

As to the officers to whom recognizances are to be transmitted in Ontario and elsewhere.

7. No return purporting to be made by any Justice of the Peace under the Act last above cited, shall be vitiated by the fact of its including, by mistake, any convictions or orders had or made before him in any matter over which any Provincial Legislature has exclusive jurisdiction, or with respect to which he may have acted under the authority of any Provincial law.

As to returns by Justices of the Peace.

8. Any Judge of the Sessions of the Peace or any District Magistrate, in the Province of Quebec, shall in all cases have all the powers vested in two Justices of the Peace by any Act mentioned in Schedule A, or any other Act relating to Criminal law, in force in that Province.

Certain magistrates to have the powers of two Justices.

When the
repeal shall
take effect.

9. The foregoing provisions of this Act, and the repeal of the Acts and enactments therein referred to, shall take effect on and after the first day of January, in the year of our Lord, one thousand eight hundred and seventy, and not before, except as to such of the said Acts and enactments as are contrary to or inconsistent with the Acts mentioned in Schedule A, as being passed in the now last Session of the Parliament of Canada, which shall be held to have been repealed from the time when the Act or Acts to or with which they are contrary or inconsistent, came into force.

How this Act
shall be con-
strued.

10. This Act shall be construed as having been passed after the Acts of the present Session mentioned in Schedule A, and as amending and explaining them.

SCHEDULE A.

ACTS OF THE PARLIAMENT OF CANADA.

Acts passed in the Session of 1867-8, 31st Victoria.

CHAPTER.	TITLE.
14	An Act to protect the inhabitants of Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty.
15	An Act to prevent the unlawful training of persons to the use of arms, and the practice of military evolutions; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.
47	An Act respecting the manufacture or importation of copper coins or tokens.
62	An Act respecting Harbor Police.
69	An Act for the better security of the Crown and of the Government.
70	An Act respecting Riots and Riotous Assemblies.
71	An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts.
72	An Act respecting accessories to and abettors of indictable offences.
73	An Act respecting Police of Canada.
74	An Act respecting persons in custody charged with high treason or felony.
75	An Act respecting penitentiaries and the Directors thereof and for other purposes.

Acts

Acts passed in the present Session of the Parliament of Canada.

- An Act to remove doubts as to Legislation in Canada, regarding offences not wholly committed within its limits.
- An Act respecting offences relating to the Coin.
- An Act respecting Forgery.
- An Act respecting offences against the Person.
- An Act respecting Larceny and other similar offences.
- An Act respecting malicious injuries to Property.
- An Act respecting Perjury.
- An Act for the better preservation of peace in the vicinity of Public Works.
- An Act respecting certain offences relative to Her Majesty's Army and Navy.
- An Act for the better protection of Her Majesty's Military and Naval Stores.
- An Act respecting Cruelty to Animals.
- An Act respecting Vagrants.
- An Act respecting Procedure in Criminal Cases and other matters relating to Criminal Law.
- An Act respecting the duties of Justices of the Peace, out of sessions, in relation to persons charged with Indictable Offences.
- An Act respecting the duties of Justices of the Peace, out of sessions, in relation to Summary Convictions and Orders.
- An Act respecting the prompt and summary administration of criminal justice in certain cases.
- An Act respecting the trial and punishment of Juvenile Offenders.
- An Act respecting Juvenile Offenders within the Province of Quebec.
- An Act for the more speedy trial in certain cases of persons charged with felonies and misdemeanors, in the Provinces of Ontario and Quebec.

SCHEDULE B.

ACTS OF THE LEGISLATURE OF THE LATE PROVINCE OF CANADA.

Consolidated Statutes of Canada.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 30	An Act respecting the Sale of Intoxicating Liquors near Public Works.	The whole.
Chapter 90	An Act respecting Offences against the State.	The whole.
Chapter 91	An Act respecting Offences against the Person.	The whole.

SCHEDULE

SCHEDULE B.—Continued.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 92	An Act respecting Offences against Person and Property.	The whole.
Chapter 93	An Act respecting Arson and other Malicious Injuries to Property.	The whole.
Chapter 94	An Act respecting Forgery.	The whole.
Chapter 96	An Act respecting Cruelty to Animals.	The whole.
Chapter 99	An Act respecting the Procedure in Criminal Cases.	The whole, except sections eighty-seven, ninety-seven, one hundred and twenty, and one hundred and twenty-one.
Chapter 102	An Act respecting the Duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.	The whole, except section fifty-nine.
Chapter 103	An Act respecting the Duties of Justices of the Peace, out of Sessions, in relation to Summary Convictions and Orders.	The whole, except sections seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one and eighty five.
Chapter 105	An Act respecting the prompt and summary administration of Criminal Justice in certain cases.	The whole, except sections thirty, thirty-one, thirty-two, and thirty three.
Chapter 106	An Act respecting the trial and punishment of Juvenile Offenders.	The whole, except sections six, seven, and eight.

SCHEDULE

SCHEDULE B.—Continued.

Acts passed since the Consolidation of the Statutes.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
23 V., c. 37	An Act for the further protection of Growing Timber.	The whole.
24 V., c. 7	An Act to amend the Law relating to the unlawful Administering of Poison.	The whole.
24 V., c. 10	An Act to prevent vexatious Indictments for certain Misdemeanors.	The whole.
24 V., c. 11	An Act to amend <i>the Prison and Asylum Inspection Act</i> .	The whole.
24 V., c. 12	An Act to amend the one hundred and eleventh chapter of the Consolidated Statutes of Canada, intituled: "An Act respecting the Provincial Penitentiary of Canada."	The whole.
24 V., c. 14	An Act to abolish the right of Courts of Quarter Sessions and Recorders' Courts to try Treasons and Capital Felonies.	The whole.
24 V., c. 15	An Act to amend the one hundred and second chapter of the Consolidated Statutes of Canada, intituled: "An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with Indictable Offences."	The whole.
24 V., c. 26	An Act to amend and consolidate the Laws respecting the Recorder's Court of the City of Quebec.	Section thirty-six.
27, 28 V., c. 19.	An Act to amend and consolidate the Law respecting Accessories to and Abettors of Indictable Offences, and for other purposes relative to the Criminal Law.	The whole.
29 V., c. 13	An Act for abolishing the Punishment of Death in certain cases.	The whole.
29 V., c. 14	An Act to provide more fully for the punishment of Offences against the Person, in respect to the crime of Kidnapping.	The whole.
29, 30 V., c. 5	An Act to prevent the unlawful training of persons to the use of arms, and to practice military evolutions or exercises; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.	The whole.
29, 30 V., c. 121	An Act to incorporate the Canada Vine Growers' Association.	Section sixteen. SCHEDULE

SCHEDULE B.—*Continued.**Consolidated Statutes for Upper Canada.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 13	An Act respecting the Court of Error and Appeal.	So much as is repealed by or inconsistent with the Act of this Session, respecting Procedure in Criminal cases, and other matters relating to Criminal Law.
Chapter 31	An Act respecting Jurors and Juries.	Sections ninety-nine and one hundred.
Chapter 32	An Act respecting Witnesses and Evidence.	Sections three and four, as to Criminal cases only.
Chapter 97	An Act relating to High Treason, to Tumults and Riotous Assemblies and to other offences.	The whole.
Chapter 99	An Act to prevent the unlawful training of persons in military evolutions and the use of fire arms; and to authorize the seizure of fire arms collected for purposes dangerous to the public peace.	The whole except section three.
Chapter 100	An Act for the punishment of any persons who seduce soldiers or sailors to desert from Her Majesty's service.	The whole.
Chapter 101	An Act respecting Forgery and Perjury in certain cases.	The whole, except section two.
Chapter 108	An Act respecting prosecutions in cases of Misdemeanor.	Section three.
Chapter 110	An Act to allow to any person indicted a copy of the indictment.	The whole.
Chapter 111	An Act respecting amendments at trial.	The whole.
Chapter 113	An Act respecting new trials and appeals, and Writs of Error in criminal cases in Upper Canada.	The whole except sections five, sixteen and seventeen.

SCHEDULE

SCHEDULE B.—*Continued.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 115	An Act respecting the punishment of certain offences, and the commuting of sentence of death in certain cases.	The whole.
Chapter 116	An Act respecting corruption of blood.	The whole.
Chapter 124	An Act respecting the Return of Convictions and Fines by Justices of the Peace and of Fines levied by Sheriffs.	The whole, except section seven.

Acts passed since the Consolidation of the said Statutes.

29, 30 V., c. 41	An Act to amend the Law of Crown and Criminal Procedure and Evidence at Trial in Upper Canada.	The whole, so far as regards criminal procedure only.
29, 30 V., c. 44	An Act respecting Persons in custody charged with High Treason or Felony.	The whole.
29, 30 Vict., c. 50	An Act to amend the Law respecting Appeals in cases of Summary Convictions, and Returns thereof by Justices of the Peace in Upper Canada.	The whole.

Consolidated Statutes for Lower Canada.

Chapter 12	An Act respecting the Desertion of Soldiers.	The whole.
Chapter 13	An Act respecting Arms and Munitions of War.	The whole.
Chapter 77	An Act respecting the Court of Queen's Bench.	Section sixty-three.
Chapter 84	An Act respecting the selecting and summoning of Jurors.	Section thirty-three.
Chapter 98	An Act respecting Appeals from the decisions of Justices of the Peace in Summary Convictions.	Sections one and two.
Chapter 105	An Act respecting certain matters connected with the Administration of Justice in Criminal Matters.	Sections one, three, four and five.

SCHEDULE

SCHEDULE B.—*Continued.*

ACTS OF THE LEGISLATURE OF THE PROVINCE OF NEW BRUNSWICK.

Revised Statutes—Part IV.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 138	Of Summary Convictions before Justices.	The whole, except section twenty-two, which shall apply to the new Summary Convictions Act.
Chapter 147	Of Offences against the Public Peace.	Sections one, two, three, four and five.
Chapter 148	Of Offences against the Administration of Justice.	The whole.
Chapter 149	Of Homicide and other Offences against the Person.	The whole.
Chapter 150	Of Offences against the Habitation.	The whole.
Chapter 151	Of Fraudulent Appropriations.	The whole.
Chapter 152	Of Forgery and Offences relating to the Coin.	The whole.
Chapter 153	Of Malicious Injuries to Property.	The whole, except section sixteen.
Chapter 154	Of other Felonies.	The whole.
Chapter 155	Of the Definition of Terms and Explanations.	The whole.
Chapter 156	Of Proceedings before Indictment.	The whole, except sections seventeen, eighteen, twenty and twenty-two.
Chapter 158	Of Proceedings on Indictment.	The whole except sections three and twenty-three
Chapter 159	Of Trial.	The whole except sections ten, twenty-two, twenty-three, twenty-four, twenty-

SCHEDULE

SCHEDULE B.—*Continued.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 160	Of Error, Punishment and Expenses.	five, twenty-six, and so much of section twenty-seven as respects the appropriation of the fine in cases of common assault.
The Schedules to Part IV.	Sections two, three, four, five, six, seven and thirteen. The whole, except Schedule U.

Acts passed since the Revision of the Statutes.

21 V.,(1858) c. 22	An Act in amendment of the Criminal Law.	The whole, except sections three and five.
23 V.,(1860) c. 32	An Act relating to Procedure in Criminal Cases.	Sections three and five.
23 V.,(1860) c. 33	An Act in amendment of the Law relating to Summary Convictions.	The whole.
23 V.,(1860) c. 34	An Act to amend the Law relating to False Pretences.	The whole.
24 V.,(1861) c. 10	An Act to prevent the carrying of Deadly Weapons about the Person.	The whole.
25 V.,(1862) c. 10	An Act to amend the Law relating to Offences against the Person.	The whole.
25 V.,(1862) c. 21	An Act for taking away the Punishment of Death in certain cases, and substituting other Punishments in lieu thereof.	The whole.
27 V.,(1864) c. 4	An Act further to amend the Law relating to Offences against the Person.	The whole.
27 V.,(1864) c. 6	An Act relating to Larceny and other similar Offences.	The whole.

SCHEDULE

SCHEDULE B.—Continued.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
27 V., (1864) c. 8	An Act relating to the issuing of Warrants by Justices of the Peace, and in aid of Police Officers and Constables in the execution of their duties.	Section one.
30 V., (1866) c. 9	An Act respecting Offences relating to the Army and Navy.	The whole.

ACTS OF THE LEGISLATURE OF THE PROVINCE OF NOVA SCOTIA.

Revised Statutes—Third Series—Parts III and IV.

Chapter 136	Of Juries.	Section fifty-one, and section fifty-seven so far as regards criminal cases.
Chapter 156	Of Treason.	The whole.
Chapter 157	Of Offences relating to the Army and Navy.	The whole.
Chapter 159	Of Offences against Religion.	Sections one and three.
Chapter 161	Of Offences against the Law of Marriage.	Sections one and two.
Chapter 162	Of Offences against the Public Peace.	Sections one, two, three and four.
Chapter 163	Of Offences against the Administration of Justice.	The whole.
Chapter 164	Of Offences against the Person.	The whole.
Chapter 166	Of Offences against the Habitation.	The whole.
Chapter 167	Of Fraudulent Appropriations.	The whole.
Chapter 168	Of Forgery and Offences relating to the Coin.	The whole.
Chapter 169	Of Malicious Injuries to Property.	The whole.
Chapter 170	Of the Definition of Terms in this Title.	The whole.
Chapter 171	Of the Administration of Criminal Justice in the Superior Court.	The whole, except sections fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-

SCHEDULE

SCHEDULE B.—Continued.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
		five, sixty-six, sixty-seven, seventy-five, eighty-six, eighty-seven, eighty-eight, eighty-nine, ninety, ninety-one, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three, and the schedule to the said chapter.
Chapter 172	Of the Duties of Justices of the Peace in Criminal Matters.	The whole.
<i>Acts passed since the Revision of the Statutes.</i>		
27 V., (1864) c. 9	An Act in addition to Chapter 167 of the Bill for Revising and Consolidating the General Statutes of Nova Scotia, "Of Offences against the Person."	The whole.
29 V., (1866) c. 19	An Act in addition to, and to amend Chapter 169 of the Revised Statutes, "Of Malicious Injuries to Property."	The whole.
29 V., (1866) c. 37	An Act to provide for the seizure of Arms and Munitions of War.	The whole.
29 V., (1866) c. 38	An Act for the better security of the Crown and the Government of Nova Scotia against Treasonable and Seditious Practices and Attempts.	The whole.
30 V., (1867) c. 13	An Act to amend Chapter 157 of the Revised Statutes of Nova Scotia (third series) "Of Offences relating to the Army and Navy."	The whole.