

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1862.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1862.

25 Victoria – Chapter 21

**An Act for taking away the punishment of Death in certain cases, and substituting other punishments in lieu thereof. Passed 23rd April 1862.**

Section.

1. Intent to kill by setting fire to ships.
2. Rape, and carnal knowledge of girl under 10 years old.
3. Buggery.
4. Arson.

Section.

5. Burglarious entry, &c., with intent to kill.
6. Robbery, with grievous bodily harm.
7. Endangering vessels by false lights.
8. When to come into operation.

Whereas it is expedient to alter and amend various Statutes now in force in this Province relative to certain offences by the said Statutes now punishable with death: And whereas in and by Chapter 149, Title xxxix, of the Revised Statutes, 'Of Homicide and other offences against the person,' it was, amongst other things, enacted—That whosoever should maliciously set fire to, cast away, or in any ways destroy any ship or vessel, with intent to kill any person, or whereby the life of any person should be put in danger, should be guilty of felony, and suffer death: And whereas it is expedient that the said offence should be no longer punishable with death ;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly,—

1. That from and after the commencement of this Act, if any person shall be convicted of the said offence hereinbefore specified, such person shall not be subject to any sentence, judgment, or punishment of death, but shall, instead of the sentence or judgment in and by the said Chapter hereinbefore recited, ordered to be given or awarded against persons convicted of the said offence, be liable, at the discretion of the Court, to be imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person, or for any term not less than ten years.

2. And whereas also in and by said Chapter 149, Title xxxix, of the Revised Statutes, it was further enacted—That whoever should carnally know and abuse any woman against her will and by force, or whilst she was insensible, should be guilty of rape, and should suffer death as a felon; and that whoever should carnally know and abuse any girl under the age of ten years, should be guilty of felony, and should suffer death as a felon: And whereas it is expedient that the said several offences hereinbefore last specified should no longer be punishable with death;—Be it therefore enacted, That from and after the commencement of this Act, if any person shall be convicted of any of the said offences hereinbefore last specified, such person shall not be subject to any sentence, judgment, or punishment of death; but shall, instead of the sentence or judgment in and by the said Chapter hereinbefore last recited, ordered to be given or awarded against persons convicted of the said last mentioned offences, or any of them respectively, be liable to be

imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person.

3. And whereas also in and by the said Chapter 149, Title xxxix, of the Revised Statutes, it was further enacted—That whoever should commit the crime of buggery, either with mankind or with a brute animal, should be guilty of felony, and should suffer death as a felon: And whereas it is expedient that the said offence hereinbefore last specified should no longer be punishable with death;—Be it therefore enacted, That from and after the commencement of this Act, if any person shall be convicted of the said offence hereinbefore last specified, such person shall not be subject to any sentence, judgment, or punishment of death; but shall, instead of the sentence or judgment in and by the said Chapter ordered to be given or awarded against persons convicted of the said last mentioned offence, be liable, at the discretion of the Court, to be imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person, or for any term not less than ten years.

4. And whereas also in and by Chapter 150, Title xxxix, of the Revised Statutes, 'Of offences against the habitation,' it was, amongst other things, enacted—That whoever should maliciously set fire to any dwelling house, any person being therein, should be guilty of felony, and should suffer death: And whereas it is expedient that the said offence hereinbefore last specified should no longer be punishable with death;—Be it therefore enacted, That from and after the commencement of this Act, if any person shall be convicted of the said offence hereinbefore last specified, such person shall not be subject to any sentence, judgment, or punishment of death; but shall, instead of the sentence or judgment in and by the said Chapter hereinbefore last recited, ordered to be given or awarded against persons convicted of the said last mentioned offence, be liable, at the discretion of the Court, to be imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person, or for any term not less than ten years.

5. And whereas also in and by said Chapter 150, Title xxxix, of the Revised Statutes, it was further enacted—That whoever should burglariously break and enter into any dwelling house, or any inner part thereof, and, with intent to kill, should assault any person being therein, or should cause any bodily harm, or do any violence to such person, should be guilty of felony, and should suffer death: And whereas it is expedient that the said offence hereinbefore last specified should no longer be punishable with death;—Be it therefore enacted, That from and after the commencement of this Act, if any person shall be convicted of the said offence hereinbefore last specified, such person shall not be subject to any sentence, judgment, or punishment of death; but shall, instead of the sentence or judgment in and by the said Chapter hereinbefore last recited, ordered to be given or awarded against persons convicted of the said last mentioned offence, be liable, at the discretion of the Court, to be imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person, or for any term not less than ten years.

6. And whereas also in and by Chapter 151, Title xxxix, of the Revised Statutes, 'Of fraudulent appropriations,' it was, amongst other things, enacted—That whoever should rob any person, and at the time of, or immediately before or after such robbery, should cause any grievous bodily harm to any person, should be guilty of felony, and should suffer death: And whereas it is expedient that

the said offence hereinbefore last specified should no longer be punishable with death;—Be it therefore enacted, That from and after the commencement of this Act, if any person shall be convicted of the said offence hereinbefore last specified, such person shall not be subject to any sentence, judgment, or punishment of death; but shall, instead of the sentence or judgment in and by the said last named Chapter ordered to be given or awarded against persons convicted of the said last mentioned offence, be liable, at the discretion of the Court, to be imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person, or for any term not less than seven years.

7. And whereas also in and by Chapter 153, Title xxxix, of the Revised Statutes, 'Of malicious injuries to property,' it was, amongst other things, enacted—That whoever should maliciously exhibit any false light or signal, with intent to endanger any ship or vessel, or should maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, should be guilty of felony, and should suffer death: And whereas it is expedient that the said offence hereinbefore last specified should no longer be punishable with death;—Be it therefore enacted, That from and after the commencement of this Act, if any person shall be convicted of the said offence hereinbefore last specified, such person shall not be subject to any sentence, judgment, or punishment of death; but shall, instead of the sentence or judgment in and by the said last named Chapter ordered to be given or awarded against persons convicted of the said last mentioned offence, be liable, at the discretion of the Court, to be imprisoned with hard labour in the Provincial Penitentiary for the term of the natural life of such person, or for any term not less than seven years.

8. This Act shall commence and take effect on the first day of May in the year of our Lord one thousand eight hundred and sixty two.