

Laws of His Majesty's Province of Upper Canada, passed in the year 1837. Toronto: Robert Stanton, 1837.

7 William IV – Chapter 6

An Act to provide more effectually for the Punishment of certain Offences, and to enable the Governor, Lieutenant Governor, or Person administering the Government of this Province, to commute the sentence of Death, in certain cases, for other Punishment in this Act mentioned. Passed 4th March, 1837.

Whereas it is expedient to make further provision for the effectual punishment of certain offences hereinafter mentioned: 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 in case of the conviction of any person after the passing of this Act, of any Larceny; or of Manslaughter; or of any Assault with intent to commit any Felony; or of Felonious Rescue; or of Assaulting with any weapon a Sheriff, or other Peace Officer, in the execution of his duty; or of any Forgery which before the passing of this Act was not punishable with Death, with or without benefit of Clergy; or of Perjury; or of Fraud; or Cheating; or Conspiracy; or of being Accessory, before or after the fact, to Larceny, or any other Felony; or of Receiving Stolen Goods; or of Embezzlement; or of uttering or tendering in payment False or Counterfeit Money, resembling any of the gold or silver Coins current in this Province, knowing the same to be false or counterfeit; or of any offence against a certain Statute of this Province, passed in the fiftieth year of the reign of His late Majesty King George the Third, entitled, "*An Act for preventing the forging and counterfeiting of Foreign Bills of Exchange, and of Foreign Notes and Orders for the payment of Money;*" or of assisting in or attempting to effect the escape of a Prisoner confined for a Felony or other crime, before or after conviction—the person convicted of such offence may be sentenced to such punishment as is now provided by law for any such offence; or if the Court which is to pass sentence on such Convict shall think fit, may be sentenced to be imprisoned only, or imprisoned and kept to hard labour, or in solitary confinement in the Common Gaol, or in any Penitentiary or House or Correction that hath been or may be provided in this Province for such purpose, for any term not exceeding seven years: Provided always, that where for any of the offences above mentioned a specified term of imprisonment is now assigned by law, no person shall be sentenced, for such offence, to be imprisoned in a Penitentiary or other place of confinement for a longer period than such specified term: And provided also, that in case a conviction shall take place of any of the offences herein-before enumerated, except the offence of Manslaughter, which before the passing of this Act would have subjected the offender to any punishment provided by the Act of the Parliament of this Province, passed in the third year of His present Majesty's reign, entitled, "*An Act to reduce the number of cases in which capital punishment may be inflicted; to provide other punishment for offences which shall no longer be*

capital after the passing of this Act; to abolish the privilege called benefit of Clergy; and to make other alterations in certain criminal proceedings before and after conviction”—such punishment shall in no case be altered or affected by this Act.

II. And be it further enacted by the authority aforesaid, That no Court of General Quarter Sessions of the Peace, or Court having the like jurisdiction, shall have power to sentence any person convicted before them, to be imprisoned in a Penitentiary, for a longer period than two years.

III. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province, to commute the sentence of death, which may be passed upon any person convicted of a Capital crime, other than High Treason or Murder, and with authority from His Majesty, upon any person convicted of High Treason or Murder—for transportation for life, or term of years, to such place in His Majesty’s Dominions as may be assigned for the reception of convicts; or for banishment from this Province for life, or any term of years; or for solitary confinement; or confinement with or without hard labour in any Penitentiary or House of Correction that may be appointed for such purposes, either during life, or for any term of years; and that an Instrument under the Hand and Seal of the Governor, Lieutenant Governor, or Person administering the Government of this Province, declaring such commutation of sentence, shall be sufficient authority to any of His Majesty’s Judges or Justices in this Province having jurisdiction in such cases, to make such orders, and give such directions, under his hand and seal, as may be requisite for the change of custody of such Convict, and for his conduct to and delivery at any Penitentiary or House of Correction in this Province, and his detention therein, according to the terms on which his sentence may have been commuted.

IV. And be it further enacted by the authority aforesaid, That the time during which any offender shall have continued in any Common Gaol, under sentence of Transportation, or under sentence of Confinement in the Penitentiary, shall be reckoned in discharge, or part discharge, of the term which shall be appointed by such sentence.