

Laws of His Majesty's Province of Upper Canada, passed in the year 1857. Toronto: Stewart Derbishire & George Desbarats, 1857.

20 Victoria – Chapter 62

An Act to prevent delay in the administration of Justice in cases of Misdemeanor in Upper Canada. Assented to 10th June, 1857.

Whereas great delays have occurred in the administration of Justice in cases of persons prosecuted for misdemeanors, by indictment or information in Her Majesty's Courts of Queen's Bench and Common Pleas for Upper Canada, Sessions of Oyer and Terminer and of Gaol Delivery, and Sessions of the Peace, in Upper Canada, by reason that the defendants in some of the said causes have, according to the present practice of such respective Courts, an opportunity of postponing their trials to a distant period by means of imparlances in the said several Courts of Queen's Bench and Common Pleas, and by time being given to try in such respective Courts of Session: For remedy thereof, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. From and after The passing of this Act, where any person shall be prosecuted in either of Her Majesty's Courts of Queen's Bench or Common Pleas for Upper Canada, for any misdemeanor, either by information or by indictment there found or removed into the said respective Courts, and shall appear in term time in either of the said Courts respectively, in person, or if a corporation by Attorney, to answer to such indictment or information, such defendant or defendants, upon being charged therewith, shall not be permitted to imparle to a following term, but shall be required to plead or demur thereto, within four days from the time of his, her or their appearance, and in default of his, her or their pleading or demurring within four days as aforesaid, judgment may be entered against the defendant or defendants for want of a plea; and in case such defendant shall appear to such indictment or information by his or her Attorney in Court, it shall not be lawful for such defendant to imparle to a following term, but a rule requiring such defendant to plead, may forthwith be given and served, and a plea to such indictment or information enforced, or judgment in default entered thereupon, in the same manner as might have been done before the passing of this Act, in cases where the defendant or defendants had appeared to such indictment or information by his, her or their Attorney in a previous term: Provided always, that it shall be lawful for the said respective Courts or for any Judge of the same respectively, upon sufficient cause shewn for that purpose, to allow further time for such defendant or defendants to plead or demur to such indictment or information.

II. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of the Peace, Session of Oyer and Terminer, or Session of Gaol Delivery: Provided always, that if the Court, upon the application of the person so indicted or otherwise, shall be of opinion that the defendant or defendants ought to be allowed a further time either to prepare for his or their defence or otherwise, such Court may adjourn the trial of such defendant or defendants to the next subsequent Session, upon such terms as to bail or otherwise, as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case such prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session, without entering into any fresh recognizances for that purpose.

III. In case any prosecution for a misdemeanor instituted by Her Majesty's Attorney or Solicitor General, in any of the Courts aforesaid, shall not be brought to trial within twelve calendar months next after the plea of not guilty shall have been pleaded therein, it shall be lawful for the Court in which such prosecution shall be depending, upon application to be made on the behalf of any defendant, in such prosecution, of which application twenty days previous notice shall have been given to Her Majesty's Attorney or Solicitor General, to make an Order, if the said Court shall see just cause so to do, authorizing such defendant to bring on the trial in such prosecution; and it shall thereupon be lawful for such defendant to bring on such trial accordingly, unless a *nolle prosequi* shall have been entered in such prosecution.