

If the Superior Court affirm the conviction, the party convicted may appeal to the Court of Error and Appeal.

Proviso: time for such appeal limited. And for decision upon it. Order of the said Court to be final.

Delay for execution of sentence of death.

Judges to make rules for giving effect to this Act.

Act not to repeal 14, 15 V. c. 13.

Act limited to U. C.

IV. Any person so convicted as in the next preceding section mentioned, whose conviction shall be affirmed by either of the said Superior Courts of Common Law, may appeal to the Court of Error and Appeal against such affirmation, and such Court of Error and Appeal shall and may make such rule or order therein, either in affirmance of such conviction or for granting a new trial, or otherwise, as the justice of the case may require, and shall further make all other necessary rules and orders for carrying such rule or order into effect; Provided always, that no such appeal shall be made to such Court of Error and Appeal, unless allowed by such Superior Court, or two of the Judges thereof, in term or vacation; And provided also, that such allowance shall be granted and appeal heard, within six calendar months after such conviction affirmed, unless otherwise ordered by such Court of Error and Appeal, and that any rule or order of such Court of Error and Appeal shall be final and conclusive.

V. No sentence of death in any case of capital felony, shall be passed to take effect until after the expiration of the Terms next succeeding the sitting of the Court at which such sentence of death shall be passed.

VI. The Judges of the said Superior Courts of Common Law, or a majority of them, and the said Court of Error and Appeal, shall have full power and authority from time to time to make such rules and orders as they may consider necessary more effectually to carry out all or any of the provisions of this Act.

VII. Nothing in this Act contained shall be construed to repeal the Act passed in the session held in the fourteenth and fifteenth year of Her Majesty's Reign, chaptered thirteen, and intituled, *An Act for the further amendment of the administration of the Criminal Law*, except in so far as the same may be inconsistent with the provisions of this Act.

VIII. This Act shall apply only to Upper Canada.

C A P . L X I I .

An Act to prevent delay in the administration of Justice in cases of Misdemeanor in Upper Canada.

[Assented to 10th June, 1857.]

Preamble.

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

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.

Defendant in misdemeanor not allowed to postpone trial by imparlance in the Queen's Bench or Common Pleas.

Proviso: time may be allowed him upon cause shewn.

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.

Traverse at sessions abolished.

Proviso: Court may, on cause shewn, allow defendant time for preparing defence.

In Crown prosecutions for misdemeanors, not brought to trial in 12 months after plea of not guilty, Court may order trial unless a *nolle prosequi* be entered.

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.

C A P. L X I I I.

An Act to amend the Law for the admission of Attornies.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS it is necessary and expedient to alter, amend and consolidate the several Acts of Upper Canada relating to Attornies and Solicitors: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Repeal of former Acts and parts of Acts as in first Schedule.

I. From and after the passing of this Act, the several Acts and parts of Acts set forth in the Schedule hereunto annexed, shall be and the same are hereby repealed, save only and except so far as such Acts or parts of such Acts, or any of them, repeal the whole or any part of the same, or of any other Act or Acts, and also save and except so far as relates to any matters or things done at any time before the passing of this Act, all which matters and things shall be and remain as good, valid and effectual, to all intents and purposes whatsoever, as if this Act had not been passed, and also save and except as to the recovery and application of any penalty for any offence which shall have been committed before the passing of this Act.

Things done under them to remain valid.

No person to act as Attorney or Solicitor unless admitted and enrolled either under the provisions of this Act or before the passing thereof.

II. From and after the passing of this Act, no person shall act as an Attorney or Solicitor, or as such sue out any writ or process, or commence, carry on, solicit or defend any action, suit or other proceeding in the name of any other person, or in his own name, in Her Majesty's Court of Chancery, or Courts of Queen's Bench or Common Pleas, or in any of the County Courts of the Counties or United Counties of Upper Canada, now existing or hereafter to be made, set apart or established, or in any Court of Bankruptcy, or Court for the relief of Insolvent Debtors, now existing or hereafter to be made or established, or in any Court of civil or criminal jurisdiction, or in any other Court