

*The Provincial Statutes of Canada*, passed in the year 1842. Kingston: Stewart Derbshire & George Desbarats, 1842.

6 Victoria – Chapter 5

**An Act for better proportioning the punishment to the offence, in certain cases, and for other purposes therein mentioned. 12th October, 1842.**

Whereas it is expedient to enable the Courts, before whom offenders may be convicted in certain cases, better to proportion the punishment of such offenders to the guilt of the offence; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of a certain Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled *An Act for improving the administration of Criminal Justice in this Province*, or of a certain other Act passed in the same Session, and intituled *An Act for consolidating and amending the Laws in this Province, relative to Larceny and other offences connected therewith*, or of a certain other Act passed in the same Session, and intituled *An Act for consolidating and amending the Laws in this Province, relative to malicious injuries to property*, or of a certain other Act passed in the same Session, and intituled *An Act for consolidating and amending the Statutes in this Province, relative to offences against the person*, or of any other Act or Law, as shall be repugnant to or inconsistent with the enactments of this Act, shall be and is hereby repealed.

II. And be it enacted, that for each and every offence for which by any of the Acts hereinabove cited, the offender is liable on conviction to be punished by imprisonment in the Provincial Penitentiary, but may instead thereof and in the discretion of the Court, be punished by imprisonment in any other Prison or place of confinement for any term not exceeding two years, the offender may, if convicted after the passing of this Act, be punished in the discretion of the Court, by imprisonment in the Provincial Penitentiary for any term not less than three years and not exceeding the longest term for which such offender might have been so imprisoned if this Act had not been passed; or by imprisonment in any other Prison or place of confinement for any term not exceeding two years, in the manner prescribed by such Act; Provided always, that nothing in this Act shall prevent such offender from being punished by imprisonment in the Provincial Penitentiary for life, if he might have been so punished if this Act had not been passed.

III. And be it enacted, that for each and every offence, for which by any of the said Acts, the offender may on conviction be punished by imprisonment for such term as the Court shall award, or for any term exceeding two years, such imprisonment, if awarded for a longer term than two years, shall be in the Provincial Penitentiary.

IV. And be it enacted, that for each and every offence for which by any of the said Acts or by any other Act or Law, the offender might, if this Act had not been passed, have been punished by transportation beyond Seas, such offender may, if convicted after the passing of this Act, be punished by imprisonment in the Provincial Penitentiary for any term for which he might have been transported beyond Seas if this Act had not been passed, or by imprisonment for life, if without this Act he might have been punished by transportation for life.

V. And whereas it is necessary to determine the punishment to be inflicted upon certain offenders, not provided for by the said before recited Act, intituled *An Act for consolidating and amending the Statutes in this province relating to offences against the person*, be it enacted that where any person shall be charged with and convicted of any assault, with intent to commit rape, or of any assault with intent to commit the abominable crime of buggery, either with mankind or with any animal, the Court in any such case may sentence the offender to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding three years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.