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# History of Statute Revisions in the Provinces of Upper Canada, Canada and Ontario

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## History of Statute Revisions in the Provinces of Upper Canada, Canada and Ontario

1763 - 1791

The Treaty of Paris, 1763, ceded the French possessions in North America to Great Britain. On October 7th of that year a Royal proclamation introduced the law of England, both civil and criminal, into the whole of the ceded territory, and formed the Eastern portion of it into the Province of Quebec. The Governor of the new colony received power and direction "so soon as the state and circumstances of the colony would admit thereof, to summon and call a General Assembly", but until this was done, the Governor and Council were invested with "authority to make such rules and regulations as should appear to be necessary for the peace, order and good government of the Province".

In 1774 the Quebec Act (14 Geo. III, c. 83, Imp.) was passed, by which French law was re-introduced in civil matters, and the limits of the Province of Quebec were enlarged, so as to include the whole of the territory afterwards formed into Upper Canada.

The Quebec Act produced dissatisfaction, especially among the British colonists, and in 1791, the Constitutional Act (31 Geo. III, c. 31, Imp.) was passed, by which the Province of Quebec as it then existed, was divided into the Province of Upper Canada and the Province of Lower Canada, the power of the Governor in Council to legislate was taken away, and a legislature was granted to each Province.

1792 - 1840

1. The first revision of the statutes in the new Province of Upper Canada was made in 1818. It consisted merely of a collection of the Acts of the Province of Upper Canada in force at that date, together with such Acts of the Imperial Parliament and ordinances of the former Province of Quebec as affected Upper Canada.

2. In 1831 a collection of the statutes of Upper Canada in force at that date was published by Messrs. Hugh C. Thomson and James Macfarlane, which, though a private enterprise, long supplied the place of a revision by authority.

1841 - 1866

3. The Act of Union (3 & 4 Vict., c. 35, Imp.) which came into force by proclamation on February 10th, 1841, united the Provinces of Upper and Lower Canada. A revision was soon after begun of the statutes of

Upper Canada in force at the date of the union. A commission for the purpose, dated July 25th, 1840, was issued to the Honourable John Beverley Robinson, the Honourable James B. Macaulay, the Honourable William Henry Draper, and John Hillyard Cameron, Esq. It directed the Commissioners "diligently and carefully to examine and revise the several statutes from time to time passed and enacted by the Parliament of Upper Canada, and then in force and effect; and to make such report upon the premises as in their opinion should be most for the interest, welfare and good government of the Province".

The result of the work of the Commission was embodied in two volumes, the first containing public Acts, and the second, local and private Acts. The report to the Governor-General, in which the Commissioners announced the completion of the project, is dated 8th March, 1843, and was printed as a preface to the first volume.

In this, as in earlier "revisions", no actual consolidation of the statutes was attempted. The various Acts in force were printed as they had been passed, omitting only such portions as had expired or had been repealed, with notes stating the reasons for omissions, and giving the provisions, if any, which the Legislature had substituted for repealed clauses; errors in the text were left uncorrected, except by way of a note directing attention to them; and the revision did not receive authority by legislative adoption, but was nevertheless, by general use, substituted for the preceding volumes of statutes.

A revision of the Acts and ordinances in force in Lower Canada at the date of the union of Upper and Lower Canada was begun in 1842, and completed in 1845, by a Commission composed of Messrs. A. Buchanan, H. Heney and G. W. Wicksteed. The Commissioners made two reports, which, as well as a prefatory notice, was printed with the volume of revised statutes compiled by them.

4. The first consolidation, properly so called, of the statute law was begun in 1856.

Two Commissions were issued, the first, dated February 7th, 1856, appointed Messrs. John Hillyard Cameron, Joseph C. Morrison, Adam Wilson, Skeffington Connor, Oliver Mowat, and David B. Read to examine, revise, consolidate and classify the public general statutes affecting Upper Canada only, and the second, dated March 28th, 1856, appointed Messrs. A. Polette, Gustavus W. Wicksteed, Andrew Stuart, T. J. J. Loranger, Robert Mackay, and George de Boucherville to examine, revise, consolidate and classify the public general statutes applying exclusively to Lower Canada. Each Commission directed the Commissioners therein named, jointly with the members of the other Commission, to examine, revise, consolidate and classify the public general statutes which applied equally to both sections of the Province.

Subsequently Messrs. Cameron and Morrison resigned, and in their stead the Honourable J. B. Macaulay and S. H. Strong, Esq., were

appointed. Afterwards Dr. Connor and Mr. Mowat also resigned, preparatory to their becoming candidates for election as members of the Legislative Assembly. In a later stage of the work, and especially during its final revision, the commissioners were assisted by His Honour Judge Gowan, of the County Court of the County of Simcoe.

The first report of the Commission was made on April 19th, 1858, and in 1859 drafts of the Consolidated Statutes for Upper Canada and the Consolidated Statutes of Canada were submitted to the Governor-General, accompanied respectively by a report, dated January, 1859, by Sir J. B. Macaulay, the Chairman of the Upper Canada Commission, and a joint report dated March 3rd, 1859, by Sir. J. B. Macaulay and Mr. Wicksteed, the acting Commissioner of the Commission for Lower Canada. (*See Sess. Papers, 1859, No. 9.*)

These two volumes were laid before the Legislative Assembly in 1859, and Acts were passed to provide for their coming into force by proclamation.

Pursuant to the provisions of the last-mentioned Acts, the enactments of the then session were incorporated with the consolidation and the two volumes were declared by proclamation to come into force on December 5th, 1859.

#### 1867 - 1950

On July 1st, 1867, by proclamation issued under the *British North America Act, 1867* (30 and 31 V., c. 3, Imp.) the Province of Canada was, with the Provinces of Nova Scotia and New Brunswick, formed into the present Dominion of Canada. Thus the two divisions of the Province of Canada were once more constituted separate provinces, Upper Canada being called the Province of Ontario, and Lower Canada the Province of Quebec.

5. The Revised Statutes of Ontario were prepared by a Commission appointed July 24th, 1874, composed in the first instance of the Honourable William Henry Draper, Chief Justice of Appeal; the Honourable Samuel Henry Strong, the Honourable George William Burton, and the Honourable Christopher Salmon Patterson, Justices of Appeal; the Honourable Oliver Mowat, Attorney-General; and Messrs. Thomas Langton, Charles R. W. Biggar and Rupert Etherege Kingsford, Barristers-at-Law. The Honourable Thomas Moss upon his appointment as Justice of Appeal, the Honourable Samuel Hume Blake, Vice-Chancellor, and His Honour Judge Gowan, of the County Court of the County of Simcoe, were subsequently added to the Commission.

The work of the Commission was three-fold:

*First.* To examine, revise, consolidate and classify such of the public general statutes passed by the Parliament of the Province of

Canada and applying to Ontario as were within the legislative authority of the Legislature of Ontario;

*Secondly.* To examine and arrange in the manner most convenient for reference such of the public general statutes passed by the Parliament of the Province of Canada and applying to Ontario as were not within the legislative authority of the Legislature of Ontario; and also the statutes passed by the Parliament of the Dominion of Canada and affecting Ontario;

*Thirdly.* To examine and arrange in the manner most convenient for reference the statutes of the Imperial Parliament, printed with the Consolidated Statutes of Canada in 1859, as well as all statutes afterwards passed by the Imperial Parliament.

This Commission made three reports, dated respectively December 12th, 1874, December 11th, 1875, and December 30th, 1876. The first report was accompanied by tables showing the consolidation in outline. The second report announced the completion of the collection of the Imperial Acts, and contained suggestions for legislation to remove discrepancies discovered in the course of the work, and otherwise to facilitate consolidation. Specimens of the work done were also submitted with this report. With the third report was submitted a draft of the revised statutes, which was laid before the Legislature at its session in 1877.

A volume of 633 pages, being a portion of the collection of enactments of the Dominion of Canada, and of the Province of Canada which were not within the legislative authority of the Legislature of Ontario, was presented with the second report; but the completion of this portion of the work of the Commission was afterwards abandoned in view of the preliminary steps which had been taken by the Dominion Government for a consolidation of statutes that would include the Acts of which the Ontario collection would have been composed.

The enactments of the session of 1877 were incorporated in the draft-consolidation above mentioned pursuant to the Ontario Act, 40 V., c. 6, by a commission appointed by the Lieutenant-Governor. It was composed of the Honourable Chief Justice Draper, the Honourable Mr. Justice Strong, the Honourable Mr. Justice Burton, the Honourable Mr. Justice Patterson, the Honourable Mr. Justice Moss, the Honourable Vice-Chancellor Blake, His Honour Judge Gowan, the Honourable Oliver Mowat, Attorney-General, and Thomas Langton, Esq., Barrister-at-Law.

These Commissioners reported the completion of their work to the Lieutenant-Governor on November 20th, 1877, and the revision being approved of by him, a proclamation was issued on December 7th, 1877, declaring the Revised Statutes of Ontario to be in force on, from, and after December 31st, 1877.

6. The Revised Statutes of Ontario, 1887 were prepared by a Commission appointed December 11th, 1885, and composed in the first instance, of the Honourable George William Burton, the Honourable Christopher Salmon Patterson and the Honourable Featherston Osler, Justices of the Court of Appeal; the Honourable John Alexander Boyd, Chancellor of Ontario; the Honourable John Edward Rose and the Honourable John O'Connor, Justices of the High Court of Justice; His Honour Joseph Easton McDougall, Judge of the County Court of the County of York; the Honourable Oliver Mowat, Attorney-General of Ontario; the Honourable Arthur Sturgis Hardy, Provincial Secretary; John Galloway Scott, Esq., Master of Titles, and John Robison Cartwright and Frank John Joseph, Esquires, Barristers-at-Law. By a subsequent commission, dated December 31st, 1885, the Honourable Alexander Morris, Ex-Chief Justice of the Province of Manitoba, was added to the Commission. The Commissioners were appointed to consolidate the public statutes of the Province of Ontario, and were directed as they, or any three of them, might think proper to report from time to time their proceedings and progress of the work entrusted to them to the Lieutenant-Governor and to be guided by the instructions received from time to time from the Lieutenant-Governor in all things not contained in the commission. The Commissioners made their first report in the month of March, 1887, accompanied with a draft of the consolidated statutes, and indicated the manner in which the work had been prepared. The enactments of the session of 1887 were subsequently incorporated in this draft consolidation by the Commissioners pursuant to the authority of the Ontario statute, 50 V., c. 2.

The completion of the work was reported by the Commissioners to the Lieutenant-Governor, and the consolidation being approved of by him a proclamation was issued on December 20th, 1887, declaring "The Revised Statutes of Ontario, 1887" to be in force on and after December 31st, 1887.

7. The Revised Statutes of Ontario, 1897 were prepared by a Commission appointed April 25th, 1896, composed in the first instance of the Honourable John Alexander Boyd, Chancellor of Ontario; the Honourable Featherston Osler, Justice of Appeal; the Honourable John Douglas Armour, Chief Justice of the Queen's Bench; the Honourable James MacLennan, Justice of Appeal; the Honourable William Ralph Meredith, Chief Justice of the Common Pleas; the Honourable Thomas Ferguson, the Honourable John Edward Rose and the Honourable William Glenholme Falconbridge, Justices of the High Court; the members of the Executive Council of Ontario, and James Pliny Whitney, Esq., M.P.P.; Byron Moffatt Britton, Esq., Q.C., and John Galloway Scott, Esq., Q.C., Master of Titles.

By a subsequent commission dated May 23rd, 1896, Allan Malcolm Dymond, Esq., was added, and by a commission dated September 12th,

1896, Thomas Langton, Esq., Q.C., was added, and by a commission dated March 30th, 1897, James Thompson Garrow, Esq., M.P.P., was added to the Commission.

The Commission completed its work and reported the same to the Lieutenant-Governor on December 20th, 1897, and the consolidation being approved of by him, a proclamation was issued on December 24th, 1897, declaring the Revised Statutes of Ontario, 1897 to be in force on and after December 31st, 1897.

8. The Revised Statutes of Ontario, 1914 were prepared by a Commission appointed June 23rd, 1906, composed in the first instance of the Honourable Featherston Osler, one of the Justices of the Court of Appeal; the Honourable Sir William Ralph Meredith, Chief Justice of the Common Pleas; the Honourable James Thompson Garrow, one of the Justices of the Court of Appeal; the Honourable William Purvis Rochfort Street, one of the Judges of the King's Bench; the Honourable James Vernall Teetzel, one of the Judges of the Common Pleas; the Honourable Francis Alexander Anglin, one of the Judges of the Exchequer Division; the members of the Executive Council of the Province of Ontario, and Alexander Grant Mackay, Esq., K.C., and Allan Malcolm Dymond, Esq., K.C.

By a further commission dated September 26th, 1906, the Honourable James Pitt Mabee, one of the Judges of the Chancery Division, and His Honour Colin G. Snider, Judge of the County Court of the County of Wentworth, were added to the Commission.

By a further commission dated December 7th, 1906, the powers of the Commission were enlarged, and the work of revision and consolidation was proceeded with as indicated in the report which is printed at page cxxxvii of volume III of R.S.O. 1914.

The Commission reported the completion of the revision and consolidation to the Lieutenant-Governor on February 11th, 1914, and upon his approval being signified a proclamation was issued on February 12th, 1914, declaring the Revised Statutes of Ontario, 1914 to be in force on and after March 1st, 1914.

9. The Revised Statutes of Ontario, 1927 were prepared by a Commission appointed on October 30th, 1924, and composed of the Honourable William Edward Middleton, the Honourable Hugh Thomas Kelly, the Honourable William Nassau Ferguson, the Honourable Robert Smith, Judges of the Supreme Court of Ontario; His Honour James Gamble Wallace, Judge of the County Court of the County of Oxford; the Honourable William H. Price, K.C., Attorney-General; Kenneth W. McKay, Esq., Editor, of the City of St. Thomas; Allan Malcolm

Dymond, Esq., K.C.; Edward Bayly, Esq., K.C., and William Bruce Wilkinson, Esq., K.C.

The Commission reported the completion of the revision and consolidation to the Lieutenant-Governor on December 15th, 1927, and upon his approval being signified a proclamation was issued on December 20th, 1927, declaring the Revised Statutes of Ontario, 1927 to be in force on and after December 31st, 1927.

10. The Revised Statutes of Ontario, 1937 were prepared by the Legislative Counsel, Eric Hamilton Silk, who by chapter 6 of the Statutes of Ontario, 1937, was appointed a Commissioner to consolidate and revise the public Statutes of Ontario in accordance with the provisions of that Act.

The Commissioner reported the completion of the revision and consolidation to the Lieutenant-Governor on January 7th, 1938, and upon his approval being signified a proclamation was issued on January 21st, 1938, declaring the Revised Statutes of Ontario, 1937 to be in force from and after January 24th, 1938.

11. In 1949 the Legislature passed *The Statutes Consolidation Act, 1949* (See page 257 of this volume). This statute appointed Lachlan Randolph MacTavish, one of His Majesty's Counsel, and Donald Milner Treadgold, a member of the Bar of Ontario, Legislative Counsel and Municipal Legislative Counsel respectively, as commissioners to consolidate and revise the public statutes of Ontario in accordance with the provisions of that Act.

The Commissioners reported the completion of their work to the Lieutenant-Governor on November 6th, 1950 (See page 261 of this volume).

On November 9th, 1950, a proclamation was issued bringing the Revised Statutes of Ontario, 1950 into force on December 31st, 1950 (See page 263 of this volume).