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Note as to Statute Revisions in the Provinces of Upper Canada, Canada and Ontario.

Ontario

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Note as to Statute Revisions in the Provinces of Upper Canada, Canada and Ontario.

The history of the Statute Law applicable to the territory now comprised in the Province of Ontario, dates from 1791.

After the Treaty of Paris, 1763, by which the French possessions in North America were ceded to Great Britain, a Royal Proclamation was issued on the 7th October, 1763, introducing the law of England, both civil and criminal, into the whole of the ceded territory, and forming a portion of it, lying towards the East, into the Province of Quebec. The Governor of the new colony received power and direction "as 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, 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 Imperial Act, 31 Geo. III. c. 31, was passed, by which the Province of Quebec as it then existed, was divided into the two Provinces of Upper and Lower Canada; the powers of legislation by the Governor in Council were taken away; and a Legislature was granted to each Province, consisting of the Governor, a Legislative Council, and a Legislative Assembly. The first Parliament of Upper Canada met at Newark, now Niagara, on 18th September, 1792.

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.

3. In 1840, was passed the Imperial Act, 3 & 4 V. c. 35, to re-unite the Provinces of Upper and Lower Canada; and the union took effect by proclamation on the 10th February, 1841. 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 25th July, 1840, was issued.
to the Honourable John Beverley Robinson, the Honourable James B. Macaulay, the Honourable William Henry Draper, and John Hillyard Cameron, Esq., and 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 labours 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 work, is dated 8th March, 1843, and was printed as a preface to the first volume.

In this, as in former revisions, no consolidation strictly speaking 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, practically substituted for the preceding volumes of Statutes.

4. 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.

5. In 1856 was begun the first consolidation, properly so called, of the Statute Law.

Two Commissions were then issued, one on the 7th February, 1856, appointing 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 a second dated 28th March, 1856, appointing 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; and 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 the Messrs. Cameron and Morrison resigned, and in their stead respectively 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. The Commissioners were in a later stage of the work, and especially during its final revision, assisted by His Honour Judge Gowan, County Court Judge of the County of Simcoe.

The first report of the Commission was made on the 19th April, 1858, and drafts of the Consolidated Statutes for Upper Canada and the Consolidated Statutes of Canada were in 1859 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 3rd March, 1859, by Sir J. B. Macaulay and Mr. Wicksteed, the acting Commissioner of the Commission for Lower Canada. (See Sess. Papers, 1859, No. 9.)

At the sessions of 1859 these two volumes were laid before the Legislative Assembly, 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 by proclamation declared to come into force upon the 5th December, 1859.

On 1st July, 1867, by Proclamation issued under the Imperial Act, 30 and 31 V. c. 3, the Province of Canada was, with the Provinces of Nova Scotia and New Brunswick, formed into the present Dominion of Canada. By that Act known as "The British North America Act, 1867," 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, and the power of legislation was divided between the Parliament of the Dominion and the Legislatures of the Provinces in manner defined by the Act.

6. "The Revised Statutes of Ontario" were prepared by a Commission appointed 24th July, 1874, composed in the first instance of the late Honourable William Henry Draper, Chief Justice of Appeal; the Honourable Samuel Henry Strong, Honourable George William Burton, and 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, County Court Judge 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 since passed by the Imperial Parliament.

This Commission made three reports, dated respectively 12th December, 1874, 11th December, 1875, and 30th December, 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 pursuant to the Ontario Act, 40 V. c. 6, incorporated in the Draft Consolidation above mentioned, by a commission appointed by the Lieutenant-Governor, composed of the following members: 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.

The completion of their work was reported by the Commissioners on the 20th November, 1877, to His Honour the Lieutenant-Governor, and the Revision being approved of by him, a proclamation was, on the 7th December, 1877, issued, declaring the Revised Statutes to be in force on, from, and after the 31st December, 1877.
7. "The Revised Statutes of Ontario, 1887," were prepared by a Commission, appointed the 11th day of December, 1885, 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'Conner, 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, Esquire, Barristers-at-Law. By a subsequent Commission, bearing date the 31st day of December, 1885, the Honourable Alexander Morris, Ex-Chief Justice of the Province of Manitoba, was added to the Commission. The Commissioners were appointed for consolidating the Public Statutes of the Province of Ontario, and were directed from time to time as they, or any three of them, might think proper, to report to His Honour the Lieutenant-Governor of Ontario, their proceedings and progress of the work entrusted to them, and in all things, not in the Commission contained, to be guided by the instructions received from time to time from His Honour the Lieutenant-Governor. 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 pursuant to the Ontario Statute. 50 Vic., c. 2, subsequently incorporated in this Draft Consolidation by the Commissioners.

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

8. "The Revised Statutes of Ontario, 1897," were prepared by a Commission appointed the 25th day of April, 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 Macleman, 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 bearing date the 23rd day of May, 1896, Allan Malcolm Dymond, Esq., was added to the Commission; by
Commission dated the 12th day of September, 1896, Thomas Langton, Esq., Q.C., was added to the Commission, and by a Commission dated the 30th day of March, 1897, James Thompson Garrow, Esq., M.P.P., was added to the Commission.

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

9. "The Revised Statutes of Ontario, 1914," were prepared by a Commission appointed the 23rd day of June, 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 bearing date the 26th day of September, 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 bearing date the 7th day of December, 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.

Before the completion of the work the Honourable William Purvis Rochfort Street and the Honourable James Pitt Mabee departed this life.

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

10. "The Revised Statutes of Ontario, 1927," were prepared by a Commission appointed on the 30th day of October, 1924, 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 the Attorney-General for the Province of Ontario; Kenneth W. McKay, Esq., Editor, of the City of St. Thomas, Allan Malcolm

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

11. "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 on the 7th day of January, 1938, reported the completion of the Revision and Consolidation to His Honour the Lieutenant-Governor, and upon his approval being signified a proclamation was, on the 21st day of January, 1938, issued declaring the Revised Statutes of Ontario, 1937, to be in force from and after the 24th day of January, 1938.