

## ABSTRACT

The 100th anniversary of the Canadian Criminal Code in 1992 has allowed for a time to reflect and ponder its background, development and past. With this year also comes many questions concerning the actual enactment of the first Criminal Code of 1892 and its development throughout the years. The lack of research in this area has prompted a need and a desire to trace the roots of the Criminal Code and, therefore, outline the background pre-1892 in order to attest to what types of laws existed before the first Criminal Code as well as its path through history.

The purpose of this particular research is to analyze statutory law that existed pre-1892 and consequently to present the backdrop of what existed before the actual Criminal Code. The research will concentrate specifically on the provinces of Lower Canada and of Nova Scotia for the time period of approximately 1850-1860 and will focus on the Revised Statutes of Nova Scotia of 1851 and the Consolidated Statutes of Lower Canada of 1860. The actual objective is twofold and will allow, firstly, for the presentation of the historical context and the development of penal law for these two provinces in order to demonstrate the emergence of the particular Statutes and, secondly, for the analysis of the actual sentencing provisions that are present in the two statutory documents. The research is based on document analysis taken from a qualitative standpoint and will involve consultation of various texts in order to fulfil the objective of the research.

The present work is shedding light on a rather untouched domain of history of law and of sentencing provisions. Very few researchers have studied these types of documents or even this area

of law and, in turn, the importance of this actual work is magnified. The research is thus innovative and will allow for further studies in the area.

The study reveals very interesting trends and patterns that have led to the development of these two statutory documents for each of the provinces concerned. One is able to see the importance of certain groups of elite in view of the existence of certain sanctioned behaviours as well as the whole process of legislative manoeuvres. As well, the contents of the Revised Statutes of Nova Scotia of 1851 and the Consolidated Statutes of Lower Canada of 1860 in terms of sentencing provisions, more specifically in reference to the Offences against the person, demonstrate riveting sanctions and fascinating comparisons.

In all, this research represents an important and relatively new view into the whole background of pre-1892 Criminal Code era in relation to statutory laws and sentencing provisions. The study provides for a window into the past that will serve to shed light on the laws of the present.