

*Appeal from Conviction on Indictment*

"1012. In this section and in the sixteen next following sections of this Act, unless the context otherwise requires,—

- (a) "appellant" includes a person who has been convicted on indictment and desires to appeal under section 1013 of this Act;
- (b) "court of appeal" means the court designated by paragraph (7) of section two of this Act as the court of appeal for the province in which the conviction on indictment was had;
- (c) "indictment" includes any information, complaint or charge whereon a person has been tried under the provisions of Part XVI or Part XVIII of this Act and convicted of an indictable offence;
- (d) "registrar" means the registrar, clerk or other chief officer of the court of appeal;
- (e) "sentence" includes any order of the trial court made on conviction with reference to the person convicted or his wife or children; and the power of the court of appeal to pass a sentence includes a power to make any such order of the court of appeal;
- (f) "trial court" means the court before which the appellant was tried and convicted, and includes a "magistrate" acting under Part XVI and a "judge" acting under Part XVIII.

"1013. (1) A person convicted on indictment may appeal to the court of appeal against his conviction—

- (a) on any ground of appeal which involves a question of law alone; and
- (b) with leave of the court of appeal, or upon the certificate of the trial court that it is a fit case for appeal, on any ground of appeal which involves a question of fact alone or a question of mixed law and fact; and
- (c) with leave of the court of appeal, on any other ground which appears to the court of appeal to be a sufficient ground of appeal.

(2) A person convicted on indictment, or the Attorney General, or the counsel for the Crown at the trial, may with leave of a judge of the court of appeal, appeal to that court against the sentence passed by the trial court, unless that sentence is one fixed by law.

(3) No proceeding in error shall be taken in any criminal case, and the powers and practice now existing in the court of criminal appeal for any province, in respect of motions for or the granting of new trials of persons convicted on indictment are hereby abolished.

(4) The determination of any question before the court of appeal shall be according to the opinion of the majority of the members of that court hearing the case.

(5) Unless the court of appeal directs to the contrary in cases where, in the opinion of that court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the members of the court, the judgment of the court shall be pronounced by the president of the court or such other member of the court hearing the case as the president of the court directs, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the court.

"1014. (1) On the hearing of any such appeal against conviction the court of appeal shall allow the appeal if it is of opinion—

- (a) that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence; or
- (b) that the judgment of the trial court should be set aside on the ground of a wrong decision of any question of law; or
- (c) that on any ground there was a miscarriage of justice; and
- (d) in any other case shall dismiss the appeal.