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CANADA
HOUSE OF COMMONS

21st Parliament, 1st Session
1949

BILLS (First Reading)

- Supreme Court Act amdt. Mr. Garson	C- 2
- Criminal Code amdt. (pistols, air guns, etc.). Mr. Church	C- 3
- Criminal Code amdt. (Newfoundland). Mr. Garson	D
- Meat packing industry. Mr. Stewart (Winnipeg North)	C- 5
- Navigable Waters' Protection Act amdt. Mr. Adamson	C- 6
- Railway Act amdt. (control of smoke and soot). Mr. Adamson	C- 7
- Exchequer Court Act amdt. Mr. Garson	B
- Department of Justice Act amdt. Mr. Garson	C
- Criminal Code amdt. (portrayal of crimes). Mr. Fulton	C- 10
- Interim supply. Mr. Abbott	C- 11
- Canadian Overseas Telecommunication Corporation. Mr. Chevrier	C- 12
- Canadian Wheat Board Act amdt. Mr. Wright	C- 13
- Revised Statutes of Canada amdt. Mr. Arsenault	C- 14
- Industrial Relations and Disputes Investigation Act amdt. (enforcement regulations). Mr. Gillis	C- 60
- Industrial Relations and Disputes Investigation Act amdt. (deduction of union dues). Mr. Knowles	C- 61
- Canada forestry. Mr. Gibson (Hamilton West)	C- 62
- Fish inspection. Mr. Mayhew	C- 63
- Royal Canadian Mounted Police Act amdt. Mr. Garson	C- 64
- Judges Act amdt. Mr. Garson	C- 65
- Alberta Natural Gas Company. Mr. Maybank	E

- British and Foreign Bible Society in Canada and Newfoundland. Mr. Fleming — Y[3]
- Divorce jurisdiction. Mr. Knowles — C-117
- Interim supply. Mr. Abbott — C-118
- Prairie Transmission Lines Limited. Mr. Benidickson — N[1]
- Live Stock Pedigree. Mr. Gardiner — A[2]
- National trade mark and true labelling. Mr. Howe — A[4]
- National Housing Act amdt. Mr. Winters — C-142
- Export and Import Act amdt. Mr. Howe — Z[3]
- Combines Investigation Act amdt. Mr. Garson — C-144
- Temiscouata Railway. Mr. Chevrier — C-145
- Pacific Great Eastern Railway. Mr. Chevrier — C-146
- Animal Contagious Diseases Act amdt. Mr. Gardiner — C-147
- Canadian National Railways. Mr. Abbott — C-148
- Bankruptcy Act amdt. Mr. Garson — F
- Pension Fund Societies Act amdt. Mr. Bradley — V[4]
- Excise Tax Act amdt. Mr. Abbott — C-175
- Income Tax Act and Income War Tax Act amdts. Mr. Abbott — C-176
- Prairie Farm Assistance Act amdt. Mr. Gardiner — C-185
- Trans-Canada highway. Mr. Winters — C-194
- Surplus Crown Assets Act amdt. Mr. Howe — E[6]
- Criminal Code amdt. (discrimination). Mr. Stewart (Winnipeg North) — C-199
- Customs Act amdt. Mr. McCann — D[6]
- Industrial Development Bank Act amdt. Mr. Abbott — C-210
- Department of Resources and Development. Mr. St. Laurent — C-211
- Department of Mines and Technical Surveys. Mr. St. Laurent — C-212
- Department of Citizenship and Immigration. Mr. St. Laurent — C-213
- Salaries Act amdt. Mr. St. Laurent — C-214
- Dominion-Provincial Tax Rental Agreements Act amdt. Mr. Abbott — C-215

- Canadian vessel construction assistance. Mr. Chevrier C-216
- Maritime coal production assistance. Mr. Howe C-217
- Veterans Land Act amdt. Mr. Gregg C-218
- Emergency Gold Mining Assistance Act amdt. Mr. Gibson (Hamilton West) C-219
- Government Employees Compensation Act amdt. Mr. Chevrier Z6
- Customs Tariff amdt. Mr. Abbott C-221
- Canadian Red Cross Society Act amdt. Mr. Macnaughton C-222
- National Defence Act J5
- Supply. Mr. Abbott C-224

58526
177

LIST OF ACTS

SESSION 1949

FIRST SESSION, TWENTY-FIRST PARLIAMENT, 13 GEORGE VI, 1949.

LIST OF PUBLIC ACTS OF CANADA WITH CHAPTER NUMBERS AND DATES OF ASSENT.

ASSENTED TO SEPTEMBER 29, 1949.

CHAP.		BILL No.
1.	Appropriation Act, No. 5, 1949, The	11
2.	Criminal Code, An Act to amend the	D-4

ASSENTED TO OCTOBER 27, 1949.

3.	Appropriation Act, No. 6, 1949, The	118
4.	Department of Justice Act, An Act to amend the	C-9
5.	Exchequer Court Act, An Act to amend the	B-8

ASSENTED TO DECEMBER 10, 1949.

6.	Animal Contagious Diseases Act, An Act to amend the	147
7.	Bankruptcy Act, 1949	F-149
8.	Canada Forestry Act	62
9.	Canadian National Railways Financing and Guarantee Act, 1949	148
10.	Canadian Overseas Telecommunication Corporation Act, The	12
11.	Canadian Vessel Construction Assistance Act, The	216
12.	Combines Investigation Act, An Act to amend the	144
13.	Criminal Code, An Act to amend the	10
14.	Customs Act, An Act to amend the	D6-200
15.	Customs Tariff, An Act to amend the	221
16.	Department of Citizenship and Immigration Act, The	213
17.	Department of Mines and Technical Surveys Act, The	212
18.	Department of Resources and Development Act, The	211
19.	Dominion-Provincial Tax Rental Agreements Act, 1947, An Act to amend The	215
20.	Emergency Gold Mining Assistance Act, An Act to amend The	219
21.	Excise Tax Act, An Act to amend the	175
22.	Export and Import Permits Act, An Act to amend The	Z3-143
23.	Fish Inspection Act, 1949, The	63
24.	Government Employees Compensation Act, 1947, An Act to amend The	Z6-220
25.	Income Tax Act and the Income War Tax Act, An Act to amend The	176
26.	Industrial Development Bank Act, An Act to amend The	210
27.	Judges Act, 1946, An Act to amend The	65
28.	Live Stock Pedigree Act, 1949, The	A2-120
29.	Maritime Coal Production Assistance Act, The	217
30.	National Housing Act, 1944, An Act to amend The	142

LIST OF PUBLIC ACTS OF CANADA WITH CHAPTER NUMBERS AND DATES OF ASSENT—*Con.*

ASSENTED TO DECEMBER 10, 1949—*Con.*

CHAP.		BILL NO.
31.	National Trade Mark and True Labelling Act, The	A4-133
32.	Pacific Great Eastern Railway Aid Act, The	146
33.	Pension Fund Societies Act, An Act to amend the	V4-174
34.	Prairie Farm Assistance Act, 1939, An Act to amend The	185
35.	Royal Canadian Mounted Police Act, An Act to amend the	64
36.	Salaries Act, An Act to amend the	214
37.	Supreme Court Act, An Act to amend the	2
38.	Surplus Crown Assets Act, An Act to amend The	E6-195
39.	Temiscouata Railway, An Act respecting the Acquisition of the	145
40.	Trans-Canada Highway Act, The	194
41.	Veterans' Land Act, 1942, An Act to amend The	218
42.	Appropriation Act, No. 7, 1949, The	224

LIST OF LOCAL AND PRIVATE ACTS OF CANADA WITH CHAPTER NUMBERS AND DATES OF ASSENT.

ASSENTED TO DECEMBER 10, 1949.

43. British and Foreign Bible Society in Canada and Newfoundland, An Act respecting The Y3-116

DIVORCES

ASSENTED TO DECEMBER 10, 1949.

44. Abrams, Bessie Birenbaum H4-127
45. Allison, Clayton George L6-192
46. Anber, Rosaline Laham D1-38
47. Anger, Eva Nerenberg P3-107
48. Asheim, Cecile de Mers B4-121
49. Ashton, Lorne Bradbury H1-42
50. Bailey, Dorothy Ruth Brown G1-41
51. Baldwin, Leith Albert Anderson X1-57
52. Barrette, Joseph Simon Adelard P4-136
53. Baxter, Celia Maria Gabrielle de Costa B1-36
54. Bell, Mildred Blanche Tilson W6-207
55. Bergeron, Elizabeth Karaszi Z5-181
56. Bero, Josephine Teweson Paul Q3-108
57. Bershadsky, Rebecca Rosa Jacobs I5-162
58. Birchenough, Donald Duncalf H3-99
59. Birmingham, Marjorie May Smart R2-83
60. Bonnemer, Gladys McCarrick V2-87
61. Borodow, Czerna Berger G5-160
62. Bowen, Lillian Elizabeth Moore V3-113
63. Boyer, Marie Rita Plante N2-79
64. Brammall, Myrtle Elizabeth Howat K1-45
65. Bray, Alton Charles J-18
66. Brousseau, Delphis U2-86
67. Brownridge, Violet Emma Woodhall N5-166
68. Burn, Eric Jeffery D2-69
69. Burnham, Alice Lafond N-22
70. Cabana, Margaret Adeline Bodley W5-178
71. Carbone, Sandy Douglas L5-164
72. Catto, Edith Daisy Steer Q4-137
73. Chales, Joseph Charles Paul Emile O1-48
74. Chryssolor, Victor A3-92
75. Clark, Colleen Ethel Thornhill W1-56
76. Clark, Ruth Baranoff Q5-169
77. Cohen, Bernice Beverly Corry W2-88
78. Cohen, Edith M3-104
79. Colpron, Arthur N6-196
80. Corbett, Joan Gertrude Fox I3-100
81. Corbin, Yvonne Marshall Balfry V-55
82. Coupal, Odette Therese Gabard S6-203
83. Cransky, Alice Dorothy Rolison U5-173

DIVORCES—*Con.*

CHAP.		BILL NO.
84.	Crawford, Grace Melina Cotton	E5-158
85.	Davies, Sonia Eagle	S4-139
86.	D'Avignon, Arthur Joseph	Z-34
87.	Dawson, Francis Gilmer Tempest	L1-46
88.	Desaulniers, Guy Merrill	Q6-201
89.	Dickenson, Edna Kate Folley	T1-53
90.	Dorken, Kathleen Gertrude Macartney	K-19
91.	Dorval, Olga Hetmanchuk	D5-157
92.	Edwards, Ruby Anderson	X6-208
93.	Elliott, Raymond Webster	D4-123
94.	Emery, Joseph Charles Michel	A5-154
95.	Erskine, Phyllis Elizabeth Ross	R3-109
96.	Fortier, Viateur	W-31
97.	Friedgut, Ruby Rabinovitch, otherwise known as Ruby Rabinovitch Freygood	F4-125
98.	Fuller, Berengere Pare	P6-197
99.	Gagnon, George Bennett	T3-111
100.	Gauley, Enid Dorothy MacRae	P6-198
101.	Geick, Thelma Blanche Collins	G2-72
102.	Giroux, Jessie Gwendolyn Paul	A1-35
103.	Glassco, Mary Cecilia Helliwell	K4-130
104.	Goldbloom, Anna Sandberg, otherwise known as Anna Sandberg Gold	S2-84
105.	Gray, Ruby Muriel Keith	E3-96
106.	Hambley, Edith Harriet Black	H-16
107.	Handfield, Marie Annette Vallieres	U-29
108.	Hanusiak, Thomas	L2-77
109.	Harris, Gwen Pollock	R4-138
110.	Harrison, Dorothy Amelia Beattie	C1-37
111.	Hart, Freda Tippett	H5-161
112.	Hatton, James Samuel	O5-167
113.	Hearns, Elizabeth Maud Gwendolen Tobi	D3-95
114.	Heitner, Lillian Steinberg	K6-191
115.	Herring, Robert Walsham	P-24
116.	Hersh, Tessie Charow	M4-132
117.	Hershcovich, Anne Denburg	P5-168
118.	Hibberd, Lizzie Brogden	C2-68
119.	Holzberg, Bertha Rudolph	U3-112
120.	James, Mildred Carmen Mitchell	G4-126
121.	Johnson, Grace Elsie Mills	I4-128
122.	Johnston, Lyla Almina Wharry	B5-155
123.	Joncas, Marian Latora Glendening	O3-106
124.	Kaminsky, Laura Cohen	P2-81
125.	Kasper, Louis	M6-193
126.	Katzman, Ida Lindy Angel	N3-105
127.	Keates, Muriel Johnson Binnie	I6-189
128.	Kouri, Nicholas	V-30
129.	Krushelniski, Annie Marion Lesnichuk, otherwise known as Annie Marion Lesnichuk Krush	Q2-82
130.	Kurtzman, Muriel Annie Elizabeth Hicks	O-23
131.	Landry, Madeleine Dunn	Y-33
132.	LeMieux, Marjorie Claire Dickison	F1-40
133.	Lewin, Elsie Margaret Harding	C4-122
134.	Lloyd, Hugh William	I2-74

DIVORCES—*Con.*

Chap.		Bill No.
135.	Lock, Thora Beckingham	H2-73
136.	Logan, Ella Maxine Shover	T6-204
137.	Loiselle, Jean Ruth Montgomery	Z4-153
138.	Longpre, Viateur	R5-170
139.	MacAlpine, Louise de Forest	L-20
140.	McBride, Agnes McIntosh McKillop	E2-70
141.	McCaffrey, Norah Helen Jarrett	Y5-180
142.	Martin, Marie Jeanne	Y1-58
143.	Melanson, Joseph Wilfred	H6-188
144.	Meredith, William Campbell James	J6-190
145.	Miller, Irene Brodwin	Y4-152
146.	Mitchell, Catherine Alexandra Mackenzie	Q1-50
147.	Morrison, Olive Frances Harper	T2-85
148.	Murdoch, Violet Blodwyn Young	R-26
149.	Nemeroff, Mary Letinetsky	X5-179
150.	Nixon, Marjorie Helen Glass	C5-156
151.	O'Connell, Evalina May Carter	S5-171
152.	O'Connell, Margaret Reid	I-17
153.	O'Dell, Loretta Waugh	M2-78
154.	Odenick, Julia Seram	J1-44
155.	Oswald, Jeanette Mathilda Seymour	S3-110
156.	Pappini, Laurence Bouchard	W3-114
157.	Paquette, Paul	O4-135
158.	Parlee, Hellen Isabel Dawson	M5-165
159.	Primeau, Irene Filion	R1-51
160.	Prupas, Sara Tepper	G6-187
161.	Quinlan, Elizabeth Audrey Beauclerk	F2-71
162.	Racine, Gerald Geoffrey	U1-54
163.	Rajotte, Margaret May Lester	R6-202
164.	Richey, Vera Marguerite Abraham Allen	Y6-209
165.	Rivet, Bernard	U6-205
166.	Roberts, John Albert	A6-182
167.	Robinson, Isabel Christine MacLean	T-28
168.	Robitaille, Linda Emilia Wilen	J2-75
169.	Rolph, Lois Elizabeth	X-32
170.	Rowlands, Shirley Patricia Susan Oakes	V5-177
171.	Rynski, Mary Piekos	Z2-91
172.	Sampson, Cicely Manley	N4-134
173.	Seaban, Harry James	I1-43
174.	Shapiro, Chesna Laing	W4-150
175.	Sherman, Dorothy Waxman	O2-80
176.	Shields, Thomas Gillespie	F5-159
177.	Shugar, Betty Malca Stillman	L4-131
178.	Shuttleworth, Janey Beryl MacPhail	L3-103
179.	Skaife, Raymonde Belanger	C3-94
180.	Smith, Blanche Ruth Serokey	B3-93
181.	Speak, John Gilbert	U4-141
182.	Sperber, Etta Valerie Sherwin	K5-163
183.	Steinwold, Evelyne Louis	T4-140
184.	Stewart, Jessie Fraser Blaiklock	M-21
185.	Stewart, Robert Ewen	J4-129
186.	Stones, Irene Emily Katerelos	Z1-59
187.	Sztafirny, Anna Starzynski	E1-39
188.	Tannenbaum, Joseph	S-27

DIVORCES—*Con.*

CHAP.		BILL NO.
189.	Taube, Nana Rosenberg	X3-115
190.	Taylor, Mary Jean Strachan	S1-52
191.	Thomson, Laurel Jeanne MacGregor	F3-97
192.	Thomson, Marion Lillian Gargan	Y2-90
193.	Tonegawa, Ernest	C6-184
194.	Torrance, John Henniker	G-15
195.	Tremblay, Imelda Poirier	M1-47
196.	Tulett, Leslie Ernest	B6-183
197.	Turcotte, Edith	X4-151
198.	Turner, Eileen Dorothy Richards	K3-102
199.	Waller, Leta Helen Butler	Q-25
200.	Walsh, Rene	F6-186
201.	Ward, Margaret Helen Milne	B2-67
202.	Wark, Richard William Henry	J3-101
203.	Warlund, Edith Sara Hamilton	G3-98
204.	Warnecke, Hazel Wilma Drysdale	E4-124
205.	Warshaw, Brina Paskin	K2-76
206.	Watson, Robert Mason	P1-49
207.	Westover, Phyllis Elizabeth Campbell	V6-206
208.	Zaryn, Borys	T5-172
209.	Zinman, Bessie	X2-89

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 2.

An Act to amend the Supreme Court Act.

First reading, September 19, 1949.

THE MINISTER OF JUSTICE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

41327

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA

BILL 2.

An Act to amend the Supreme Court Act.

R.S., c. 35; 1928, c. 9; 1929, c. 58; 1930, c. 44; 1937, c. 42.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (1) Section four of the *Supreme Court Act*, chapter thirty-five of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

Constitution of Court.

"**4.** The Supreme Court shall consist of a chief justice to be called the Chief Justice of Canada, and eight puisne judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal."

(2) Section six of the said Act is repealed and the following substituted therefor:

Three judges from province of Quebec.

"**6.** Three at least of the judges shall be appointed from among the judges of the Court of King's Bench, or of the Superior Court, or the barristers or advocates of the province of Quebec."

(3) Section nine of the said Act is repealed and the following substituted therefor:

Tenure of office.

"**9.** (1) Subject to subsection two, the judges shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Cessation of office.

(2) A judge shall cease to hold office upon attaining the age of seventy-five years."

2. Sections thirty-six and thirty-eight to forty-four of the said Act and section thirty-seven of the said Act, as enacted by section one of chapter forty-two of the statutes of 1937, are repealed and the following substituted therefor:—

Appeals from final judgments.

"**36.** Subject to sections forty and forty-four an appeal to the Supreme Court of Canada lies from a final judgment or a judgment granting a motion for a nonsuit or directing a new trial of the highest court of final resort in a province, or a judge thereof, pronounced in

Explanatory Notes.

1. The amendments to sections 4 and 6 increase the number of judges from seven to nine and provide for three judges from Quebec instead of two.

Section nine now reads as follows:

"**9.** The judges shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons, *Provided that each* judge, *whether heretofore appointed or hereafter to be appointed,* shall cease to hold office upon attaining the age of seventy-five years, *or immediately, if he has already attained that age.*"

The proposed amendment deletes the portions now inapplicable.

2. Appeals without leave are now governed by sections thirty-six, thirty-nine and forty-two which read as follows:

"**36.** Subject to sections *thirty-eight* and *thirty-nine hereof*, an appeal shall lie to the Supreme Court from any judgment of the highest court of final resort now or hereafter established in any province of Canada pronounced in a judicial proceeding, whether such court is a court of appeal or of original jurisdiction (except in criminal causes and in proceedings for or upon a writ of habeas corpus, certiorari or prohibition arising out of a criminal charge, or in any case of proceedings for or upon a writ of habeas corpus arising out of any claim for extradition made under any treaty) where such judgment is,

(a) a final judgment; or

(b) a judgment granting a motion for a nonsuit or directing a new trial."

"**39.** Except as otherwise provided by sections thirty-seven and forty-four, notwithstanding anything in this Act contained, no appeal shall lie to the Supreme Court from a judgment rendered in any provincial court in any proceeding unless

(a) the amount or value of the matter in controversy in the appeal exceeds the sum of two thousand dollars; or

(b) special leave to appeal is obtained as hereinafter provided."

"**42.** Nothing in the three sections last preceding shall affect appeals in cases of mandamus and habeas corpus."

The new section thirty-six combines the principle of these three sections into one section. There is no change in substance except that an appeal may be brought from the final judgment of a single judge.

(a) a judicial proceeding where the amount or value of the matter in controversy in the appeal exceeds two thousand dollars, or

(b) proceedings for or upon a writ of *habeas corpus* or *mandamus*.

Appeals from references by Lieutenant Governor in Council.

"**37.** An appeal lies to the Supreme Court of Canada from an opinion pronounced by the highest court of final resort in a province on any matter referred to it for hearing and consideration by the Lieutenant Governor in Council of that province whenever it has been by the statutes of that province declared that such opinion is to be deemed a judgment of the said highest court of final resort and that an appeal lies therefrom as from a judgment in an action.

Appeals with leave of provincial court.

"**38.** Subject to sections forty and forty-four an appeal to the Supreme Court of Canada lies with leave of the highest court of final resort in a province from a final judgment of that court where, in the opinion of that court, the question involved in the appeal is one that ought to be submitted to the Supreme Court for decision.

Appeals per saltum.

"**39.** Subject to sections forty and forty-four an appeal to the Supreme Court of Canada lies in respect of a question of law alone with leave of the highest court of final resort in a province from a final judgment of another court of that province, the judges of which are appointed by the Governor General, pronounced in a judicial proceeding where the amount or value of the matter in controversy in the appeal exceeds two thousand dollars and an appeal lies to that court of final resort, if the consent in writing of the parties or their solicitors, verified by affidavit, is filed with the Registrar of the Supreme Court and with the registrar, clerk or prothonotary of the court from which the appeal is to be taken.

Exceptions.

"**40.** No appeal to the Supreme Court of Canada lies under section thirty-six, thirty-eight or thirty-nine from a judgment in a criminal cause, in proceedings for or upon a writ of *habeas corpus*, *certiorari* or prohibition arising out of a criminal charge, or in proceedings for or upon a writ of *habeas corpus* arising out of a claim for extradition made under a treaty.

"**37.** The present section forty-three reads as follows:

"**43.** An appeal *shall* lie to the Supreme Court from an opinion pronounced by the highest court of final resort in any province on any matter referred to it for hearing and consideration by the Lieutenant Governor in Council of *such* province *whenever it has been by the statutes of the said province declared that such opinion is to be deemed a judgment of the said highest court of final resort and that an appeal shall lie therefrom as from a judgment in an action*".

"**38.** Section thirty-eight replaces in part the present section forty-one, which reads as follows:

"**41.** Special leave to appeal may be granted in any case within section thirty-six by the highest court of final resort having jurisdiction in the province in which the judicial proceeding was originally instituted: Provided that in any case whatever where the matter in controversy on the appeal will involve

(a) the validity of an Act of the Parliament of Canada or of the legislature of any province of Canada or of an Ordinance or Act of the council or Legislative body of any territory of Canada; or

(b) any fee of office, duty, rent or revenue, or any sum of money payable to His Majesty; or

(c) the taking of any annual rent, customary or other fee, or, other matters by which rights in future of the parties may be affected; or

(d) the title to real estate or some interest therein; or

(e) the validity of a patent; and

(f) in cases which originated in a court of which the judges are appointed by the Governor General and in which the amount or value of the matter in controversy in the appeal will exceed the sum of one thousand dollars;

if a special leave to appeal has been refused by the highest court of final resort in the province the Supreme Court may nevertheless grant such leave during the period fixed by section sixty-four or within thirty days thereafter, or within such further extended period as the Court or a judge may upon cause shown in the particular case, either before or after the expiry of the said thirty days, fix or allow."

There is no change in substance.

"**39.** This is a revision of the present section thirty-seven, as enacted by 1937, chapter 42, which reads as follows:

"**37.** (1) Subject to section thirty-eight hereof, where the amount or value of the matter in controversy in the appeal exceeds the sum of two thousand dollars, an appeal shall lie directly to the Supreme Court in respect of a question of law alone from a final judgment pronounced in a judicial proceeding by a provincial court of which the judges are appointed by the Governor General, upon leave being granted to that effect by the highest court of final resort in the province in which the proceedings were originally instituted, and provided that the consent in writing of the parties, or their solicitors, verified by affidavit is filed with the Registrar of the Supreme Court and with the registrar, clerk or prothonotary of the court to be appealed from.

(2) No such leave shall be granted by the highest court of final resort unless an appeal would lie to such court of final resort and also to the Supreme Court from the judgment of such court pronounced in such appeal.

(3) Save as provided by this section, but subject to section forty-four, no appeal shall lie to the Supreme Court except from the highest court of final resort having jurisdiction in the province in which the proceedings were originally instituted."

There is no change in substance.

"**40.** This section re-enacts the exceptions contained in the present section thirty-six. There is no change in substance.

Appeals with leave of Supreme Court.

"**41.** (1) Subject to subsection three and to section forty-four an appeal lies to the Supreme Court of Canada with leave of that court from any final or other judgment of the highest court of final resort in a province, or a judge thereof, in which judgment can be had in the particular case sought to be appealed to the Supreme Court of Canada, whether or not leave to appeal to the Supreme Court of Canada has been refused by any other court.

When leave granted.

(2) Leave to appeal under this section may be granted during the period fixed by section sixty-four or within thirty days thereafter or within such further extended time as the Supreme Court or a judge may either before or after the expiry of the said thirty days fix or allow.

Appeals in respect of offences.

(3) No appeal to the Supreme Court of Canada lies under this section from the judgment of any court acquitting or convicting or setting aside or affirming a conviction or acquittal of an indictable offence or, except in respect of a question of law or jurisdiction, of an offence other than an indictable offence.

Extending time for allowing appeal.

(4) Whenever the Supreme Court of Canada has granted leave to appeal the Supreme Court or a judge may, notwithstanding anything in this Act, extend the time within which the appeal may be allowed.

Appeals under other Acts.

"**42.** Notwithstanding anything in this Act the Supreme Court has jurisdiction as provided in any other Act conferring jurisdiction.

Amount or value in controversy.

"**43.** Where the right to appeal or to apply for special leave to appeal is dependent on the amount or value of the matter in controversy the amount or value may be proved by affidavit, and it shall not include interest subsequent to the day on which the judgment to be appealed from was pronounced or any costs.

No appeal from discretionary orders.

"**44.** No appeal lies to the Supreme Court of Canada from a judgment or order made in the exercise of judicial discretion except in proceedings in the nature of a suit or proceeding in equity originating elsewhere than in the province of Quebec and except in mandamus proceedings.

3. Section fifty-four of the said Act is repealed and the following substituted therefor:—

Judgment to be final.

"**54.** (1) The Supreme Court shall have, hold and exercise exclusive ultimate appellate civil and criminal jurisdiction within and for Canada; and the judgment of the Court shall, in all cases, be final and conclusive.

"**41.** This section is new but it includes the right of the Supreme Court of Canada to grant leave to appeal under the present section forty-one. This section confers upon the Supreme Court jurisdiction to grant leave to appeal from any judgment, except judgments on indictments. These are dealt with specially by sections 1023 and 1025 of the *Criminal Code*.

Leave to appeal may be granted notwithstanding that a provincial court has refused leave.

It is not necessary that the court appealed from should be the highest court of last resort having jurisdiction in the province generally. It is sufficient if the judgment is of the highest court in which judgment can be had in the particular matter.

Appeals would also be permissible in prosecutions under provincial statutes, but only on questions of law or jurisdiction. At the present time these prosecutions cannot, as a rule, reach the provincial Court of Appeal.

All appeals in connection with prerogative writs whether arising out of criminal charge or not can, under the proposed amendment, reach the Supreme Court with leave.

"**42.** This section is substantially the same as the present section forty-four, which reads as follows:—

> "**44.** Notwithstanding anything in this Act contained the court shall also have jurisdiction as provided in any other Act conferring jurisdiction."

"**43.** This is substantially the same as the present section forty, which reads as follows:—

> "**40.** Where the right to appeal or to apply for special leave to appeal is dependent on the amount or value of the matter in controversy *such* amount or value may be proved by affidavit, and it shall not include interest subsequent to the *date* on which the judgment to be appealed from was pronounced or any costs."

"**44.** This is substantially the same as the present section thirty-eight which reads as follows:

> "**38.** No appeal shall lie to the Supreme Court from any judgment or order made in the exercise of judicial discretion except in proceedings in the nature of a suit or proceeding in equity originating elsewhere than in the province of Quebec."

Mandamus is added because in some cases it is discretionary.

3. This is new. The amendment will abolish appeals to the Privy Council.

No appeals to His Majesty in Council.

(2) Notwithstanding any royal prerogative or anything contained in any Act of the Parliament of the United Kingdom or any Act of the Parliament of Canada or any Act of the legislature of any province of Canada or any other statute or law, no appeal lies or shall be brought from or in respect of the judgment of any court, judge or judicial officer in Canada to any court of appeal, tribunal or authority by which, in the United Kingdom, appeals or petitions to His Majesty in Council may be ordered to be heard.

Repeal of U.K. Acts.

(3) *The Judicial Committee Act, 1833*, chapter forty-one of the statutes of the United Kingdom of Great Britain and Ireland, 1833, and *The Judicial Committee Act, 1844*, chapter sixty-nine of the statutes of the United Kingdom of Great Britain and Ireland, 1844, and all orders, rules or regulations made under the said Acts are hereby repealed in so far as the same are part of the law of Canada."

Section repealed.

4. Section sixty-five of the said Act is repealed.

5. Section eighty-five of the said Act is repealed and the following substituted therefor:

Entry of appeals on list, and order of hearing.

"**85.** The appeals set down for hearing shall be entered by the Registrar on a list divided into five parts, and numbered as follows:—Number one, Election Cases; Number two, Western Provinces Cases; Number three, Maritime Provinces Cases; Number four, Quebec Province Cases; Number five, Ontario Province Cases; and the Registrar shall enter all Election Appeals on part numbered one, all appeals from the Yukon Territory and the Provinces of British Columbia, Alberta, Saskatchewan and Manitoba on part numbered two, all appeals from the Provinces of Newfoundland, Nova Scotia, New Brunswick and Prince Edward Island on part numbered three, all appeals from the Province of Quebec on part numbered four, and all appeals from the Province of Ontario on part numbered five; and such appeals shall be heard and disposed of in the order in which they are so entered, unless otherwise ordered by the Chief Justice or one of the puisne judges at his direction."

6. Section one hundred and four of the said Act is amended by adding thereto, immediately after paragraph *(a)* of subsection one thereof, the following paragraph:

In forma pauperis.

"*(aa)* for allowing appeals *in forma pauperis* by leave, notwithstanding section seventy;"

4. Section sixty-five is unnecessary. It reads:

"**65.** No appeal upon a special case, or from the judgment upon a motion to enter a verdict or non-suit upon a point reserved at the trial or from the judgment upon a motion for a new trial, shall be allowed, unless notice thereof is given in writing to the opposite party, or his attorney of record, within twenty days after the decision complained of, or within such further time as the court appealed from, or a judge thereof, allows."

5. The proposed amendments add Newfoundland to the enumerated provinces, and substitute the words underlined for the word "court" so that the Chief Justice or a puisne judge by his direction can fix the order of hearing.

6. This permits the Supreme Court, to make rules for appeals *in forma pauperis*. The opening words of section 104 (1) read:

"**104.** The judge of the Supreme Court, or any five of them, may, from time to time, make general rules and orders....."

Rights saved.

7. Notwithstanding anything in section three of this Act, an appeal from or in respect of a judgment pronounced in

(a) a judicial proceeding that was commenced prior to the coming into force of this Act, or

(b) a reference made by the Governor in Council or by the Lieutenant-Governor in Council of a province prior to the coming into force of this Act,

lies or may be brought as if that section had not been enacted.

Coming into force.

8. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

7. This preserves the right of appeal in respect of litigation already in process.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 3.

An Act to amend the Criminal Code. (Pistols, Motor vehicles, Level crossings and the Payment of Fines).

First reading, September 21, 1949.

MR. CHURCH.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44266

1st Session, 21st Parliament, 13 George VI, 1949.

R.S., c. 36; 1930, c. 11; 1931, c. 28; 1932, cc. 7, 8, 9, 28; 1932-33, cc. 25, 53; 1934, cc. 11, 47; 1935, cc. 36, 56; 1936, c. 29; 1938, c. 44; 1939, c. 30; 1943-44, c. 23; 1944-45, c. 35; 1946, cc. 5, 20; 1947, cc. 31, 55; 1947-48, cc. 39, 40.

THE HOUSE OF COMMONS OF CANADA.

BILL 3.

An Act to amend the Criminal Code. (Pistols, Motor vehicles, Level crossings and the Payment of Fines).

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section one hundred and twenty-four of the Criminal Code, chapter thirty-six of the Revised Statutes of Canada, 1927, as enacted by section one of chapter twenty-five of the statutes of 1932-33, is repealed and the following substituted therefor:—

Pointing firearm, pistol or air-gun.

"**124.** Everyone who, without lawful excuse, points at another person any firearm, pistol or air-gun, whether loaded or unloaded, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment for any term not exceeding one year, with or without hard labour."

2. Section one hundred and twenty-six of the said Act, as enacted by section nine of chapter forty-four of the statutes of 1938, is amended by adding thereto the following subsection:—

Pistol to include anything of shape or form and size of pistol.

"(3) Reference in this section or in sections one hundred and twenty-two and one hundred and twenty-four of this Act to any pistol shall mean and include anything of the shape or form and size of a pistol and notwithstanding that the same is not designed as, or capable of being used as, a firearm or air-gun."

3. Subsection two of section two hundred and eighty-five of the said Act, as enacted by section eight of chapter fifty-five of the statutes of 1947, is repealed and the following substituted therefor:—

Liability of driver of motor vehicle for failure to stop after accident.

"(2) Whenever, owing to the presence of a motor vehicle on the highway, an accident has occurred to any person or to any horse or vehicle in charge of any person, any

Explanatory Notes.

1 and **2.** The purpose of the amendments to sections 124 and 126 is to make it an offence to point, or use in a hold-up, not only an ordinary firearm but a pistol, or anything in the shape, form or size of a pistol.

3. The appalling fatal accidents and injuries from highway traffic and level crossings in Canada is mounting steadily and has become a public scandal as almost every highway is coloured red with the slaughter. Nothing is done to avert these accidents as the mad race for speed goes on. Casualties from such accidents are almost as numerous as those from the second world war in persons so killed or injured.

The purpose of this amendment is to increase the penalty from "a fine not exceeding one thousand dollars and costs or to imprisonment for a term not exceeding six months" to a term of "not less than six months and not exceeding twelve months", without the option of a fine, and to "seizure and forfeiture" of the driver's car.

person driving the motor vehicle shall be guilty of an offence and liable, either on indictment or on summary conviction to imprisonment for a term not less than six months and not exceeding twelve months if, with intent to escape liability either civil or criminal, he fails to stop his vehicle, tender assistance, and give his name and address. Such failure shall be prima facie evidence of an intent as aforesaid and such motor car shall be seized by any peace officer and shall thereupon be forfeited to the Crown to be disposed of as the Attorney General of the province in which such forfeiture takes place may direct."

4. Subsection four of section two hundred and eighty-five of the said Act, as enacted by section six of chapter eleven of the statutes of 1930, as amended by section four of chapter fifty-six of the statutes of 1935 and by section ten of chapter fifty-five of the statutes of 1947, is repealed and the following substituted therefor:—

Driving while under influence of alcohol or narcotic.

"(4) Everyone who, while under the influence of alcohol or of any narcotic, drives any motor vehicle or automobile is guilty of an offence, and liable,

(a) upon indictment, for a first offence to imprisonment for a term not exceeding six months and not less than two months, and for each subsequent offence to any term not exceeding two years and not less than six months; or

(b) upon summary conviction, for a first offence to a term of imprisonment not exceeding three months and not less than thirty days, for a second offence to a term of imprisonment not exceeding six months and not less than two months, and for each subsequent offence to a term of imprisonment not exceeding two years and not less than six months.

and the provisions of section ten hundred and thirty-five, in so far as it authorizes the imposition of a fine in lieu of any punishment otherwise authorized, and of section ten hundred and eighty-one of this Act shall not apply in the case of a conviction for an offence under this subsection.

Proviso.

Provided that any person who while under the influence of alcohol or of any narcotic occupies the seat ordinarily occupied by a person driving a motor vehicle shall be deemed to have the care or control of the said motor vehicle unless the said person establishes that he did not enter or mount the said vehicle for the purpose of setting it in motion."

4. Subsection four at present reads as follows:—

"(4) Every one who, while *intoxicated* or under the influence of any narcotic, drives any motor vehicle or automobile, *or has the care or control of a motor vehicle or automobile, whether it is in motion or not*, shall be guilty of an offence, and shall be liable

(a) upon indictment, for a first offence to imprisonment for a term not exceeding *three* months and not less than *thirty* days, and for each subsequent offence to any term not exceeding *one* year and not less than *three* months; or

(b) upon summary conviction, for a first offence to a term of imprisonment not exceeding *thirty* days and not less than *seven* days, and for a second offence to a term of imprisonment not exceeding *three* months and not less than *one* month, and for each subsequent offence to a term of imprisonment not exceeding *one year* and not less than *three* months;

and the provisions of section ten hundred and thirty-five, in so far as it authorizes the imposition of a fine in lieu of any punishment otherwise authorized, and of section ten hundred and eighty-one of this Act shall not apply in the case of a conviction for an offence under this subsection."

"Provided that any person who while *intoxicated or under the influence* of any narcotic occupies the seat ordinarily occupied by a person driving a motor vehicle shall be deemed to have the care or control of the said motor vehicle unless the said person establishes that he did not enter or mount the said vehicle for the purpose of setting it in motion."

5. The said section two hundred and eighty-five is further amended by adding thereto the following subsections:—

Hit-and-run drivers.

"(6A.) If an accident occurs on a highway, every person in charge of a vehicle who is directly or indirectly a party to the accident shall remain at or return immediately to the scene of the accident and render all possible assistance and give in writing upon request to any one sustaining loss or injury or to any constable or any officer appointed for the carrying out of the provisions of this Act or to any witness, his name and address, and also the name and address of the owner of such vehicle, and the number of the permit if any. Any person who violates any of the provisions of this subsection shall incur a penalty of not less than six months' imprisonment and not more than one year's imprisonment, and the motor vehicle driven by the person convicted at the time of committing the offence of which he was convicted, shall be seized, impounded and taken into custody of the law and be forfeited to and become the property of the Crown in right of Canada."

Penalty.

Failure to stop at level crossing.

(6B.) The operator of a motor vehicle on a street, road, highway, or other public place who neglects to come to a full stop before reaching a level crossing where a railway crosses such street, road, highway or other public place, and who does not look and listen for an approaching train before passing the level crossing shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars."

6. Subsection seven of the said section two hundred and eighty-five, as enacted by section twelve of chapter fifty-five of the statutes of 1947, is amended by adding after the word "six" in the second line thereof the words and letters "six A" and "six B".

7. Section two hundred and eighty-five of the said Act, as amended by section six of chapter eleven of the statutes of 1930, by section eight of chapter forty-seven of the statutes of 1934, by section four of chapter fifty-six of the statutes of 1935, by section nine of chapter twenty-nine of the statutes of 1936, by sections fifteen and sixteen of chapter forty-four of the statutes of 1938, by section six of chapter thirty of the statutes of 1939, by section nine of chapter twenty-three of the statutes of 1943-44, by sections eight, nine, ten, eleven and twelve of the statutes of 1947, by section nine of chapter thirty-nine of the statutes of 1947-48 and by sections three, four, five and six of this Act, is further amended by adding thereto the following sub-sections:—

5. The new sub-section 6A deals with the case of what is commonly known as hit-and-run drivers.

The purpose of the new subsection 6B is to force operators of motor vehicles to stop, look and listen at all level crossings.

6. This amendment brings the hit-and-run driver under subsection (7) providing that an order may be made prohibiting the convicted person from driving a motor vehicle for any period not exceeding three years.

Causing death in a culpably negligent manner.

"(10) Any person who, by the operation or use of any vehicle in a culpably negligent manner, but not wilfully or wantonly, occasions the death of another person, shall, upon conviction, be liable to imprisonment for a term not exceeding three months or to a fine of not more than one hundred dollars, or to both. The term "vehicle" shall be held to include every conveyance in, on or about which persons or property may be transported upon land, or upon, under or through water or in or through the air.

In any prosecution under this subsection, whether or not the accused was driving in a culpably negligent manner shall be a question of fact for the jury, and shall not depend upon the rate of speed fixed by law for operating such vehicle.

Person having caused death not to drive for two years.

"(11) Everyone is guilty of an indictable offence and liable to six months' imprisonment and a fine not exceeding one hundred dollars who, having caused the death of any person while driving an automobile or motor vehicle, thereafter drives an automobile or motor vehicle at any time during the next ensuing two years, notwithstanding that such death was not caused entirely or partially by fault of such driver."

8. The said Act is further amended by inserting therein, immediately after section six hundred and forty-four, the following section:—

Trial of young persons.

"**644A.** In the event of the trial of a young person apparently or actually between the ages of sixteen and nineteen years, except in such cases as are already provided for by *The Juvenile Delinquents Act, 1929*, section ten of the said Act shall apply *mutatis mutandis*, and if a defending counsel has not been previously engaged, the trial shall not proceed until the Court, judge or justice has required a duly qualified counsel to defend the accused, after notice to the parents or guardian of the accused."

9. Subsection three of section nine hundred and fifty-one of the said Act, as enacted by section twenty-nine of chapter fifty-five of the statutes of 1947, is repealed, and the following substituted therefor:—

Charge of manslaughter arising out of operation of motor vehicle, criminal or culpable negligence proved.

"(3) Upon a charge of manslaughter arising out of the operation of a motor vehicle the jury, and in the province of Alberta a judge having jurisdiction and sitting without a jury, if satisfied that the accused is not guilty of manslaughter but is guilty of an offence under subsection six or ten of section two hundred and eighty-five, may find him guilty of one of those offences, and such conviction shall be a bar to further prosecution for any offence arising out of the same facts."

7. (10) The purpose of subsection ten is to provide that if a person is responsible for the death of another on account of the operation of a vehicle in a culpably negligent manner such person, although not guilty of wilfully or wantonly driving, should be punished for this minor offence.

(11) This subsection is for the purpose of preventing a person who has caused the death of another while driving an automobile from driving during the next ensuing two years.

8. The purpose of this amendment is to provide that in the trial of a youth under nineteen years of age, due notice of the charge shall be served on the parents or guardian and that the accused shall not be condemned without having been represented by counsel.

At present many of these young people are being condemned—the gaols are filled with them—in a rather mechanical way, without any defence or without being able to state their case properly, or to consult their friends or family, being simply railroaded into prison.

Section ten of The Juvenile Delinquents Act referred to, reads as follows:—

> "**10.** (1) Due notice of the hearing of any charge of delinquency shall be served on the parent or parents or the guardian of the child, or if there be neither parent nor guardian, or if the residence of the parent or parents or guardian be unknown, then on some near relative living in the city, town or county, if any there be, whose whereabouts is known, and any person so served shall have the right to be present at the hearing.
>
> (2) The judge may give directions as to the persons to be served under this section, and such directions shall be conclusive as to the sufficiency of any notice given in accordance therewith."

9. The purpose of this amendment is to define the powers of the jury in cases of manslaughter arising out of the operation of motor vehicles. The only change consists of the word underlined on the opposite page and is necessitated by the insertion of subsection ten in section 285. (See section five of this Bill).

10. The said Act is further amended by inserting, immediately after section nine hundred and fifty-one, the following as section 951A:—

Jury to decide whether guilty or not guilty.

"**951A.** Notwithstanding any law, statute, usage, custom or doctrine of law as to the function of the judge or of the jury, on the trial by jury of any person charged with causing death or injury to another the judge shall, in every such case, leave it to the jury to decide the question of fact as to whether the accused is guilty or not guilty on the evidence adduced."

11. Section one thousand and twenty-nine of the said Act is repealed, and the following is substituted therefor:—

Fine or penalty in discretion of court.

"**1029.** Wherever a fine may be awarded or a penalty imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting, as the case may be, and it shall also be in the discretion of the said court or person imposing such fine or penalty to allow time for payment of the same or to order that the same may be paid by instalments at the times and in the amounts and under such conditions as the case may require."

Payment deferred or made by instalments.

12. The said Act is further amended by inserting therein the following sections as sections 1029A, 1029B and 1029C:—

Obligation to allow time for payment of fines.

1029A. (1) A warrant committing a person to prison in respect of non-payment of a sum adjudged to be paid by a conviction of a court of summary jurisdiction shall not be issued forthwith unless the court which passed the sentence is satisfied that he is possessed of sufficient means to enable him to pay the sum forthwith, or unless, upon being asked by the court whether he desires that time should be allowed for payment, he does not express any such desire, or fails to satisfy the court that he has a fixed abode within its jurisdiction, or unless the court for any other special reason expressly desires that no time shall be allowed.

Representations made by defendant.

(2) Where any such person desires to be allowed time for payment the court in deciding what time shall be allowed shall consider any representation made by him, but the time allowed shall not be less than fourteen clear days: Provided that if before the expiration of the time allowed the person convicted surrenders himself to any court of summary jurisdiction having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, that court may if it thinks fit forthwith issue a warrant committing him to prison.

10. On the trial with a jury of persons who cause death or serious injury, it is desirable that the functions of the jury should not be curtailed or abolished. There has been much criticism of many cases of gross negligence having been taken from the jury. The jury are required to take the law to be what the judge says it is, and, owing to the many cases withdrawn by order of the judge, trial by jury in those cases is negatived, and there are so many loopholes that many persons guilty of gross negligence get off. The increased accidents require that the law should be brought up to date to meet the changing conditions, while preserving also the liberty of the subject.

11. The object of this amendment is to provide that fines imposed under the Criminal Code may be paid on time or by instalment, to be laid down by the magistrates or judges after inquiring into the ability of the accused to pay.

Many people on relief and out of work, or on part time, cannot pay their fines and have to go to jail, many of them first offenders with families and some returned soldiers, which is another way of imposing imprisonment for debt.

Section 1029 as amended, and the following sections that are added (1029A to 1029C and 1057A and 1057B) follow the provisions of the law of England, 1935 (25-26 Geo. V), chapter 46, known as Money Payments (Justices Procedure Act), 1935.

12 Sections 1029A to 1029C are entirely new.

Offenders between 16 and 21.

(3) Where a person so allowed time for payment as aforesaid appears to the court to be not less than sixteen nor more than twenty-one years of age, the court may, if it thinks fit, and subject to any rules made under section five hundred and seventy-six of this Act, order that he be placed under the supervision of such person as may be appointed by the court until the sum adjudged to be paid is paid, and in such case before issuing a warrant committing the offender to prison in respect of non-payment of the sum a court of summary jurisdiction shall consider any report as to the conduct and means of the offender, which may be made by the person under whose supervision the offender has been placed.

Allowance of further time.

"**1029B.** Where time has been allowed for payment of a sum adjudged to be paid by a conviction or order of a court of summary jurisdiction, further time may, subject to any rules made under section five hundred and seventy-six of this Act, on an application by or on behalf of the offender, be allowed by a court of summary jurisdiction having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, or the court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid.

Reduction of imprisonment on part payment of sums adjudged to be paid.

"**1029C.** (1) Where a term of imprisonment is imposed by a court of summary jurisdiction in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order of that or any other court of summary jurisdiction, that term shall, on payment of a part of such sum to any person authorized to receive it, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the sum adjudged to be paid: Provided that, in reckoning the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account

Rules of court.

(2) Provision may be made by rules under section five hundred and seventy-six of this Act as to the application of sums paid under this and the two preceding sections, and for determining the persons authorized to receive such payments and the conditions under which such payments may be made."

Repeal.

13. Section 1035A, as enacted by section thirty-two of chapter fifty-five of the statutes of 1947 is repealed.

14. The said Act is further amended by inserting therein the following sections as sections 1057A and 1057B:—

Power to order detention for one day in precincts of court.

"**1057A.** Where a court of summary jurisdiction, has power to pass a sentence of imprisonment, the court, in lieu of passing a sentence of imprisonment, may order that the offender be detained within the precincts of the court, or

13. The section to be repealed deals with reduction of imprisonment on part payment of the sum adjudged to be paid. The provisions of the new sections 1029A, 1029B and 1029C are substituted therefor.

14. Sections 1057A and 1057B are new.

at any police station, till such hour, not later than six in the evening on the day on which he is convicted, as the court may direct:

Provided that a court of summary jurisdiction, shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the offender's abode (if his abode is known to, or ascertainable by, the court), and shall not make any such order of detention under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day on which such order of detention is made.

"**1057B.** (1) No person shall be sentenced to imprisonment by a court of summary jurisdiction for a period of part of one day.

Substitution of police custody for imprisonment in case of short sentences.

(2) Where a person is liable to be sentenced to imprisonment by a court of summary jurisdiction, the court may, if any suitable places are available for the purpose, order the person to be detained within the precincts of the court or at any police station for such period not exceeding part of one day as the court thinks fit, and the order shall be delivered with the offender to the person in charge of the place where the offender is to be detained, and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof."

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL D.

An Act to amend the Criminal Code.

Read a first time, Wednesday, 21st September, 1949.

Honourable Senator ROBERTSON

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
44970 1949

1st Session, 21st Parliament, 13 George VI, 1949.

R.S., c. 36; 1930, c. 11; 1931, c. 28; 1932, cc. 7, 8, 9, 28; 1932-33, cc. 25, 53; 1934, cc. 11. 47; 1935, cc. 36, 56; 1936, c. 29; 1938, c. 44; 1939, c. 30; 1943-44, c. 23; 1944-45, c. 35; 1946, cc. 5, 20; 1947, cc. 31, 55; 1947-48, cc. 39, 40.

THE SENATE OF CANADA

BILL D.

An Act to amend the Criminal Code.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Paragraph (1) of subsection one of section two of the *Criminal Code*, chapter thirty-six of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

"any Act" "any other Act".

"(1) 'any Act,' or 'any other Act,' includes any Act passed or to be passed by the Parliament of Canada, or any Act passed by the legislature of the late province of Canada, or passed or to be passed by the legislature of any province of Canada, or passed by the legislature of any province of Canada before it was included therein;"

(2) Paragraph seven of subsection one of section two of the said Act, as amended by section one of chapter twenty-eight of the statutes of 1931 and by section one of chapter twenty-three of the statutes of 1943-44, is further amended by adding thereto immediately after subparagraph *(i)* the following:

"Court of Appeal".

"*(ii)* in the province of Newfoundland, the Supreme Court of Newfoundland constituted by any two or by the three judges thereof,"

(3) Subparagraph (c) of paragraph thirty-eight of subsection one of section two of the said Act is repealed and the following substituted therefor:

"Superior Court of criminal jurisdiction".

"*(c)* in the provinces of Nova Scotia, New Brunswick, Alberta and Newfoundland, the Supreme Courts of the said provinces respectively,"

2. Subsection one of section seven hundred and forty-nine of the said Act, as amended by section six of chapter fifty-three of the statutes of 1932-33, by sections thirteen and fourteen of chapter twenty-nine of the statutes of 1936

Explanatory Notes.

1. The purpose of these amendments is to adapt the Criminal Code to Newfoundland.

Paragraph (1) now reads:

> "(1) 'any Act,' or 'any other Act,' includes any Act passed or to be passed by the Parliament of Canada, or any Act passed by the legislature of the late province of Canada, or passed or to be passed by the legislature of any province of Canada, or passed by the legislature of any province *now a part* of Canada before it was included therein;"

The Interpretation Act provides that the word "now" refers to the date of Royal Assent.

The amendment to paragraph (7) is for the purpose of defining the expression "Court of Appeal" for the province of Newfoundland.

The amendment to paragraph (38) (c) is for the purpose of defining the expression "Superior Court of criminal jurisdiction" as used in the Criminal Code in its application to Newfoundland.

2. The purpose of this amendment is to specify to what court in Newfoundland an appeal may be taken in a summary conviction matter to which the Criminal Code applies.

and by section four of chapter thirty-five of the statutes of 1944-45, is further amended by adding thereto, immediately after paragraph *(h)* thereof, the following:

Newfoundland.

"*(i)* in the province of Newfoundland, to the Supreme Court."

3. Paragraph (a) of subsection one of section seven hundred and seventy-one of the said Act is amended by adding thereto, immediately after subparagraph (iv) thereof, the following:

"magistrate".

"(iva) in the province of Newfoundland, any judge of a district court, any stipendiary magistrate, any two justices sitting together, and any functionary or tribunal having the powers of two justices,"

4. Subsection one of section seven hundred and seventy-four of the said Act, as enacted by section thirty-nine of chapter forty-four of the statutes of 1938 and amended by section nineteen of chapter thirty of the statutes of 1939 and by sections sixteen and seventeen of chapter twenty-three of the statutes of 1943-44, is further amended by deleting the word "or" at the end of paragraph *(g)* thereof, by adding the word "or" at the end of paragraph *(h)* thereof and by adding thereto, immediately after the said paragraph *(h)*, the following:

Summary trial in certain cases.

"*(i)* in the province of Newfoundland before a stipendiary magistrate;"

5. Paragraph *(c)* of subsection one of section seven hundred and seventy-seven of the said Act, as enacted by section eighteen of chapter twenty-three of the statutes of 1943-44, is repealed and the following substituted therefor:

Absolute jurisdiction in certain cases.

"*(c)* In the provinces of Ontario, British Columbia, Prince Edward Island, Manitoba, Saskatchewan, Alberta, Newfoundland and in the Northwest Territories and the Yukon Territory and the cities of St. John, Fredericton and Moncton in the province of New Brunswick, and any county in the province of New Brunswick for which a magistrate has been appointed, where any person is charged with an offence mentioned in any of the paragraphs of section seven hundred and seventy-three except paragraph *(h)*."

6. Paragraph *(a)* of section eight hundred and twenty-three of the said Act, as amended by section twenty-four of chapter eleven of the statutes of 1930, is further amended by adding thereto, immediately after subparagraph (vi) thereof, the following subparagraph:

"judge".

"(vii) in the province of Newfoundland, any judge of the Supreme Court;"

3. The purpose of this amendment is to define for Newfoundland the expression "magistrate" as used in Part XVI of the Criminal Code.

4. The purpose of this amendment is to specify the kind of magistrate who, in Newfoundland, may exercise under Part XVI of the Criminal Code the jurisdiction to try indictable offences with the consent of the accused that is conferred by section seven hundred and seventy-four.

5. The purpose of this amendment is to extend to Newfoundland the provisions of paragraph (c) of subsection (1) of section seven hundred and seventy-seven whereby magistrates are given absolute jurisdiction without the consent of the accused to try certain indictable offences.

6. The purpose of this amendment is to specify before what judges in Newfoundland an accused may elect speedy trial under Part XVIII of the Criminal Code.

7. Section one thousand and fifty-six of the said Act, as amended by section thirty-three of chapter fifty-five of the statutes of 1947, is further amended by adding thereto, immediately after paragraph *(d)* thereof, the following:

"penitentiary".

"*(e)* the word 'penitentiary' as first used in this section does not include the penitentiary mentioned in section thirty-seven of *The Statute Law Amendment (Newfoundland) Act*, chapter six of the statutes of 1949."

8. Section forty-four of An Act to amend the *Criminal Code*, chapter thirty-nine of the statutes of 1947-48, is repealed and the following substituted therefor:

Coming into force.

"**44.** This Act shall come into force on the first day of November, one thousand nine hundred and forty-eight, except section thirty-five thereof which shall come into force on a day to be fixed by proclamation of the Governor in Council."

7. Section one thousand and fifty-six provides that an offender who is sentenced to a term of less than two years may not be sentenced to a "penitentiary". It is proposed, however, that the institution maintained by the Newfoundland Government at St. John's for the confinement of prisoners will continue for some time to be used, as in the past, for the confinement of prisoners whether sentenced to less or more than two years in prison. Since this institution is sometimes referred to as a "penitentiary" it is necessary to make it clear that section one thousand and fifty-six does not forbid the confinement in this institution of offenders sentenced to less than two years.

8. The purpose of this amendment is to defer the coming into force of Part XVI of the Criminal Code, as enacted by chapter thirty-nine of the Acts of 1948. Section 44 of the said chapter thirty-nine provided that the new Part XVI would come into force on the first of October, one thousand nine hundred and forty-nine. A number of provinces, however, have requested that the coming into force of the new Part XVI be further deferred and for this purpose the section is being amended to provide that section 35 of said chapter thirty-nine which enacts the new Part XVI shall not come into force until proclaimed by the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 5.

An Act to Declare the Meat Packing Industry Works for the General Advantage of Canada.

First reading, September 26, 1949.

Mr. STEWART (Winnipeg).

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45620

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 5.

An Act to Declare the Meat Packing Industry Works for the General Advantage of Canada.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Works and undertakings declared to be for the general advantage of Canada.

1948, c. 54.

1. Pursuant to paragraph *(g)* of section fifty-three of *The Industrial Relations and Disputes Investigation Act* and for the purpose of including them within the provisions of the said section, works, undertakings and businesses operated or carried on for or in connection with the packing or processing of meat or meat products and the sale thereof, exclusively or in conjunction with other works, undertakings or businesses, in two or more provinces, are declared to be for the general advantage of Canada.

Explanatory Note.

The purpose of this Bill is to make that part of the meat packing industry which carries on operations in two or more Provinces subject to paragraph *(g)* of section fifty-three of the Industrial Relations and Disputes Investigation Act.

In matters of collective bargaining the industry will then be able to negotiate on a national basis and the Government of Canada will have the authority to deal with disputes in an industry whose smooth functioning is essential to the national economy.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 6.

An Act to amend the Navigable Waters' Protection Act.

First reading, September 27, 1949.

MR. ADAMSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45083

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA

BILL 6.

R.S., 140; 1946, c. 10.

An Act to amend the Navigable Waters' Protection Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section nineteen of the *Navigable Waters' Protection Act*, chapter one hundred and forty of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

Throwing, etc., noxious products, etc., into river prohibited.

"**19.** (1) No owner, lessee, or person operating any industrial plant, oil refinery, chemical works, sawmill or other plant or works, or any other person shall discharge or throw or allow to be discharged or thrown any noxious waste product, oil, sawdust, chemical or other matter or thing into a river, stream or other water any part of which is navigable or which flows into any navigable water, which has the effect of polluting the water into which it enters or is liable to pollute such waters.

Municipalities not to permit discharging of raw sewage.

(2) No municipality with a population greater than three thousand shall discharge or permit the discharge by its officers, servants or employees of raw sewage into navigable water or into any other water which flows into navigable water."

2. The said Act is further amended by adding immediately after section twenty-six the following section:

Appointment of inspectors.

"**26A.** (1) The Minister may, if he has reason to believe that an industrial plant is likely to discharge noxious substances into navigable waters, or into any river, stream or other water which flows into any navigable water, appoint inspectors, empowered to reside at the plant and report any violation of the provisions of the Act. The cost of maintaining such inspectors shall be chargeable against and a debt owing the Crown by the owner, lessee or operator of the plant.

Explanatory Notes

The purpose of this Act is to control industrial plants and oil refineries situated on navigable waters, so that their operation does not result in the pollution of the surrounding water area and shore line. These three new sections merely enlarge the scope of the original Act, which dealt solely with the pollution of navigable waters by sawmills.

Inspection.

(2) The Minister shall have power to appoint officers to inspect the sewage disposal facilities operated by any municipality situated on any navigable water, or on any river, stream or other water which flows into any navigable water, and he may require such municipality to construct works designated by him as necessary to prevent the discharge of raw sewage into such water and the Governor in Council may prescribe such penalties as he may deem necessary for any violation of this section."

3. Section twenty-eight of the said Act is repealed and the following substituted therefor:

Throwing, etc., noxious products, etc., into river.

"**28.** (1) Any person responsible for the violation of subsection one of section nineteen of this Act shall on summary conviction be liable, for a first offence, to a penalty of not less than fifty dollars and for each subsequent offence a penalty of not less than one hundred dollars.

Penalty.

Municipality.

(2) Any municipality responsible for the violation of subsection two of section nineteen of this Act, shall on summary conviction be liable, for a first offence to a penalty, of not less than one hundred dollars and for each subsequent offence, a penalty of not less than five hundred dollars".

Penalty.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 7.

An Act to amend the Railway Act.

First reading, September 27, 1949.

Mr. ADAMSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45079

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 7.

R.S., c. 170; 1928, c. 43; 1929, c. 54; 1930, c. 36; 1932-33, c. 47; 1938, cc. 40, 12; 1946, c. 30; 1947, c. 70; 1947-48, cc. 27, 66.

An Act to amend the Railway Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection one of section two hundred and eighty-seven of the *Railway Act*, chapter one hundred and seventy of the Revised Statutes, 1927, is amended by adding immediately after paragraph *(k)* the following paragraph as paragraph *(l)* and re-lettering present paragraph *(l)* as paragraph *(m)*:

"*(l)* requiring all roundhouses and other permanent installations to comply with any municipal by-law of any urban municipality regulating the emission of smoke or soot into the atmosphere but such orders and regulations shall not apply to locomotives in motion;"

Explanatory Notes.

The purpose of this section, which is new, is to regulate and prevent the undue emission of smoke, soot and noxious gases into the air within the confines of built up residential areas designated as urban areas under the Act. It is only applicable in such municipalities whose municipal council, in order to protect the residents of the municipality, have enacted an enforceable anti-smoke regulation.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 8B.

An Act to amend the Exchequer Court Act.

Read a first time, Tuesday, 20th September, 1949

HONOURABLE SENATOR ROBERTSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44159

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL B.

An Act to amend the Exchequer Court Act.

R.S., c. 34; 1928, c. 23; 1930, c. 17; 1932-33, c. 13; 1938, c. 28; 1943-44, c. 25; 1944-45, c. 3; 1946, c. 22; 1947, c. 33; 1947-48, c. 66.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section eighteen of the *Exchequer Court Act*, chapter thirty-four of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

Exclusive original jurisdiction of the Court.

"**18.** The Exchequer Court shall have exclusive original jurisdiction in all cases in which the land, goods or money of the subject are in the possession of the Crown, or in which the claim arises out of a contract entered into by or on behalf of the Crown."

2. Subsections one and two of section eighty-two of the said Act are repealed and the following substituted therefor:

Appeals to Supreme Court of Canada.

"**82.** (1) An appeal to the Supreme Court of Canada lies

(a) from a final judgment or a judgment upon a demurrer or point of law raised by the pleadings, and

(b) with leave of a judge of the Supreme Court of Canada, from an interlocutory judgment,

pronounced by the Exchequer Court in an action, suit, cause, matter or other judicial proceeding, in which the actual amount in controversy exceeds five hundred dollars.

Notice of appeal and deposit of security.

(2) An appeal under this section shall be brought by serving a notice of appeal on all parties directly affected and by depositing with the Registrar of the Supreme Court of Canada the sum of fifty dollars by way of security for costs; the notice of appeal with evidence of service thereof shall be filed with the Registrar of the Supreme Court of Canada and a copy of the notice shall be filed with the Registrar of the Exchequer Court.

Explanatory Notes.

1. The present section 18 reads as follows:

"**18.** The Exchequer Court shall have *exclusive original jurisdiction in all cases in which demand is made or relief sought in respect of any matter which might, in England, be subject of a suit or action against the Crown, and for greater certainty, but not so as to restrict the generality of the foregoing terms, it shall have* exclusive original jurisdiction in all cases in which the land, goods or money of the subject are in the possession of the Crown, or in which the claim arises out of a contract entered into by or on behalf of the Crown."

In view of the concluding words of the section and sections 19 and following, the words in italics above are unnecessary.

2. Subsections one and two of section eighty-two now read as follows:

"**82.** (1) Any party to any action, suit, cause, matter or other judicial proceeding, in which the actual amount in controversy exceeds five hundred dollars, who is dissatisfied with any final judgment, or with any judgment upon any demurrer or point of law raised by the pleadings, given therein by the Exchequer Court, in virtue of any jurisdiction now or hereafter, in any manner, vested in the Court and who is desirous of appealing against such judgment, may, within thirty days from the day on which such judgment has been given, or within such further time as a judge of such Court allows, deposit with the Registrar of the Supreme Court the sum of fifty dollars by way of security for costs.

(2) The Registrar shall thereupon set the appeal down for hearing by the Supreme Court at the nearest convenient time according to the rules in that behalf of the Supreme Court, and the party appealing shall within ten days after the said appeal has been so set down as aforesaid, or within such other time as the Court or a judge thereof shall allow, give to the parties affected by the appeal, or their respective attorneys or solicitors, by whom such parties were represented before the Exchequer Court, a notice in writing that the case has been so set down to be heard in appeal as aforesaid, and the said appeal shall thereupon be heard and determined by the Supreme Court."

The purpose of the proposed amendment is to extend the time for appealing to sixty days, to authorize appeals from interlocutory judgments and to simplify the procedure in appeals.

Time for service.

(2a) The notice of appeal shall be served and filed and the security shall be deposited within sixty days (in the calculation of which July and August shall be excluded) from the signing or entry or pronouncing of the judgment appealed from or within such further time as a judge of the Exchequer Court, or in the case of an appeal from an interlocutory judgment a judge of the Supreme Court of Canada, may either before or after the expiry of the said sixty days fix or allow."

3. Section eighty-five of the said Act is repealed and the following substituted therefor:

Crown not obliged to make deposit.

"**85.** If the appeal is by or on behalf of the Crown no deposit shall be necessary."

Practice and procedure.

4. Paragraph *(a)* of subsection one of section eighty-seven of the said Act, as enacted by section five of chapter twenty-three of the statutes of 1928, is repealed and the following substituted therefor:

"*(a)* for regulating the practice and procedure of and in the Exchequer Court, including, without restricting the generality of the foregoing,

(i) rules providing for the examination for discovery, in a proceeding to which the Crown is a party, of a departmental or other officer of the Crown, and

(ii) rules providing for the medical examination of a person in respect of whose injury a claim is made;"

3. The present section eighty-five reads as follows:—

"**85.** If the appeal is by or on behalf of the Crown no deposit shall be necessary, *but the person acting for the Crown shall file with the Registrar of the Supreme Court a notice stating that the Crown is dissatisfied with such decision, and intends to appeal against the same, and thereupon the like proceedings shall be had as if such notice were a deposit by way of security for costs.*"

The proposed amendment to section eighty-two renders the words in italics above unnecessary.

4. The present paragraph *(a)* of subsection one of section eighty-seven reads as follows:

"**87.** (1) The Judges of the Court may, from time to time, make general rules and orders.

(a) for regulating the practice and procedure of and in the Exchequer Court;"

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 9C.

An Act to amend the Department of Justice Act.

Read a first time, Tuesday, 20th September, 1949.

HONOURABLE SENATOR ROBERTSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
44155 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL C.

An Act to amend the Department of Justice Act.

R.S., c. 106.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section three of the *Department of Justice Act*, chapter one hundred and six of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after subsection one thereof, the following subsection:

Deputy Attorney General.

"(1*a*) The Deputy Minister of Justice shall *ex officio* be the Deputy Attorney General."

Explanatory Note.

The Minister of Justice of Canada is *ex officio* the Attorney General of Canada. The purpose of this amendment is to make it clear that the Deputy Minister of Justice is also the Deputy Attorney General.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 10.

An Act to amend the Criminal Code. (Portrayal of Crimes).

First reading, September 28, 1949.

MR. FULTON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45753

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 10.

An Act to amend the Criminal Code. (Portrayal of Crimes).

R.S., c. 36; 1930, c. 11; 1931, c. 28; 1932, cc. 7, 8, 9, 28; 1932-33, cc. 25, 53; 1934, cc. 11, 47; 1935, cc. 36, 56; 1936, c. 29; 1938, c. 44; 1939, c. 30; 1943-44, c. 23; 1944-45, c. 35; 1946, cc. 5, 20; 1947, cc. 31, 55; 1947-48, cc. 38, 40.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection one of section two hundred and seven of the *Criminal Code*, chapter thirty-six of the Revised Statutes of Canada, 1927, is amended by adding thereto the following:

Portrayal of crimes by pictures in magazines, etc., tending to induce violence.

"*(d)* prints, publishes, sells or distributes any magazine, periodical or book which exclusively or substantially comprises matter depicting pictorially the commission of crimes, real or fictitious, thereby tending or likely to induce or influence youthful persons to violate the law or to corrupt the morals of such persons."

Explanatory Notes.

This Act is designed to amend the Criminal Code to cover the case of those magazines and periodicals commonly called "crime comics", the publication of which is presently legal, but which it is widely felt tend to the lowering of morals and to induce the commission of crimes by juveniles.

The purpose is to deal with these publications not by imposing a direct censorship or by blanket prohibition, but rather by providing in general terms that the publication and distribution as defined in the Act shall be illegal and thus leaving it for decision by the court and/or jury, in accordance with the normal principles prevailing at a criminal trial to determine whether or not the publication in question falls within the definition.

First Session, Twentyfirst Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 11.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending the 31st March, 1950.

AS PASSED BY THE HOUSE OF COMMONS, 29th SEPTEMBER, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
45809 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 11.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending the 31st March, 1950.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it appears by messages from His Excellency, the Right Honourable Viscount Alexander of Tunis, etc., etc., Governor General of Canada, and the estimates accompanying the said messages, that the sums hereinafter mentioned are required to defray certain expenses of the public service of Canada, not otherwise provided for, for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, and for other purposes connected with the public service: May it therefore please Your Majesty, that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that:

Short title.

1. This Act may be cited as *The Appropriation Act, No. 5, 1949.*

$114,516,603.83 granted for 1949-50.

2. From and out of the Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole one hundred and fourteen million, five hundred and sixteen thousand, six hundred and three dollars and eighty-three cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being one-twelfth of the amount of each of the items to be voted, except items 43, 419 and 452, set forth in the Main Estimates for the fiscal year ending the thirty-first day of March, one thousand nine hundred and fifty, as laid before the House of Commons at the present session of Parliament.

$2,613,651.00 granted for 1949-50.

3. From and out of the Consolidated Revenue Fund there may be paid and applied, a sum not exceeding in the whole two million, six hundred and thirteen thousand, six hundred and fifty-one dollars towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being one-twelfth of the amount of each of the several items to be voted set forth in the Supplementary Estimates (Newfoundland) for the fiscal year ending the thirty-first day of March, one thousand nine hundred and fifty, as laid before the House of Commons at the present session of Parliament.

$5,876,758.33 granted for 1949-50.

4. From and out of the Consolidated Revenue Fund there may be paid and applied, a sum not exceeding in the whole five million, eight hundred and seventy-six thousand, seven hundred and fifty-eight dollars and thirty-three cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being one-twelfth of the amount of each of the several items to be voted set forth in the Further Supplementary Estimates for the fiscal year ending the thirty-first day of March, one thousand nine hundred and fifty, as laid before the House of Commons at the present session of Parliament.

$468,750.00 granted for 1949-50.

5. From and out of the Consolidated Revenue Fund, there may be paid and applied, in addition to the amount granted therefor by section four of this Act, a sum not exceeding in the whole four hundred and sixty-eight thousand, seven hundred and fifty dollars towards defraying the several charges and expenses of the public service from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being five-twelfths of the amount of the item to be voted set forth in Schedule A to this Act.

Power to raise sums required for redeeming loans or obligations. 1931, c. 27.

6. (1) The Governor in Council may, in addition to the sums now remaining unborrowed, and negotiable of the loans authorized by Parliament, by any Act heretofore passed, raise by way of loans, under the provisions of *The Consolidated Revenue and Audit Act, 1931*, by the issue and sale or pledge of securities of Canada, in such form, for such separate sums, at such rate of interest and upon such other terms and conditions as the Governor in Council may approve, such sum or sums of money, as may be required for

paying or redeeming loans or obligations of Canada maturing or callable in the fiscal year ending March 31, 1950.

Chargeable to C. R. Fund.

(2) The principal raised by way of loan under this Act and the interest thereon shall be a charge upon, and payable out of the Consolidated Revenue Fund.

Account to be rendered in detail.

7. A detailed account of the sums expended under the authority of this Act shall be laid before the House of Commons of Canada during the first fifteen days of the next session of Parliament.

SCHEDULE A

Based on the Further Supplementary Estimates, 1949-50. The amount hereby granted is $468,750, being five-twelfths of the amount of the item in the said Estimates as contained in this Schedule.

SUMS granted to His Majesty by this Act for the financial year ending 31st March, 1950, and the purposes for which they are granted.

No. of Vote	Service	Amount	Total
		$ cts.	$ cts.
907	Fraser Valley Dyking Board—To provide for payments by the Government of Canada for certain dyke reconstruction and improvement desirable to protect the works already undertaken in the main programme under the agreement dated July 22, 1948, between the Government of Canada and the Government of British Columbia, establishing the Fraser Valley Dyking Board.....	.....	*$1,125,000 00

* Net total $468,750.00.

First Session, Twenty-first Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 12.

An Act to Establish the Canadian Overseas Telecommunication Corporation.

First reading, September 30, 1949.

THE MINISTER OF TRANSPORT.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
43733 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 12.

An Act to Establish the Canadian Overseas Telecommunication Corporation.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

Short title.

1. This Act may be cited as *The Canadian Overseas Telecommunication Corporation Act.*

INTERPRETATION.

Definitions.

2. In this Act

"Board".

(a) "Board" means the directors of the Corporation;

"cablehead".

(b) "cablehead" means the shore end of a submarine cable together with the building in which it is housed;

'Corporation".

(c) "Corporation" means the Canadian Overseas Telecommunication Corporation established by this Act;

"Court".

(d) "Court" means the Exchequer Court of Canada;

"director".

(e) "director" means a director of the Corporation;

"external telecommunication services".

(f) "external telecommunication services" means the telecommunication services between Canada and any place outside of Canada and between Newfoundland and any other part of Canada;

"Minister".

(g) "Minister" means the Minister of Transport or such other Minister as the Governor in Council may from time to time designate;

"public communications".

(h) "public communications" means any telecommunication that is available to the public;

"registrar of deeds".

(i) "registrar of deeds" includes a registrar of land titles or other officer with whom the title to land is registered; and

"telecommunication".

(j) "telecommunication" means any transmission, emission or reception of signs, signals, writing, images or sounds or intelligence of any nature by wire, radio, visual or other electromagnetic system.

Explanatory Notes.

The purpose of the Bill is to establish under the direction of the Minister of Transport a corporation called Canadian Overseas Telecommunication Corporation to take over the property and equipment of Canadian Marconi Company Limited and Cable and Wireless Limited used in connection with Canada's external communication services. These communication services will be operated by the Corporation and co-ordinated with the services of other parts of the Commonwealth.

Corporation Established.

Corporation established.

3. (1) There is hereby established a body corporate for the purposes set forth in this Act to be called the Canadian Overseas Telecommunication Corporation.

Constitution.

(2) The Corporation shall consist of those persons who from time to time comprise the Board.

Composition of Board.

(3) The Board shall consist of a director who shall be the President and General Manager and four other directors.

Delegation.

(4) The Board may delegate to the President and General Manager or to any director, officer, agent or employee of the Corporation authority to act in the conduct of the business of the Corporation in all matters that are not by this Act or by the by-laws of the Corporation specifically reserved to be done by the Board.

Temporary directors.

(5) When a director by reason of any temporary incapacity is unable at any time to perform the duties of his office, the Governor in Council may appoint a temporary substitute director upon such terms and conditions as the Governor in Council may prescribe.

Vacancy.

(6) A vacancy in the directors does not impair the right of the remaining directors to act.

Oath.

(7) Before any director enters upon the execution of his duties, he shall take and subscribe before the Clerk of the Privy Council an oath, that shall be filed in the office of the said Clerk, in the following form:

> "I....., solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me as a director of the Canadian Overseas Telecommunication Corporation. So help me God."

By-laws.

(8) Subject to the approval of the Governor in Council, the Board may make by-laws respecting the calling of meetings of the Board, the quorum and the conduct of business thereat, the duties and conduct of directors, officers, employees and agents of the Corporation and generally as to the conduct of the affairs of the Corporation.

Compliance with directions.

(9) The Corporation shall comply with any directions from time to time given to it by the Governor in Council or the Minister with respect to the exercise of its powers.

Head office.

(10) The head office of the Corporation shall be in the City of Ottawa in the Province of Ontario or in such other place as the directors may select, but meetings of the directors may be held at such other places as the directors may decide.

Appointment of President and General Manager and Vice-President.

4. (1) The Governor in Council shall appoint the President and General Manager and a Vice-President and shall fix their salaries.

Tenure of office.

(2) The President and General Manager and the Vice-President shall hold office during good behaviour for a term of seven years but are removable by the Governor in Council for permanent incapacity or for other cause.

Reappointment.

(3) The President and General Manager and the Vice-President may, on the expiration of their term of office, be reappointed.

Appointment and tenure of office of other directors.

5. (1) In addition to the director who shall be the President and General Manager, the Governor in Council shall appoint four other directors to hold office during the following terms:

(a) one director to hold office for one year after the date of his appointment;

(b) one director to hold office for two years after the date of his appointment; and

(c) two directors to hold office for three years after the date of their appointments;

and the Governor in Council shall, on the expiration of the terms of office of the directors so appointed and at intervals of three years thereafter, appoint a corresponding number of directors to hold office for a term of three years.

Removal.

(2) A director appointed under this section is removable from office by the Governor in Council for permanent incapacity or for other cause.

Vacancy.

(3) Where the office of a director becomes vacant during the term of the director appointed thereto, the Governor in Council may appoint a director for the remainder of the said term.

Reappointment.

(4) A director appointed under this section may, on the expiration of his term of office, be reappointed.

Fees.

(5) The directors appointed under this section are entitled to receive for attendance at directors' meetings and executive committee meetings such fees as may be fixed by the by-laws of the Corporation.

Powers and Purposes.

Purposes of the Corporation.

6. The Corporation is established for the following purposes:

(a) to establish, maintain and operate in Canada and elsewhere external telecommunication services for the conduct of public communications;

(b) to carry on the business of public communications by cable, radiotelegraph, radiotelephone or any other means of telecommunication between Canada and any other place and between Newfoundland and any other part of Canada;

(c) to make use of all developments in cable and radio transmission or reception for external telecommunication purposes as related to public communication services;

(d) to conduct investigations and researches with the object of improving the efficiency of telecommunication services generally; and

(e) to co-ordinate Canada's external telecommunication services with the telecommunication services of other parts of the British Commonwealth of Nations.

Agent of His Majesty.

7. (1) The Corporation is for all purposes of this Act an agent of His Majesty and its powers under this Act may be exercised only as an agent of His Majesty.

Contracts and property.

(2) For the purposes of this Act, subject to section eight, the Corporation may in its own name enter into contracts and acquire or hold real and personal property or any interest therein.

Vesting of property.

(3) All property acquired or held by the Corporation is the property of His Majesty and title thereto may be vested in the name of His Majesty or in the name of the Corporation.

Legal proceedings.

(4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation may be brought or taken by or against the Corporation in the name of the Corporation in the same manner as if the right or obligation had been acquired or incurred on its own behalf.

Powers.

8. (1) Subject to subsection two, the Corporation may do such things as it deems expedient for or conducive to the attainment of the purposes set forth in section six, and may carry on its business in Canada and outside of Canada and, without restricting the generality of the foregoing, the Corporation may:

(a) with the approval of the Governor in Council, acquire all property and equipment in Canada of Canadian Marconi Company and of Cable and Wireless Limited used in connection with external telecommunication services, except cableheads and other property specified by the Minister as not required for the purposes of the Corporation;

(b) buy, sell, lease, contract, acquire, hold and dispose of real and personal property of every description; and

(c) enter into agreements and arrangements with any government, corporation, board, person or other body operating communication services for the interchange of messages, pooling of interests, division of tolls and revenues, sharing of expenses and generally in furtherance of the business of the Corporation.

Limitation of powers.

(2) Unless the approval of the Governor in Council is first obtained, the Corporation shall not:

(a) enter into an agreement involving any expenditure in excess of fifty thousand dollars;

(b) enter into for a period exceeding three years any agreement or lease that involves an expenditure in any year of more than five thousand dollars; or

(c) acquire any real or personal property, the cost of acquisition of which exceeds the sum of fifty thousand dollars, or in any manner dispose of any such property having an original or book value exceeding the sum of five thousand dollars.

STAFF.

Employment of officers and servants. R.S., c. 22.

9. (1) The Corporation may, notwithstanding the *Civil Service Act* or any other statute or law, employ such officers or servants as it deems necessary to carry out this Act and may determine their conditions of employment and their remuneration which shall be paid by the Corporation.

Pension fund. R.S., c. 24.

(2) The *Civil Service Superannuation Act*, notwithstanding anything contained therein, is not applicable to directors, officers and servants appointed or employed under this Act, but the Corporation may by by-law, with the approval of the Governor in Council, establish and support a pension fund or make other pension or superannuation arrangements for the benefit of directors, officers, and servants appointed or employed under this Act and their dependents.

Contributions under the Civil Service Superannuation Act.

(3) Notwithstanding subsection two or any other statute or law, a person who, immediately prior to his appointment or employment under or pursuant to this Act, was a contributor under the *Civil Service Superannuation Act* shall continue to be a contributor under the said *Civil Service Superannuation Act;* and, for the purposes of the said *Civil Service Superannuation Act*, his service under this Act shall be counted as service in the civil service and he, his widow, children or other dependents, if any, or his legal representatives, may be granted the respective allowances or gratuities provided by the said *Civil Service Superannuation Act.*

Former civil servant retired under this Act.

(4) Where a person, who immediately prior to his appointment or employment under or pursuant to this Act was a contributor under the *Civil Service Superannuation Act*, is retired from his position under this Act, he may be assigned to a position in the civil service for which he is qualified or he may be granted the same benefits under the *Civil Service Superannuation Act* as if his office or position had been abolished.

ACQUISITION OF PROPERTY.

Power to acquire property of Canadian Marconi Company and Cable and Wireless Limited.

10. (1) For the purposes of this Act and with the approval of the Governor in Council, the Corporation may, by notice published in the *Canada Gazette*, take or acquire any real or personal property of Canadian Marconi Company or of Cable and Wireless Limited and, upon the publication of the notice, the property therein described shall become the absolute property of and be vested in His Majesty for the purposes of the Corporation free from all claims and encumbrances.

Right to compensation.

(2) The rights and interests of every person in property taken under subsection one shall, at the time of the publication of the notice, be converted into claims for compensation which may be paid by the Corporation out of the funds of the Corporation.

Determination of compensation.

(3) The Corporation may, subject to the approval of the Minister, enter into an agreement with any person with respect to payment of claims for compensation and, if no such agreement is entered into, any claim against the Corporation for compensation may be heard and determined in the Exchequer Court of Canada in accordance with the rules and practice of the Court and in accordance with sections forty-seven to fifty of the *Exchequer Court Act* and section thirty-two of the *Expropriation Act*.

R.S., c. 34.
R.S., c. 64.

Registration of land.

(4) Where any real property or interest in land is taken or acquired under subsection one, the Corporation may, for the purpose of registration, deposit a copy of the notice published in the *Canada Gazette* and a plan and description of the land taken or acquired, signed by the President and General Manager or by the Vice-President of the Corporation, in the office of the registrar of deeds for the county or registration division in which the land is situated and the land shall thereupon be registered in the name of His Majesty as the owner thereof or of the interest therein, as the case may be, free from all encumbrances.

Duty to deliver up property.

11. (1) Where any property is taken or acquired under section ten, the person from whom the property is taken or acquired and every person in whose possession or custody or under whose control the property may be shall deliver up the property in accordance with the terms of the notice.

Offence and penalty.

(2) A person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Effect.

12. Where any property that is being maintained or operated for the purpose of an external telecommunication service is taken or acquired by the Corporation under this Act, any licence, permission, agreement or approval howsoever granted, made or given in pursuance of which such telecommunication service is established, maintained or operated shall cease to have any force or effect unless the Minister otherwise directs.

Power to expropriate land.

13. (1) With the prior approval of the Governor in Council, the Corporation may, without the consent of the owner, take or acquire lands for the purposes of this Act and, except as otherwise provided in this section, all the provisions of the *Expropriation Act* are, *mutatis mutandis*, applicable to the taking, acquisition or abandonment of lands by the Corporation under this section.

R.S., c. 64.

Plan and description.

(2) For the purposes of section nine of the *Expropriation Act* the plan and description may be signed by the President and General Manager of the Corporation or by the Vice-President of the Corporation or by a Dominion land surveyor.

Corporation to pay compensation.

(3) The Corporation shall pay compensation for lands taken or acquired under this section or for damage to lands injuriously affected by the construction of works erected by it and all claims against the Corporation for such compensation may be heard and determined in the Exchequer Court of Canada in accordance with sections forty-seven to fifty of the *Exchequer Court Act*.

Out of funds of Corporation.

(4) The Corporation shall pay out of the funds administered by it the compensation agreed upon or adjudged by the Court to be payable.

"take or acquire lands" defined.

(5) In this section the expression "take or acquire lands" includes enter upon, take possession of, use and take or acquire lands for a limited time or otherwise or for a limited estate or interest.

Financing.

Payments out of C.R.F.

14. (1) At the request of the Corporation and with the approval of the Governor in Council, the Minister of Finance may, from to time, pay to the Corporation out of the unappropriated moneys in the Consolidated Revenue Fund amounts not exceeding in the aggregate four and one-half million dollars.

Payments out of moneys appropriated.

(2) At the request of the Corporation and with the approval of the Governor in Council, the Minister of Finance may, from time to time, pay, in addition to the payments referred to in subsection one, moneys appropriated by Parliament for the capital purposes of the Corporation.

Capital.

(3) The moneys paid to the Corporation under this section shall constitute the capital of the Corporation.

Interest.

(4) Interest on the moneys paid to the Corporation under this section shall be paid by the Corporation to the Receiver General of Canada at such times and at such rates as may, from time to time, be fixed by the Governor in Council.

Loans to Corporation.

15. (1) At the request of the Corporation and with the approval of the Governor in Council, the Minister of Finance may, from time to time, lend moneys to the Corporation for temporary purposes out of the unappropriated moneys in the Consolidated Revenue Fund.

Maximum.

(2) The aggregate of loans outstanding made under this section shall not at any time exceed one hundred thousand dollars.

Repayment.

(3) A loan made under this section shall be subject to such terms and conditions as the Governor in Council may approve but shall be repayable within a period not exceeding twelve months from the day on which the loan was made.

Corporation to deliver certificates of indebtedness.

16. The Corporation shall execute and deliver to the Minister of Finance, in such form as he may approve, certificates evidencing payments or loans made to it by him under this Act and the terms and conditions under which such payments or loans were made.

Investment in bonds.

17. The Corporation may invest any moneys held by it, that are temporarily in excess of current requirements in bonds of, or guaranteed by, the Government of Canada.

Excess moneys repayable to Receiver General when directed.

18. Notwithstanding the other provisions of this Act the Corporation shall, if the Minister so directs, pay to the Receiver General of Canada any part of the moneys administered by it that the Minister, after consultation with the Minister of Finance, considers to be in excess of the amount required by the Corporation for the purposes of this Act.

Profit.

19. (1) Where in any year the Corporation realizes a profit from its operations under this Act, the Corporation shall pay an amount equal to the profit to the Receiver General of Canada.

Loss.

(2) Where in any year the Corporation suffers a loss from its operations under this Act, an amount equal to the loss shall be paid to the Corporation from moneys appropriated by Parliament for that purpose.

43733—2

GENERAL.

Corporation may pay certain taxes.

20. Where, pursuant to this Act, title to real or immoveable property becomes vested in the name of the Corporation or His Majesty, the Corporation may pay to a municipal or other taxing authority an amount equivalent to the taxes that might be levied with respect to such property of the Corporation or His Majesty by the taxing authority if the property were not so vested, and the Corporation may enter into such agreements as may be necessary to give effect to the provisions of this section.

Accounting.

21. The Corporation shall establish and maintain an accounting system satisfactory to the Minister of Finance and shall, whenever required by the Minister of Finance or by the Minister, render detailed accounts of its receipts and expenditures for such period or to such day as either the Minister of Finance or the Minister may designate, and all books or records of accounts, bank books and papers of the Corporation shall at all times be open to the inspection of the Minister of Finance or the Minister or such person as either of them may designate.

Audit.

22. The accounts of the Corporation shall be audited by the Auditor General and his report shall be included in the annual report of the Corporation.

Annual report.

23. (1) The Corporation shall, as soon as possible, but within three months after the termination of each fiscal year, submit an annual report to the Minister in such form as he may prescribe, and the Minister shall lay the said report before Parliament within fifteen days or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session thereof.

Additional reports.

(2) The Corporation shall, in addition to making an annual report under subsection one, make to the Minister such other reports of its affairs and operations or of any particular transaction or part of its business as the Minister may require.

Annual budgets.

(3) An annual capital budget and an annual operating budget of the Corporation shall be submitted by the Board to the Minister for his consideration and approval and thereafter shall be submitted to Parliament.

Subject to Radio Act and Telegraphs Act. 1938, c. 50. R.S., c. 194.

24. The Corporation is subject to *The Radio Act, 1938*, and is deemed to be a company within the meaning of Part III of the *Telegraphs Act.*

Coming into force.

25. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

13.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 13.

An Act to amend The Canadian Wheat Board Act, 1935.

First reading, October 5, 1949.

MR. WRIGHT.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

46373

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 13.

An Act to amend The Canadian Wheat Board Act, 1935.

1935, c. 53; 1939, c. 39; 1940, c. 25; 1942-43, c. 4; 1947, c. 15; 1947-48, c. 4.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Paragraph *(b)* of subsection one of section twenty-one of *The Canadian Wheat Board Act, 1935*, chapter fifty-three of the statutes of 1935, as enacted by section two of chapter four of the statutes of 1947-48, is repealed and the following substituted therefor:

Payment to producers.

"*(b)* pay to producers selling and delivering wheat produced in the designated area to the Board, at the time of delivery or at any time thereafter as may be agreed upon, a sum certain per bushel basis in store Fort William/Port Arthur, Vancouver or Churchill to be fixed from time to time by regulation of the Governor in Council in respect of wheat of the grade No. 1 Manitoba Northern and by the Board, with the approval of the Governor in Council, in respect of each other grade thereof: Provided that during the period commencing on the first day of August, nineteen hundred and forty-six, and ending on the thirty-first day of July, nineteen hundred and fifty, such sum certain shall, in the case of grade No. 1 Manitoba Northern be not less than one dollar and thirty-five cents per bushel, and in the case of each other grade, such other sum certain as in the opinion of the Board, with the approval of the Governor in Council, from time to time brings the sum certain for such grade into proper price relationship with the said sum certain for the grade No. 1 Manitoba Northern; and where the Governor in Council pursuant to this paragraph increases during a pool period the sum certain payable to producers in respect of wheat of the grade No. 1 Manitoba Northern, it shall not be

Proviso.

Explanatory Notes.

The only change made by this bill is to insert the words "or Churchill" in the appropriate place in two sections of the Act, as underlined herewith.

The effect of this change will be to permit producers in the area accessible to the Port of Churchill to get the advantage of the cheaper freight rate to Churchill, wherever such cheaper rates apply. The implementation of this provision will not involve any increase in expenditure either by the Government or by The Canadian Wheat Board.

reduced during that pool period and the Board shall pay to any person the amount of such increase in respect of each bushel of wheat produced in the designated area and sold and delivered by him as a producer to the Board during that pool period prior to the day on which such increase becomes effective."

2. Subsection three of section twenty-two of the said Act, as enacted by section five of chapter fifteen of the statutes of 1947, is repealed and the following substituted therefor:

Determination of amounts to which producers entitled.

"(3) The Board shall, with the approval of the Governor in Council, determine and fix the amounts to which producers are entitled per bushel according to grade and quality under certificates issued pursuant to this Part, it being the true intent and meaning of this Part that each producer shall receive in respect of wheat sold and delivered to the Board during each crop year for the same grade thereof, the same price basis Fort William/Port Arthur, Vancouver or Churchill and that each such price shall bear a proper price relationship to that for each other grade."

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 14.

An Act to amend An Act respecting the Revised Statutes of Canada.

First reading, October 6, 1949.

MR. ARSENAULT

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
45075 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 14.

An Act to amend An Act respecting the Revised Statutes of Canada.

1947-48, c. 67.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection one of section five of *An Act respecting the Revised Statutes of Canada,* chapter sixty-seven of the statutes of 1947-48, is repealed and the following substituted therefor:—

Powers of Commission as to alterations.

"**5.** (1) The Commission in consolidating the said statutes, and in incorporating therewith the Acts or parts of Acts passed subsequent thereto and selected for inclusion therein, as above provided, may make such alterations in their language as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to bring out more clearly what it deems to be the intention of Parliament or to reconcile seemingly inconsistent enactments or to correct clerical or typographical errors and whenever in the said statutes or Acts, or amendments thereto, the expression "Dominion of Canada" is used, there shall be substituted therefor the expression "Canada" and whenever the word "Dominion" is used, there shall be substituted therefor the word "Canada" or "Canadian" or "Federal", respectively, or such other adequate word as the context requires."

Explanatory Note.

The change proposed to be made to subsection one of section five of the Act respecting the Revised Statutes of Canada adopted at the session of Parliament of 1947-48 consists in the addition thereto of the words underlined on the opposite page. The reason for this amendment is obvious. In view of the actual constitutional position, Canada, like the other countries of the Commonwealth of Nations, has ceased to be a Dominion and is now a sovereign state and the word Dominion should be eliminated from our statutes. The Commission is necessarily given a certain latitude in the choice of the proper words to be employed in substitution.

60.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 60.

An Act to amend The Industrial Relations and Disputes Investigation Act. (Enforcement).

First reading, October 11, 1949.

MR. GILLIS.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

46713

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 60.

An Act to amend The Industrial Relations and Disputes Investigation Act. (Enforcement).

1947-48, c. 54.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Sections forty-three to forty-six, inclusive, of *The Industrial Relations and Disputes Investigation Act*, chapter fifty-four of the statutes of 1947-48, are repealed and the following section substituted therefor:

Application to the Board.

"**43.** (1) Any employer or trade union may apply to the Board for an order that any person, employee, trade union, employer or employers' organization has violated a provision of this Act.

Notice to appear.

(2) Upon receipt of such an application, the Board shall by notice in writing, direct the party making the complaint and the party against whom the complaint has been made to appear before it and shall hear and receive such evidence as may be presented to it.

Order of the Board.

(3) After hearing the evidence, as aforesaid, the Board may, if it is of the opinion that there has been a violation of the provisions of this Act, issue an order indicating the precise nature of the violation.

Enforcement.

(4) Where an order is made by the Board pursuant to subsection three of this section, the Chief Executive Officer of the Board or anyone acting through or under him, may file such order, duly certified by the Chairman of the Board, in the Magistrate's Court of the jurisdiction in which the violation referred to in the said order took place, and the Magistrate of the said Court shall, by summons issued in the usual manner, thereupon direct the person, employee, trade union, employer or employers' organization against whom the order was made to appear before him and shall impose upon such person, employee, trade union, employer or employers' organization the penalty or compensation

Explanatory Note.

The sections to be repealed and replaced by the section appearing in the text at present read as follows:—

"**43.** (1) Where the Minister receives a complaint in writing from a party to collective bargaining that any other party to such collective bargaining has failed to comply with paragraph *(a)* of section fourteen of this Act or with paragraph *(a)* of section fifteen of this Act, he may refer the same to the Board.

(2) Where a complaint from a party to collective bargaining is referred to the Board pursuant to subsection one of this section, the Board shall inquire into the complaint and may dismiss the complaint or may make an order requiring any party to such collective bargaining to do such things as in the opinion of the Board are necessary to secure compliance with paragraph *(a)* of section fourteen or paragraph *(a)* of section fifteen of this Act.

(3) Every employer, employers' organization, trade union or other person in respect of whom an order is made under this section, shall comply with such order.

44. (1) A person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Minister and the Minister, upon receipt of such complaint, may require an Industrial Inquiry Commission appointed by him pursuant to section fifty-six of this Act or a Conciliation Officer to investigate and make a report to him in respect of the alleged violation.

(2) Upon receipt of a report pursuant to subsection one of this section, the Minister shall furnish a copy to each of the parties affected and if the Minister considers it desirable to do so, shall publish the same in such manner as he sees fit.

(3) The Minister shall take into account any report made pursuant to this section or any action taken by the Board upon a complaint referred to it under this Act in granting or refusing to grant consent to prosecute under section forty-six of this Act.

45. (1) A prosecution for an offence under this Act may be brought against an employers' organization or a trade union and in the name of the organization or union and for the purpose of such a prosecution a trade union or an employers' organization shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of an employers' organization or trade union within the scope of his authority to act on behalf of the organization or union shall be deemed to be an act or thing done or omitted by the employers' organization or trade union.

(2) An information or complaint in respect of a contravention of the provisions of this Act may be for one or more offences, and no information, complaint, warrant, conviction or other proceedings in a prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

46. (1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister.

(2) A consent by the Minister indicating that he has consented to the prosecution of a person named therein for an offence under this Act alleged to have been committed, or in the case of a continuing offence, alleged to have commenced, on a date therein set out, shall be a sufficient consent for the purposes of this section to the prosecution of the said person for any offence under this Act committed by or commencing on the said date."

provided in this Act for the violation specified in the order of the Board. For the purpose of any proceedings taken under this subsection the fact of the violation shall be sufficiently proved in any court of law by the filing of the said order of the Board certified by the Chairman of the Board.

If order ambiguous.

(5) If, in the opinion of a Magistrate, the order of the Board is ambiguous or its meaning not clear in any particular, he may refer to the Board any question or matter for clarification by the said Board.

Appeal by the Board.

(6) The Board may appeal from the decision or judgment of a Magistrate."

61.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 61.

An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

First reading, October 11, 1949.

Mr. Knowles.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

46717

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 61.

An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

1947-48, c. 54.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section six of *The Industrial Relations and Disputes Investigation Act*, chapter fifty-four of the statutes of 1947-48, is amended by adding thereto the following subsection:

Deduction of union dues.

"(3) Upon request of a trade union entitled to bargain collectively under this Act on behalf of a unit of employees and upon receipt of a request in writing signed by any employee in such unit, the employer of such employee shall, until the employee in writing withdraws such request, periodically deduct, and pay out of the wages due to such employee to the person designated by the trade union to receive the same, the union dues of such employee; and the employer shall furnish to such trade union the names of the employees who have given and withdrawn such authority."

Explanatory Note.

This bill adds a new subsection three to section six of the Act. The effect of this new subsection is to provide for the voluntary revocable check-off of union dues.

First Session, Twenty-first Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 62.

An Act respecting Forest Conservation.

First reading, October 13, 1949.

THE MINISTER OF MINES AND RESOURCES.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44908

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 62.

An Act respecting Forest Conservation.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title.

1. This Act may be cited as *The Canada Forestry Act.*

Definitions.

"forest protection".

"forest experiment".

"Minister".

2. In this Act

(a) "forest protection" means the protection of forests against fire, insects and disease;

(b) "forest experiment" means the study of and experiment and demonstration in forest management, silviculture, forest pathology, forest entomology and forest fire protection; and

(c) "Minister" means the Minister of Mines and Resources.

National Forests and Forest Experimental Areas.

3. The Governor in Council may establish as a National Forest or as a Forest Experimental Area lands belonging to His Majesty in right of Canada, and may at any time withdraw lands from or add lands to a National Forest or a Forest Experimental Area.

Forest products laboratories.

4. The Governor in Council may establish and maintain laboratories for the better utilization of forest products and may assist any province or forest owner in the protection and development of forest lands with a view to the conservation and advantageous utilization of the forest resources of Canada.

Powers of Minister.

5. Subject to this Act, the Minister may within National Forests and Forest Experimental Areas do such acts and construct such works as may be necessary for forest protection and forest experiment.

Explanatory Notes.

The Dominion Forest Reserves and Parks Act (chapter 78, Revised Statutes) dealt with Forest Reserves and National Parks. Upon the enactment of a National Parks Act (chapter 33, statutes of 1930) those portions of the Dominion Forest Reserves and Parks Act relating to National Parks were repealed. The present bill brings the portion of the Dominion Forest Reserves and Parks Act, which relates to forests, up to date and into line with the present policy of the Government.

Agreements with provinces.

6. The Minister may

(a) with the consent of the Governor in Council enter into agreements with any province for the protection, development or utilization of forest resources, including protection from fire, insects and diseases, forest inventories, silvicultural research, watershed protection, reforestation, forestry publicity and education, construction of roads and improvement of streams in forest areas, improvement of growing conditions and management of forests for continuous production;

Arrangements with departments.

(b) enter into arrangements with other departments or agencies of the Government of Canada for carrying out the purposes and provisions of this Act; and

Agreements for economic studies.

(c) enter into agreements with any persons providing for economic studies of forest resources or forest industries, forest research and demonstrations and the operation of forest products laboratories.

Regulations.

7. (1) The Governor in Council may make regulations for the protection, care and management of National Forests and Forest Experimental Areas and, without restricting the generality of the foregoing, may make regulations for:

(a) the cutting, removal and disposal of timber, the establishment and use of reservoirs, waterpower sites, power transmission lines, telegraph and telephone lines, and any other use not inconsistent with the purposes of this Act, and the granting of leases and permits therefor;

(b) the protection of the flora;

(c) the prevention and extinguishment of fires upon or threatening a National Forest or Forest Experimental Area;

(d) regulating and prohibiting traffic and the carrying on of business or other activities in National Forests and Forest Experimental Areas and for the abatement and prevention of nuisances thereon;

(e) the removal and exclusion of trespassers and of persons failing to comply with the regulations; and

(f) the prevention of trespass, mutilation or destruction of trees and destruction or damaging of buildings, materials or notices used for the administration or management of any National Forest or Forest Experimental Area.

Effective upon publication.

(2) No regulation has effect until it is published in the *Canada Gazette*.

Subject to 1930, c. 33.

(3) Regulations made under this section, in so far as they relate to a National Forest or Forest Experimental Area in a National Park, are subject to the regulations made under *The National Parks Act.*

Expenditures.

8. All expenditures incurred under this Act shall be paid out of moneys appropriated by Parliament for the purposes of this Act or out of moneys received through donation, bequest or otherwise for the purposes of this Act.

Penalties.

9. Every person who violates a regulation is guilty of an offence and is liable on summary conviction to a fine of not more than five hundred dollars or imprisonment for a term not exceeding six months or to both fine and imprisonment.

Seizure of articles.

R.S., c. 36.

10. (1) An officer employed in the administration of this Act or a peace officer as defined in the *Criminal Code* may seize any article by means of or in relation to which he reasonably believes an offence under this Act has been committed.

Detention.

(2) An article seized pursuant to subsection one may be detained for a period of one month following the day of seizure unless during that period proceedings under this Act in respect of the article are undertaken, in which case the article may be further detained until the proceedings are finally concluded.

Forfeiture to His Majesty.

(3) Where a person is convicted of an offence under this Act, the convicting court, judge or magistrate may, in addition to any other penalty that may be imposed, order that an article by means of or in relation to which the offence was committed be forfeited, and thereupon the article is forfeited to His Majesty and may be disposed of in such manner and at such time and place as the Minister may direct, but no article shall be disposed of pending an appeal against the conviction or before the time within which the appeal may be taken has expired.

Repeal.

11. The *Dominion Forest Reserves and Parks Act,* chapter seventy-eight of the Revised Statutes of Canada, 1927, is repealed.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 63.

An Act respecting the Inspection of Fish and Marine Plants.

First reading, October 13, 1949.

THE MINISTER OF FISHERIES.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44692

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 63.

An Act respecting the Inspection of Fish and Marine Plants.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Fish Inspection Act, 1949.*

Definitions.

2. In this Act

"container." *(a)* "container" includes any type of receptacle or package used in packing or marketing fish;

"establishment." *(b)* "establishment" means any place where fish are processed for export or stored for export;

"fish." *(c)* "fish" means any fish, including shellfish and crustaceans, and marine animals, and any parts, products or by-products thereof;

"inspection certificate." *(d)* "inspection certificate" means a certificate of inspection issued under this Act;

"inspector." *(e)* "inspector" means an inspector appointed under this Act;

"marine plant." *(f)* "marine plant" includes Irish moss, kelp, and other salt water plants, and the products and by-products thereof;

"Minister." *(g)* "Minister" means the Minister of Fisheries; and

"processing." *(h)* "processing" includes cleaning, filleting, smoking, salting, icing, packing, freezing, cooking, pickling, drying or preparing fish for market in any other manner.

PART I—FISH AND FISH CONTAINERS.

Regulations.

3. The Governor in Council may for the purpose of regulating the export or import of fish and containers make regulations

(a) prescribing grades, quality and standards of fish;

(b) respecting the processing, storing, grading, packaging, marking, transporting and inspection of fish;

(c) respecting the quality and specifications for containers of fish and the marking and inspection of such containers;

(d) requiring the registration of establishments and the licensing of persons engaged as principals or agents in the export or import of fish or containers;

(e) prescribing the requirements for the construction, operation and management of establishments, of premises operated by an importer for the purpose of importing fish, and of any boats, vehicles or other equipment used in connection with an establishment or in connection with fishing or the import or export of fish;

(f) prescribing fees for registration of establishments, issue of licenses and grading and inspection services;

(g) prohibiting the sale or offering for sale or holding in possession for sale of any fish or containers under any grade name or standard prescribed by the regulations under this Part unless all the requirements of this Part and the regulations thereunder with respect thereto have been complied with, or under any name calculated to mislead or deceive;

(h) prescribing the manner in which samples of any fish may be taken; and

(i) prohibiting or restricting any export or import or any attempt or offer to export or import any fish or containers unless all the requirements of this Part and the regulations thereunder with respect thereto have been complied with.

Powers of inspectors.

4. (1) An inspector may at any time

(a) enter any place or premises, or any steamship, vessel or boat, or any railway car, truck, carriage, car, aircraft or other vehicle used for the carriage or storage of fish and may open any container that he has reason to believe contains fish;

(*b*) require to be produced for inspection or for the purpose of obtaining copies thereof or extracts therefrom any books, shipping bills, bills of lading, or other documents or papers;

(*c*) take any samples for inspection.

Interference with inspector.

(2) No person shall obstruct, impede or refuse to admit an inspector or other person acting in execution of this Part or any regulation thereunder and no person shall aid or assist any person in obstructing, impeding or refusing to admit such inspector or other person.

Appeal to Minister.

5. A person interested in a decision of an inspector in respect of any inspection, grading, marking or other matter under this Part or the regulations thereunder may appeal to the Minister in accordance with the procedure prescribed by the Governor in Council.

Inspectors may administer oaths.

6. For the purposes of this Part, inspectors may administer oaths and take and receive affidavits, declarations and affirmations.

Seizure of fish and containers.

7. (1) Whenever an inspector suspects on reasonable grounds that an offence against this Part or any regulation thereunder has been committed, he may seize all fish and containers by means of or in relation to which he reasonably believes the offence was committed.

Detention of seized fish and containers.

(2) All fish and containers seized pursuant to subsection one may be detained for a period of two months following the day of seizure, unless during that period proceedings under this Part in respect of those fish and containers are undertaken, in which case the fish and containers may be further detained until such proceedings are finally concluded.

Forfeiture.

(3) Where a person is convicted of an offence against this Part or any regulation thereunder, the fish and containers by means of or in relation to which the offence was committed, upon such conviction, in addition to any penalty imposed, are forfeited to His Majesty and may be disposed of as the Minister may direct.

Arrest without warrant.

8. (1) An inspector or constable may arrest without a warrant any person found committing an offence under this Part and shall forthwith take any person so arrested before a justice of the peace to be examined and dealt with according to law.

Limited detention.

(2) A person arrested pursuant to subsection one shall not be detained in custody longer than twenty-four hours without an order of a justice of the peace.

Unlawful alteration of documents.

9. (1) No person shall falsify or unlawfully alter, destroy, erase or obliterate any declaration, inspection certificate or other document made or issued under this Part or the regulations thereunder or any marks placed on any containers pursuant to this Part or the regulations thereunder.

Offence.

Penalty.

(2) Every person who violates subsection one is guilty of an offence and is liable on summary conviction to a fine of not less than one hundred dollars and not exceeding five hundred dollars or to imprisonment for a term of not less than two months and not exceeding six months or to both fine and imprisonment.

Dealing in unwholesome fish.

10. (1) No person shall import, export, sell for export or have in his possession for export any fish intended for human consumption unless the fish is wholesome and fit for human food.

Offence.

Penalty.

(2) Every person who violates subsection one is guilty of an offence and is liable on summary conviction to a fine of not less than one hundred dollars and not exceeding five hundred dollars or to imprisonment for a term of not less than three months and not exceeding six months or to both fine and imprisonment.

Offence and penalty.

11. Every person who violates any of the provisions of this Part or the regulations thereunder for which no penalty is elsewhere provided in this Part is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

PART II—MARINE PLANTS.

Marine plants. Conditions for export.

12. No person shall export any marine plant, unless it is inspected, graded, marked or designated, and labelled in accordance with the regulations made under this Part.

Regulations.

13. The Governor in Council may make regulations

(a) prescribing standards of grade, class or quality for marine plants and the names or marks that may be used to designate such grade, class or quality;

(b) providing for inspection, grading and labelling of marine plants, the form, issue and use of inspection certificates, and prescribing inspection fees; and

(c) generally for carrying any of the purposes or provisions of this Part into effect.

Certificate to be proof of facts.

14. (1) Every inspection certificate is *prima facie* evidence of the facts therein stated and is receivable in evidence without proof of any signature or the official character of any person appearing to have signed it.

Certificate to be attached to marine plant for which issued.

(2) No person shall attach or apply any inspection certificate to any marine plant unless the inspection certificate was issued with respect to such marine plant.

Alteration or falsification.

(3) No person shall alter or falsify any inspection certificate.

Offence and penalty.

15. Every person who violates any provision of this Part or any regulation thereunder is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

PART III—GENERAL.

Application.

16. This Act applies to the shipment of fish or marine plants from one province to another as though the shipment from a province were an export and the shipment into a province were an import.

Appointment of inspectors, etc.

17. Such inspectors and other officers, clerks and employees as are necessary for the proper administration of this Act shall be appointed in the manner authorized by law.

Where offence committed.

18. Every offence against this Act or the regulations shall, for the purposes of any prosecution, be deemed to have been committed and every cause of complaint under this Act or any regulation shall be deemed to have arisen in the place where the offence was actually committed, or the place where it was first discovered by an inspector or the place where the defendant resides or is found.

Administration of Act.

19. This Act shall be administered by the Minister of Fisheries.

Act repealed.

20. The *Fish Inspection Act*, chapter seventy-two of the Revised Statutes of Canada, 1927, is repealed.

Coming into force.

21. This Act or any Part of this Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 64.

An Act to amend the Royal Canadian Mounted Police Act.

First reading, October 14, 1949.

THE MINISTER OF JUSTICE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45505

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA

BILL 64.

R.S., c. 160; 1930, c. 39; 1931, c. 11; 1932, c. 37; 1932-33, c. 29; 1934, cc. 8, 40; 1935, c. 25; 1937, c. 38; 1938, c. 24; 1940, c. 39; 1947-48, c. 28; 1949 (1st Sess.) c. 6

An Act to amend the Royal Canadian Mounted Police Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Subsection seven of section sixty-seven of the *Royal Canadian Mounted Police Act*, chapter one hundred and sixty of the Revised Statutes of Canada, 1927, as enacted by section seven of chapter twenty-eight of the statutes of 1947-48, is repealed and the following substituted therefor:

Refund in case of prior service in provincial force.

"(7) Where a member of the Force, who has made the payment required under this section in respect of prior service in a provincial police force, is certified by the Commissioner to have been retained in the Force beyond the maximum period of service that may be counted for the purpose of computing a pension under this Part by reason of the war that commenced in September, nineteen hundred and thirty-nine, there may be paid to him, or if he has died, to his legal representatives, an amount that bears the same ratio to the total of the payment made by him in respect of his prior service in the provincial police force, without interest, that the period of his service that may be counted for pension purposes in excess of the maximum period that may be so counted, bears to the total of his prior service in the provincial police force in respect of which he made payment; but the amount payable under this subsection shall not exceed the total amount of the payment made by him in respect of his prior service in the provincial police force."

Coming into force.

2. This Act shall be deemed to have come into force on the fourteenth day of May, nineteen hundred and forty-eight.

Explanatory Notes

This subsection provides for a refund of contributions to members of the Force who had prior provincial service and were retained in the Royal Canadian Mounted Police beyond the maximum period that may be counted for pension purposes.

At the present time the amount of the refund is a fraction of the total contributions paid by the member. This fraction is the period of excess service divided by the total provincial service. This total provincial service includes the period of time in respect of which the member himself contributed and the period of time in respect of which the province contributed. Under the amendment this fraction will be the period of excess service over that portion of the provincial service in respect of which the member himself contributed. The result will be to increase the amount of the refund.

The proposed amendment is the added words underlined in the text.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 65.

An Act to amend The Judges Act, 1946.

First reading, October 14, 1949.

THE MINISTER OF JUSTICE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
45626 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 65.

An Act to amend The Judges Act, 1946.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1946, c. 56; 1947, c. 36; 1947-48, cc. 55, 66; 1949, c. 18.

1. Section four of *The Judges Act, 1946*, chapter fifty-six of the statutes of 1946, is repealed and the following substituted therefor:—

Salaries of judges of Supreme Court of Canada.

"**4.** The salaries of the judges of the Supreme Court of Canada are as follows:—

	Per annum
(a) The Chief Justice of Canada	$25,000.00
(b) Eight puisne judges, each	20,000.00"

Salaries of judges of Supreme Court of Ontario.

2. (1) Paragraph *(b)* of section seven of the said Act is repealed and the following substituted therefor:—

"*(b)* Nine Justices of Appeal, each..... 12,000.00"

(2) Paragraph *(d)* of section seven of the said Act is repealed and the following substituted therefor:—

"*(d)* Sixteen other Judges of the High Court, each..... 12,000.00"

Travelling allowances.

3. Paragraph *(b)* of subsection seven of section twenty of the said Act is repealed and the following substituted therefor:—

"*(b)* to a judge of the Supreme Court of New Brunswick for attending in court or chambers at either one of the cities of Fredericton or Saint John unless he resides at the other of the said cities or in the immediate vicinity thereof or unless he is a judge who under the authority of the laws of the province resides at the city of Moncton or in the immediate vicinity thereof;"

EXPLANATORY NOTES.

1. This amendment increases the salary of the Chief Justice from $20,000.00 to $25,000.00 and the salaries of the puisne judges from $16,000.00 to $20,000.00.

2. Recent Ontario legislation has increased the number of Justices of Appeal from seven to nine and the number of judges of the High Court from fourteen to sixteen. The purpose of this amendment is to make provision for salary.

3. At the present time *The Judges Act* provides for the residence of only one judge at the city of Moncton. The provincial statute has recently been amended to provide for two judges residing at Moncton. A corresponding amendment is made by this clause.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 66 E.

An Act to incorporate Alberta Natural Gas Company.

Read a first time, Wednesday 28th September, 1949.

Honourable Senator Turgeon.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44394

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL E.

An Act to incorporate Alberta Natural Gas Company.

Preamble.

WHEREAS the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation.

1. John Joseph Connolly, one of His Majesty's counsel, Alastair Macdonald, one of His Majesty's counsel, both of the city of Ottawa, in the province of Ontario, and Arthur Gerald Logan, of the city of Wilmington, in the state of Delaware, United States of America, attorney at law, together with such persons as may become shareholders in the Company, are incorporated under the name Alberta Natural Gas Company, hereinafter called "the Company".

Corporate name

Provisional directors.

2. The persons named in section one of this Act shall be the first directors of the Company.

Capital.

3. The capital stock of the Company shall consist of one million two hundred and fifty thousand shares of the par value of ten dollars per share.

Head office and other offices.

4. (1) The head office of the Company shall be at the city of Edmonton, in the province of Alberta, which head office shall be the domicile of the Company in Canada; and the Company may establish such other offices and agencies elsewhere within or without Canada as it deems expedient.

(2) The Company may, by by-law, change the place within Canada where the head office of the Company is to be situate.

(3) No by-law for the said purpose shall be valid or acted upon until it is sanctioned by at least two-thirds of the votes cast at a special meeting of the shareholders duly called for considering the by-law and a copy of the by-law certified under the seal of the Company has been filed with the Secretary of State and published in *The Canada Gazette*.

General Pipe Line Act to apply.

5. The Company shall have all the powers, privileges and immunities conferred by, and be subject to all the limitations, liabilities and provisions of any general legislation relating to pipe lines for the transportation of gas or oil and any liquid or gaseous products or by-products thereof which is enacted by Parliament.

6. The Company, subject to the provisions of any general legislation relating to pipe lines for the transportation of gas or oil or any gaseous or liquid products or by-products thereof which is enacted by Parliament, may

Power to construct and operate pipe lines.

(a) within or outside Canada construct, purchase, lease, or otherwise acquire and hold, develop, operate, maintain, control, lease, mortgage, create liens upon, sell, convey or otherwise dispose of and turn to account any and all interprovincial and/or international pipe lines and all appurtenances relative thereto for gathering, processing, transmitting, transporting, storing, and delivering, natural and artificial gas and other gaseous or liquid hydrocarbons, and purchase, or otherwise acquire, process, transmit, transport, and sell or otherwise dispose of and distribute natural and artificial gas and other gaseous or liquid hydrocarbons, and own, lease, sell, operate, and maintain aircraft and aerodromes for the purpose of its undertaking, together with the facilities required for the operation of such aircraft and aerodromes; and own, lease, operate and maintain interstation telephone, teletype and telegraph communication systems and subject to *The Radio Act, 1938*, and any other statute relating to radio, own, lease, operate and maintain interstation communication facilities;

Power to hold real and personal property.

(b) purchase, own, lease or otherwise acquire and develop and turn to account and sell, deal in and dispose of real and personal property of whatsoever nature used or capable of being used in connection with its undertaking; and

Ancillary powers.

(c) exercise as ancillary and incidental to the purposes or objects set forth in this Act, the powers following, unless such powers or any of them are expressly excluded by this Act, namely, the powers set forth in paragraphs *(a)* to *(bb)* inclusive of subsection one of section fourteen of *The Companies Act, 1934*.

1934, c. 33.

1934, c. 33.

7. The provisions of sections 39, 40, 59, 62, 63, 64, 65 and 91 of Part I of *The Companies Act, 1934*, apply to the Company, provided that wherever in the said section fifty-nine the words "letters patent" or "supplementary letters patent" appear, the words "Special Act" shall be substituted therefor.

1934, c. 33.

8. Sections 158, 163, 180 and 190 of Part III of *The Companies Act, 1934*, shall not be incorporated with this Act.

When redemption or purchase not a reduction of paid-up capital.

9. The redemption or purchase for cancellation of any fully paid preferred shares created by by-law pursuant to the provisions of this Act, in accordance with any right of redemption or purchase for cancellation reserved in favour of the Company in the provision attaching to such preferred shares, or the redemption or purchase for cancellation of any fully paid shares of any class, not being common or ordinary shares, and in respect of which the by-laws provide for such right of redemption or purchase, in accordance with the provisions of such by-laws, shall not be deemed to be a reduction of the paid-up capital of the Company, if such redemption or purchase for cancellation is made out of the proceeds of an issue of shares made for the purpose of such redemption or purchase for cancellation, or if,

(a) no cumulative dividends, on the preferred shares or shares of the class in respect of which such right of redemption or purchase exists and which are so redeemed or purchased for cancellation, are in arrears; and

(b) if such redemption or purchase for cancellation of such fully paid shares is made without impairment of the Company's capital by payments out of the ascertained net profits of the Company which have been set aside by the directors for the purposes of such redemption or of such purchase for cancellation, and if such net profits are then available for such application as liquid assets of the Company, as shown by the last balance sheet of the Company, certified by the Company's auditors, and being made up to a date not more than ninety days prior to such redemption or purchase for cancellation, and after giving effect to such redemption or purchase for cancellation;

And subject as aforesaid, any such shares may be redeemed or purchased for cancellation by the Company on such terms and in such manner as is set forth in the provisions attaching to such shares, and the surplus resulting from such redemption or purchase for cancellation shall be designated as a capital surplus, which shall not be reduced or distributed by the Company except as provided by a subsequent Act of the Parliament of Canada.

Commission on subscription.

10. The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company, or procuring or agreeing, to procure subscriptions, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company: Provided, however, that as regards shares, such commission shall not exceed ten per centum of the amount realized therefrom.

Proviso.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL E.

An Act to incorporate Alberta Natural Gas Company.

AS PASSED BY THE SENATE, 19th OCTOBER, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44396

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL E.

An Act to incorporate Alberta Natural Gas Company.

Preamble.

WHEREAS the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation.

1. John Joseph Connolly, one of His Majesty's counsel, Alastair Macdonald, one of His Majesty's counsel, both of the city of Ottawa, in the province of Ontario, and Arthur Gerald Logan, of the city of Wilmington, in the state of Delaware, United States of America, attorney at law, together with such persons as may become shareholders in the Company, are incorporated under the name Alberta Natural Gas Company, hereinafter called "the Company".

Corporate name

Provisional directors.

2. The persons named in section one of this Act shall be the first directors of the Company.

Capital.

3. The capital stock of the Company shall consist of one million two hundred and fifty thousand shares of the par value of ten dollars per share.

Head office and other offices.

4. (1) The head office of the Company shall be at the city of Edmonton, in the province of Alberta, which head office shall be the domicile of the Company in Canada; and the Company may establish such other offices and agencies elsewhere within or without Canada as it deems expedient.

(2) The Company may, by by-law, change the place within Canada where the head office of the Company is to be situate.

(3) No by-law for the said purpose shall be valid or acted upon until it is sanctioned by at least two-thirds of the votes cast at a special meeting of the shareholders duly called for considering the by-law and a copy of the by-law certified under the seal of the Company has been filed with the Secretary of State and published in *The Canada Gazette*.

General Pipe Line Act to apply.

5. The Company shall have all the powers, privileges and immunities conferred by, and be subject to all the limitations, liabilities and provisions of any general legislation relating to pipe lines for the transportation of gas or oil and any liquid or gaseous products or by-products thereof which is enacted by Parliament.

6. The Company, subject to the provisions of any general legislation relating to pipe lines for the transportation of gas or oil or any gaseous or liquid products or by-products thereof which is enacted by Parliament, may

Power to construct and operate pipe lines.

(a) within or outside Canada construct, purchase, lease, or otherwise acquire and hold, develop, operate, maintain, control, lease, mortgage, create liens upon, sell, convey or otherwise dispose of and turn to account any and all interprovincial and/or international pipe lines and all appurtenances relative thereto for gathering, processing, transmitting, transporting, storing, and delivering, natural and artificial gas and other gaseous or liquid hydrocarbons, and purchase, or otherwise acquire, process, transmit, transport, and sell or otherwise dispose of and distribute natural and artificial gas and other gaseous or liquid hydrocarbons, and own, lease, sell, operate, and maintain aircraft and aerodromes for the purpose of its undertaking, together with the facilities required for the operation of such aircraft and aerodromes; and own, lease, operate and maintain interstation telephone, teletype and telegraph communication systems and subject to *The Radio Act, 1938*, and any other statute relating to radio, own, lease, operate and maintain interstation communication facilities;

Power to hold real and personal property.

(b) purchase, own, lease or otherwise acquire and develop and turn to account and sell, deal in and dispose of real and personal property of whatsoever nature used or capable of being used in connection with its undertaking; and

Ancillary powers.

(c) exercise as ancillary and incidental to the purposes or objects set forth in this Act, the powers following, unless such powers or any of them are expressly excluded by this Act, namely, the powers set forth in paragraphs *(a)* to *(bb)* inclusive of subsection one of section fourteen of *The Companies Act, 1934*.

1934, c. 33.

1934, c. 33.

7. The provisions of sections 39, 40, 59, 62, 63, 64, 65 and 91 of Part I of *The Companies Act, 1934*, apply to the Company, provided that wherever in the said section fifty-nine the words "letters patent" or "supplementary letters patent" appear, the words "Special Act" shall be substituted therefor.

1934, c. 33.

8. Sections 158, 163, 180 and 190 of Part III of *The Companies Act, 1934*, shall not be incorporated with this Act.

When redemption or purchase not a reduction of paid-up capital.

9. The redemption or purchase for cancellation of any fully paid preferred shares created by by-law pursuant to the provisions of this Act, in accordance with any right of redemption or purchase for cancellation reserved in favour of the Company in the provision attaching to such preferred shares, or the redemption or purchase for cancellation of any fully paid shares of any class, not being common or ordinary shares, and in respect of which the by-laws provide for such right of redemption or purchase, in accordance with the provisions of such by-laws, shall not be deemed to be a reduction of the paid-up capital of the Company, if such redemption or purchase for cancellation is made out of the proceeds of an issue of shares made for the purpose of such redemption or purchase for cancellation, or if,

(a) no cumulative dividends, on the preferred shares or shares of the class in respect of which such right of redemption or purchase exists and which are so redeemed or purchased for cancellation, are in arrears; and

(b) if such redemption or purchase for cancellation of such fully paid shares is made without impairment of the Company's capital by payments out of the ascertained net profits of the Company which have been set aside by the directors for the purposes of such redemption or of such purchase for cancellation, and if such net profits are then available for such application as liquid assets of the Company, as shown by the last balance sheet of the Company, certified by the Company's auditors, and being made up to a date not more than ninety days prior to such redemption or purchase for cancellation, and after giving effect to such redemption or purchase for cancellation;

And subject as aforesaid, any such shares may be redeemed or purchased for cancellation by the Company on such terms and in such manner as is set forth in the provisions attaching to such shares, and the surplus resulting from such redemption or purchase for cancellation shall be designated as a capital surplus, which shall not be reduced or distributed by the Company except as provided by a subsequent Act of the Parliament of Canada.

Commission on subscription.

10. The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company, or procuring or agreeing, to procure subscriptions, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company: Provided, however, that as regards shares, such commission shall not exceed ten per centum of the amount realized therefrom.

Proviso.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 116 Y3.

An Act respecting The British and Foreign Bible Society in Canada and Newfoundland.

Read a first time, Thursday, 20th October, 1949.

Honourable Senator PATERSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

46664

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL Y³.

An Act respecting The British and Foreign Bible Society in Canada and Newfoundland.

Preamble.

1906, c. 74; 1930, c. 78.

WHEREAS The British and Foreign Bible Society in Canada and Newfoundland has by its petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Name changed.

1. The name of "The British and Foreign Bible Society in Canada and Newfoundland", hereinafter called "the Society", is hereby changed to "The British and Foreign Bible Society in Canada", but such change in name shall not in any way impair, alter or affect the rights or liabilities of the Society or any bequest, gift or donation now made or which hereafter may be made to the Society whether by its original or its new name, or any suit or proceeding now pending or judgment existing either by or in favour of or against the Society and which, notwithstanding such change in name of the Society, may be enforced and continued as if this Act had not been passed.

Existing rights not affected.

Explanatory Note.

The purpose of this amendment is to change the name of "The British and Foreign Bible Society in Canada and Newfoundland" to "The British and Foreign Bible Society in Canada".

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 117.

An Act to provide for the dissolution of Marriage of persons domiciled in the provinces of Quebec and Newfoundland.

First reading, October 26th, 1949.

MR. KNOWLES.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

48100

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 117.

An Act to provide for the dissolution of Marriage of persons domiciled in the provinces of Quebec and Newfoundland.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Divorce Act (Quebec and Newfoundland), 1949.*

Jurisdiction of Exchequer Court.

2. The Exchequer Court of Canada (hereinafter referred to as "the Court") shall have jurisdiction to entertain an action for dissolution of marriage from a person domiciled in the province of Quebec or Newfoundland, respectively, and shall have power and authority to grant a divorce *a vinculo matrimoni* to such a person on the ground that the defendant has since the celebration of his or her marriage been guilty of adultery.

Conditions upon which decree be pronounced.

3. If the Court is satisfied by the evidence that the case of the plaintiff has been proved, and does not find that the plaintiff has been in any manner accessory to or has connived at the adultery of the defendant, or that the plaintiff has condoned the adultery complained of, or that the action was commenced and is proceeded with in collusion with the defendant or the co-respondent, then the Court may give judgment declaring such marriage to be dissolved:

Proviso.

Provided always that the Court shall not be bound to give such judgment if it finds that the plaintiff since his marriage to the defendant has been guilty of adultery, or if the plaintiff has, in the opinion of the Court, been guilty of unreasonable delay in commencing or proceeding with the

Explanatory Note.

There are at present courts of divorce and matrimonial causes in all the provinces except Quebec and Newfoundland. In these provinces, a plaintiff can obtain dissolution of marriage only by a private Act of the Federal Parliament. As the number of divorce cases from Quebec has considerably increased in the last ten years, this procedure for that and various other reasons is becoming more and more objectionable. The purpose of this Bill is therefore to provide that the Exchequer Court of Canada will in future have jurisdiction in divorce in the case of actions originating from Quebec and Newfoundland. The jurisdiction as to alimony, care of the children and other matrimonial causes will remain in the provincial courts of those two provinces.

This Bill does not change the grounds for divorce. It does not establish divorce courts in Quebec or Newfoundland. It does not make available to persons residing in Quebec or Newfoundland anything not now available to them. It merely transfers the hearing of divorce petitions, in the case of persons residing in these two provinces, from Parliament to the Exchequer Court of Canada.

action or has been guilty of mental or physical cruelty to the defendant, or has, without just cause, deserted the defendant or separated *a mensa et thoro* from the defendant, before the adultery complained of or has otherwise conduced to the commission of adultery by the defendant.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 118.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending the 31st March, 1950.

AS PASSED BY THE HOUSE OF COMMONS, 26th OCTOBER, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
48239 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 118.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending the 31st March, 1950.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it appears by messages from His Excellency, the Right Honourable Viscount Alexander of Tunis, etc., etc., Governor General of Canada, and the estimates accompanying the said messages, that the sums hereinafter mentioned are required to defray certain expenses of the public service of Canada, not otherwise provided for, for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, and for other purposes connected with the public service: May it therefore please Your Majesty, that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that:

Short title.

1. This Act may be cited as *The Appropriation Act, No. 6, 1949.*

$114,516,603.83 granted for 1949-50.

2. From and out of the Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole one hundred and fourteen million, five hundred and sixteen thousand, six hundred and three dollars and eighty-three cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being one-twelfth of the amount of each of the items to be voted, except items 43, 419 and 452, set forth in the Main Estimates for the fiscal year ending the thirty-first day of March, one thousand nine hundred and fifty, as laid before the House of Commons at the present session of Parliament.

$5,012,437.50 granted for 1949-50.

3. From and out of the Consolidated Revenue Fund there may be paid and applied in addition to the amount granted therefor by section two of this Act, a sum not exceeding in the whole five million, twelve thousand, four hundred and thirty-seven dollars and fifty cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being three-twelfths of the amount of item 559 to be voted set forth in Schedule A to this Act.

$2,446,984.33 granted for 1949-50.

4. From and out of the Consolidated Revenue Fund there may be paid and applied, a sum not exceeding in the whole two million, four hundred and forty-six thousand, nine hundred and eighty-four dollars and thirty-three cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being one-twelfth of the amount of each of the several items to be voted, except item 681, set forth in the Supplementary Estimates (Newfoundland) for the fiscal year ending the thirty-first day of March, one thousand nine hundred and fifty, as laid before the House of Commons at the present session of Parliament.

$5,876,758.33 granted for 1949-50.

5. From and out of the Consolidated Revenue Fund there may be paid and applied, a sum not exceeding in the whole five million, eight hundred and seventy-six thousand, seven hundred and fifty-eight dollars and thirty-three cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being one-twelfth of the amount of each of the several items to be voted set forth in the Further Supplementary Estimates for the fiscal year ending the thirty-first day of March, one thousand nine hundred and fifty, as laid before the House of Commons at the present session of Parliament.

$2,302,500.00 granted for 1949-50.

6. From and out of the Consolidated Revenue Fund, there may be paid and applied, in addition to the amount granted therefor by section five of this Act, a sum not exceeding in the whole two million, three hundred and two thousand, five hundred dollars towards defraying the several charges and expenses of the public service from the first day of April, one thousand nine hundred and forty-

nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being nine-twelfths of the amount of items 779 and 935 to be voted set forth in Schedule B to this Act.

Account to be rendered in detail.

7. A detailed account of the sums expended under the authority of this Act shall be laid before the House of Commons of Canada during the first fifteen days of the next session of Parliament.

SCHEDULE A

Based on the Main Estimates, 1949-50. The amount hereby granted is $5,012,437.50, being three-twelfths of the amount of the item in the said Estimates as contained in this Schedule.

SUMS granted to His Majesty by this Act for the financial year ending 31st March, 1950, and the purposes for which they are granted.

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL HARBOURS BOARD		
559	Advances to National Harbours Board, subject to the provisions of section 29 of *National Harbours Board Act*, to meet expenditures applicable to the calendar year 1949 on any or all of the following accounts:		
	(a) Retirement of Maturing Bonds—Montreal.....	.....	$20,049,750*

* Net total $5,012,437.50.

SCHEDULE B

Based on the Further Supplementary Estimates, 1949-50. The amount hereby granted is $2,302,500.00, being nine-twelfths of the amount of the items in the said Estimates as contained in this Schedule.

SUMS granted to His Majesty by this Act for the financial year ending 31st March, 1950, and the purposes for which they are granted.

No. of Vote	Service	Amount	Total
		$	$
	EXTERNAL AFFAIRS		
	DEMOBILIZATION AND RECONVERSION		
779	International Children's Emergency Fund.....	1,075,000	
	LOANS AND INVESTMENTS		
	NATIONAL HARBOURS BOARD		
935	Advances to National Harbours Board, subject to the provisions of Section 29 of *National Harbours Board Act*, to meet expenditures applicable to the calendar year 1949 on the following account: Retirement of Maturing Bonds— Montreal—Further amount required.....	1,995,000	*$3,070,000

* Net total $2,302,500.00.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 119 N[1].

An Act to incorporate Prairie Pipe Lines Limited.

Read a first time, Thursday, 6th October, 1949.

Honourable Senator CAMPBELL.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
42829 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL N[1].

An Act to incorporate Prairie Pipe Lines Limited.

Preamble.

WHEREAS the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation.

Corporate name.

1. John Galbraith Edison and John Black Aird, solicitors, both of the city of Toronto, in the province of Ontario, John Ross Tolmie, Ross Garstang Gray and John McCreary Coyne, solicitors, all of the city of Ottawa, in the said province of Ontario, together with such persons as may become shareholders in the company, are incorporated under the name of Prairie Pipe Lines Limited, hereinafter called "the Company".

Provisional directors.

2. The persons named in section one of this Act shall be the first directors of the Company.

Capital.

3. The capital stock of the Company shall consist of five million shares without nominal or par value.

Head office and other offices.

4. (1) The head office of the Company shall be at the city of Calgary, in the province of Alberta, which head office shall be the domicile of the Company in Canada; and the Company may establish such other offices and agencies elsewhere within or without Canada as it deems expedient.

(2) The Company may, by by-law, change the place where the head office of the Company is to be situate.

(3) No by-law for the said purpose shall be valid or acted upon until it is sanctioned by at least two-thirds of the votes cast at a special general meeting of the shareholders duly called for considering the by-law and a copy of the by-law certified under the seal of the Company has been filed with the Secretary of State and published in *The Canada Gazette.*

General Pipe Line Act to apply.

5. The Company shall have all the powers, privileges and immunities conferred by, and be subject to all the limitations, liabilities and provisions of any general legislation relating to pipe lines for the transmission and transportation of gas and oil or any liquid product or by-product thereof which is enacted by Parliament.

6. The Company, subject to the provisions of any general legislation relating to pipe lines for the transmission and transportation of gas and oil or any liquid product or by-product thereof which is enacted by Parliament, may

Power to construct and operate pipe lines.

(a) within the provinces of Alberta and British Columbia or outside Canada construct, purchase, lease, or otherwise acquire, and hold, develop, operate, maintain, control, lease, mortgage, create liens upon, sell, convey or otherwise dispose of and turn to account any and all interprovincial and/or international pipe lines, for the transmission and transportation of gas and oil including pumping stations, terminals, storage tanks or reservoirs and all works relative thereto for use in connection with the said pipe lines; and buy, or otherwise acquire, sell, distribute or otherwise dispose of gas; and as an adjunct or correlate to pipelines for gas to have similar powers and facilities for pipelines for the transmission and transportation of oil and the acquisition and disposal of oil; and own, lease, sell, operate and maintain aircraft and aerodromes for the purpose of its undertaking, together with the facilities required for the operation of such aircraft and aerodromes; and own, lease, operate and maintain interstation telephone, teletype and telegraph communication systems and, subject to *The Radio Act, 1938*, and any other statute relating to radio, own, lease, operate and maintain interstation radio communication facilities;

Power to hold lands.

(b) purchase, hold, lease, sell, improve, exchange or otherwise deal in real property or any interest and rights therein legal or equitable or otherwise howsoever and deal with any portion of the lands and property so acquired, and may subdivide the same into building lots and generally lay the same out into lots, streets, and building sites for residential purposes or otherwise and may construct streets thereon and necessary sewerage and drainage systems and build upon the same for residential purposes or otherwise and supply any buildings so erected, or other buildings erected upon such lands, with electric light, heat, gas, water or other requisites, and lease or sell the same, upon such terms and subject to such conditions as appear requisite, either to its employees or to others; and

Ancillary powers.

(c) exercise as ancillary and incidental to the purposes or objects set forth in this Act, the powers following, unless such powers or any of them are expressly excluded by this Act, namely, the powers set forth in paragraphs *(a)* to *(bb)* inclusive of subsection one of section fourteen of *The Companies Act, 1934*.

1934, c. 33.

7. The provisions of subsections (4), (5), (6) and (7) of section twelve, and sections 39, 40, 59, 62, 63, 64, 65 and 91 of Part I of *The Companies Act, 1934*, apply to the Company, provided that wherever in the said subsection (7) of section twelve, and in the said section fifty-nine the words "letters patent" or "supplementary letters patent" appear, the words "Special Act" shall be substituted therefor.

1934, c. 33.

1934, c. 33.

8. Sections 158, 163, 180, 186, 189 and 190 of Part III of *The Companies Act, 1934*, shall not be incorporated with this Act.

Company not to make a loan to shareholders or directors.

9. (1) The Company shall not make any loan to any of its shareholders or directors or give whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with a purchase made or to be made by any person of any shares in the Company:

Proviso.

Provided that nothing in this section shall be taken to prohibit:

(a) the making by the Company of loans to persons other than directors, bona fide in the employment of the Company with a view to enabling or assisting those persons to purchase or erect dwelling houses for their own occupation; and the Company may take, from such employees, mortgages or other securities for the repayment of such loans;

(b) the provision by the Company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully paid shares in the capital stock of the Company, to be held by, or for the benefit of employees of the Company, including any director holding a salaried employment or office in the Company; or

(c) the making by the Company of loans to persons, other than directors, bona fide in the employment of the Company, with a view to enabling those persons to purchase fully paid shares in the capital stock of the Company, to be held by themselves by way of beneficial ownership.

(2) The powers under paragraphs *(b)* and *(c)* of subsection one of this section shall be exercised by by-law only.

(3) If any loan is made by the Company in violation of the foregoing provisions, all directors and officers of the Company making the same or assenting thereto, shall, until repayment of said loan, be jointly and severally liable to the Company and to its creditors for the debts of the Company then existing or thereafter contracted: Provided that such liability shall be limited to the amount of said loan with interest.

Proviso.

When redemption or purchase not a reduction of paid-up capital.

10. The redemption or purchase for cancellation of any fully paid preferred shares created by by-law pursuant to the provisions of this Act, in accordance with any right of redemption or purchase for cancellation reserved in favour of the Company in the provision attaching to such preferred shares, or the redemption or purchase for cancellation of any fully paid shares of any class, not being common or ordinary shares, and in respect of which the by-laws provide for such right of redemption or purchase, in accordance with the provisions of such by-laws, shall not be deemed to be a reduction of the paid-up capital of the Company, if such redemption or purchase for cancellation is made out of the proceeds of an issue of shares made for the purpose of such redemption or purchase for cancellation, or if,

(a) no cumulative dividends, on the preferred shares or shares of the class in respect of which such right of redemption or purchase exists and which are so redeemed or purchased for cancellation, are in arrears; and

(b) if such redemption or purchase for cancellation of such fully paid shares is made without impairment of the Company's capital by payments out of the ascertained net profits of the Company which have been set aside by the directors for the purposes of such redemption or of such purchase for cancellation, and if such net profits are then available for such application as liquid assets of the Company, as shown by the last balance sheet of the Company, certified by the Company's auditors, and being made up to a date not more than ninety days prior to such redemption or purchase for cancellation, and after giving effect to such redemption or purchase for cancellation;

And subject as aforesaid, any such shares may be redeemed or purchased for cancellation by the Company on such terms and in such manner as is set forth in the provisions attaching to such shares, and the surplus resulting from such redemption or purchase for cancellation shall be designated as a capital surplus, which shall not be reduced or distributed by the Company except as provided by a subsequent Act of the Parliament of Canada.

Commission on subscription.

11. The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company: Provided, however, that as regards shares, such commission shall not exceed ten per centum of the amount realized therefrom.

Proviso.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 119 N[1].

An Act to incorporate Prairie Transmission Lines Limited.

AS PASSED BY THE SENATE, 26th OCTOBER, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
42831 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL N[1].

An Act to incorporate Prairie Transmission Lines Limited.

Preamble.

WHEREAS the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation.

1. John Galbraith Edison and John Black Aird, solicitors, both of the city of Toronto, in the province of Ontario, John Ross Tolmie, Ross Garstang Gray and John McCreary Coyne, solicitors, all of the city of Ottawa, in the said province of Ontario, together with such persons as may become shareholders in the company, are incorporated under the

Corporate name.

name of Prairie Transmission Lines Limited, hereinafter called "the Company".

Provisional directors.

2. The persons named in section one of this Act shall be the first directors of the Company.

Capital.

3. The capital stock of the Company shall consist of five million shares without nominal or par value.

Head office and other offices.

4. (1) The head office of the Company shall be at the city of Calgary, in the province of Alberta, which head office shall be the domicile of the Company in Canada; and the Company may establish such other offices and agencies elsewhere within or without Canada as it deems expedient.

(2) The Company may, by by-law, change the place where the head office of the Company is to be situate.

(3) No by-law for the said purpose shall be valid or acted upon until it is sanctioned by at least two-thirds of the votes cast at a special general meeting of the shareholders duly called for considering the by-law and a copy of the by-law certified under the seal of the Company has been filed with the Secretary of State and published in *The Canada Gazette.*

General Pipe Line Act to apply.

5. The Company shall have all the powers, privileges and immunities conferred by, and be subject to all the limitations, liabilities and provisions of any general legislation which is enacted by Parliament, relating to pipe lines for the transmission and transportation of gas and oil or any liquid product or by-product thereof.

6. The Company, subject to the provisions of any general legislation which is enacted by Parliament, relating to pipe lines for the transmission and transportation of gas and oil or any liquid product or by-product thereof, may

Power to construct and operate pipe lines.

(a) within the provinces of Alberta and British Columbia or outside Canada construct, purchase, lease, or otherwise acquire, and hold, develop, operate, maintain, control, lease, mortgage, create liens upon, sell, convey or otherwise dispose of and turn to account any and all interprovincial and/or international pipe lines, for the transmission and transportation of gas and oil including pumping stations, terminals, storage tanks or reservoirs and all works relative thereto for use in connection with the said pipe lines; and buy, or otherwise acquire, sell, distribute or otherwise dispose of gas; and as an adjunct or correlate to pipelines for gas to have similar powers and facilities for pipelines for the transmission and transportation of oil and the acquisition and disposal of oil; and own, lease, sell, operate and maintain aircraft and aerodromes for the purpose of its undertaking, together with the facilities required for the operation of such aircraft and aerodromes; and own, lease, operate and maintain interstation telephone, teletype and telegraph communication systems and, subject to *The Radio Act, 1938*, and any other statute relating to radio, own, lease, operate and maintain interstation radio communication facilities;

Power to hold lands.

(b) purchase, hold, lease, sell, improve, exchange or otherwise deal in real property or any interest and rights therein legal or equitable or otherwise howsoever and deal with any portion of the lands and property so acquired, and may subdivide the same into building lots and generally lay the same out into lots, streets, and building sites for residential purposes or otherwise and may construct streets thereon and necessary sewerage and drainage systems and build upon the same for residential purposes or otherwise and supply any buildings so erected, or other buildings erected upon such lands, with electric light, heat, gas, water or other requisites, and lease or sell the same, upon such terms and subject to such conditions as appear requisite, either to its employees or to others; and

Ancillary powers.

(c) exercise as ancillary and incidental to the purposes or objects set forth in this Act, the powers following, unless such powers or any of them are expressly excluded by this Act, namely, the powers set forth in paragraphs *(a)* to *(bb)* inclusive of subsection one of section fourteen of *The Companies Act, 1934*.

1934, c. 33.

7. The provisions of subsections (4), (5), (6) and (7) of section twelve, and sections 39, 40, 59, 62, 63, 64, 65 and 91 of Part I of *The Companies Act, 1934*, apply to the Company, provided that wherever in the said subsection (7) of section twelve, and in the said section fifty-nine the words "letters patent" or "supplementary letters patent" appear, the words "Special Act" shall be substituted therefor.

1934, c. 33.

1934, c. 33.

8. Sections 158, 163, 180, 186, 189 and 190 of Part III of *The Companies Act, 1934*, shall not be incorporated with this Act.

Company not to make a loan to shareholders or directors.

9. (1) The Company shall not make any loan to any of its shareholders or directors or give whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with a purchase made or to be made by any person of any shares in the Company:

Proviso.

Provided that nothing in this section shall be taken to prohibit:

(a) the making by the Company of loans to persons other than directors, bona fide in the employment of the Company with a view to enabling or assisting those persons to purchase or erect dwelling houses for their own occupation; and the Company may take, from such employees, mortgages or other securities for the repayment of such loans;

(b) the provision by the Company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully paid shares in the capital stock of the Company, to be held by, or for the benefit of employees of the Company, including any director holding a salaried employment or office in the Company; or

(c) the making by the Company of loans to persons, other than directors, bona fide in the employment of the Company, with a view to enabling those persons to purchase fully paid shares in the capital stock of the Company, to be held by themselves by way of beneficial ownership.

(2) The powers under paragraphs *(b)* and *(c)* of subsection one of this section shall be exercised by by-law only.

(3) If any loan is made by the Company in violation of the foregoing provisions, all directors and officers of the Company making the same or assenting thereto, shall, until repayment of said loan, be jointly and severally liable to the Company and to its creditors for the debts of the Company then existing or thereafter contracted: Provided that such liability shall be limited to the amount of said loan with interest.

Proviso.

When redemption or purchase not a reduction of paid-up capital.

10. The redemption or purchase for cancellation of any fully paid preferred shares created by by-law pursuant to the provisions of this Act, in accordance with any right of redemption or purchase for cancellation reserved in favour of the Company in the provision attaching to such preferred shares, or the redemption or purchase for cancellation of any fully paid shares of any class, not being common or ordinary shares, and in respect of which the by-laws provide for such right of redemption or purchase, in accordance with the provisions of such by-laws, shall not be deemed to be a reduction of the paid-up capital of the Company, if such redemption or purchase for cancellation is made out of the proceeds of an issue of shares made for the purpose of such redemption or purchase for cancellation, or if,

(a) no cumulative dividends, on the preferred shares or shares of the class in respect of which such right of redemption or purchase exists and which are so redeemed or purchased for cancellation, are in arrears; and

(b) if such redemption or purchase for cancellation of such fully paid shares is made without impairment of the Company's capital by payments out of the ascertained net profits of the Company which have been set aside by the directors for the purposes of such redemption or of such purchase for cancellation, and if such net profits are then available for such application as liquid assets of the Company, as shown by the last balance sheet of the Company, certified by the Company's auditors, and being made up to a date not more than ninety days prior to such redemption or purchase for cancellation, and after giving effect to such redemption or purchase for cancellation;

And subject as aforesaid, any such shares may be redeemed or purchased for cancellation by the Company on such terms and in such manner as is set forth in the provisions attaching to such shares, and the surplus resulting from such redemption or purchase for cancellation shall be designated as a capital surplus, which shall not be reduced or distributed by the Company except as provided by a subsequent Act of the Parliament of Canada.

Commission on subscription.

11. The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares, bonds, debentures, debenture stock or other securities of the Company: Provided, however, that as regards shares, such commission shall not exceed ten per centum of the amount realized therefrom.

Proviso.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL A2.

An Act respecting the Incorporation of Pure-bred Live Stock Record Associations.

Read a first time, Monday, 17th October, 1949.

Honourable Senator ROBERTSON

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
47486 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL A[2].

An Act respecting the Incorporation of Pure-bred Live Stock Record Associations.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title.

Short title.

1. This Act may be cited as *The Live Stock Pedigree Act, 1949.*

Interpretation.

Definitions.

2. In this Act,

"animal".

(a) "animal" includes a bird;

"association".

(b) "association" means an association incorporated under *An Act respecting the incorporation of Live Stock Record Associations*, chapter thirty-three of the statutes of Canada, 1900, under the *Live Stock Pedigree Act*, chapter one hundred and thirty-one of the Revised Statutes of Canada, 1906, under the *Live Stock Pedigree Act*, chapter thirty-one of the statutes of Canada, 1912, under the *Live Stock Pedigree Act*, chapter one hundred and twenty-one of the Revised Statutes of Canada, 1927, under *The Live Stock Pedigree Act, 1932*, chapter forty-nine of the statutes of Canada, 1932, or under this Act;

"certificate of registration".

(c) "certificate of registration" means a certificate issued by an association setting forth the name, registration number, date of birth, sex, identification, sire and dam of a registered animal registered in the records of the association, and the name of the owner of the animal, and such additional particulars as may from time to time be prescribed by the association;

"Minister".

(d) "Minister" means the Minister of Agriculture;

Explanatory Notes.

The purpose of this Bill in to substitute a new Act for *The Live Stock Pedigree Act, 1932*. It is intended in the new Act to simplify procedure for incorporation and affiliation of associations, to clarify the authority of affiliated associations in their relationship with the Canadian National Live Stock Records, and to improve the general form and arrangement of the statute which is to be repealed.

2. The definitions are new except "Minister" and "pure-bred". The definition of "association" now makes it clear that the provisions of the Act respecting affiliation apply to associations incorporated under previous Acts.

"pedigree". *(e)* "pedigree" means a genealogical table showing the ancestral line of descent of a registered animal;

"pure-bred". *(f)* "pure-bred" means registered in, or eligible for registration in, the records of an association.

ASSOCIATIONS.

Application for association. **3.** (1) Subject to this Act, any number of persons, not less than five, who desire to form an association for the purpose of keeping a record of pure-bred domestic live stock of a distinct breed, or several records each of a distinct breed of the same species of animal, may make an application for that purpose to the Minister.

Qualifications of applicants. (2) The applicants shall be Canadian citizens, of the full age of twenty-one years, and shall satisfy the Minister that they represent the breeders throughout Canada of the breed or species in respect of which the application is made.

Form of application. (3) The application shall be made in triplicate in the form set out in Form A in the Schedule.

Attestation. (4) Each copy of the application shall be signed by each of the applicants, and the signatures shall be verified by the affidavit of a subscribing witness.

Certificate of approval. (5) Upon approving the application, the Minister shall endorse all copies with a certificate of approval in Form B in the Schedule and cause one copy thereof to be registered in the Department of Agriculture and the other two to be returned to the applicants, or one of them.

Incorporation. (6) From the date of the Minister's certificate, the applicants and such other persons as become members of the association are a body corporate and politic under the name approved by the Minister.

By-laws to be submitted to Minister. (7) Within one year from the date of incorporation, an association shall submit to the Minister in triplicate the by-laws of the association.

Approval of by-laws. (8) Upon approving the by-laws of an association the Minister shall endorse all copies with a certificate of approval in Form B in the Schedule and cause one copy thereof to be registered in the Department of Agriculture and the other two to be returned to the secretary of the association.

Effect of failure to submit by-laws. (9) If an association fails to comply with subsection seven the Minister may declare the corporate powers of the association to be at an end and thereupon the association shall cease to be an association within the meaning of this Act.

Limitation. **4.** Not more than one association for each distinct breed, or for a number of breeds of the same species, shall be incorporated under this Act.

3. This is substantially the same as the present section 3. Sub-clauses (7), (8) and (9) are new. Under the Bill associations are not required to submit their by-laws at the time of incorporation but they must do so within one year.

4. This is section 4 (1) of the present Act. Subsection (2) appears as clause 16 of the Bill.

By-laws.

5. (1) The by-laws of an association shall set forth or provide for

Membership.

(a) the admission, resignation, suspension and expulsion of members, ordinary or life, and the annual fee to be paid by ordinary members, and the fee, if any, to be paid by life members;

Head office.

(b) the place within Canada where the head office of the association and the branch offices, if any, are to be situated;

Officers.

(c) the officers of the association, their election, the duties of each and the filling of vacancies;

Meetings.

(d) the convening of general, annual and special meetings of the association;

Fiscal year.

(e) the fiscal year of the association;

Audit.

(f) the audit of the accounts of the association;

Rules of eligibility.

(g) the establishment of rules of eligibility for registration of animals that the association is authorized to register;

Rules of entry.

(h) the establishment of rules of entry for registration;

Certificates of registration.

(i) the issuance of certificates of registration and the amendment or cancellation of certificates of registration;

Pedigrees.

(j) the issuance of pedigrees and the amendment or cancellation of pedigrees;

Transfers.

(k) the issuance of certificates of transfer of ownership of registered animals and the amendment or cancellation of such certificates;

Annual report.

(l) the annual report of the officers, and a detailed statement, duly audited, of receipts and expenditures for the preceding year and of the assets and liabilities;

Books.

(m) the keeping of a book by the secretary at the head office of the association, and by the proper officer at each branch office, wherein shall be written or printed a copy of the by-laws of the association, with all amendments thereof, which books shall at all reasonable times be open to the inspection of members of the association who may make copies thereof;

Seal.

(n) a corporate seal;

Private breeding records.

(o) the keeping by its members of private breeding records, and the manner in which these shall be kept;

Identification.

(p) a practical and effective system of identification;

Inspection of records and systems of identification.

(q) authority to conduct an inspection, on behalf of the association, of private breeding records, of the adequacy of the system of identification prescribed by the association and of the manner in which such system of identification is being practised;

Unsatisfactory practices.

(r) the manner in which unsatisfactory practices in respect of identification shall be dealt with;

5. This is the same as the present section 5. No material changes.

Standard of individual inspection.

(s) where the principle of individual inspection to determine eligibility by inspection is approved by the association, the standard that shall apply in connection with such inspection and the manner in which such inspection shall be carried on;

Standards of performance.

(t) where the principle of applying performance to determine eligibility for advanced registration is approved by the association, the standards of performance that shall apply and the manner in which inspection of the application of such standards shall be carried on;

Fees for registration.

(u) the fees to be charged for registration;

Fees for certificates.

(v) the fees to be charged for certificates of registration, pedigrees, certificates of transfer of ownership, and for any other service; and

General.

(w) the governing of the affairs of the association generally.

No by-law effective until approved.

6. (1) No by-law of an association and no amendment or repeal thereof has any force or effect until it is approved by the Minister and registered in the Department of Agriculture.

Application for approval.

(2) An application for approval of a by-law or an amendment or repeal of a by-law shall be accompanied by three copies of each proposed by-law, amendment or repeal.

Evidence Minister may require.

(3) The Minister, before approving a by-law or an amendment or repeal of a by-law, may require evidence by affidavit or statutory declaration that all formalities and requirements under the by-laws have been complied with.

Certificate of approval.

(4) Upon approving a by-law or an amendment or repeal of a by-law, the Minister shall endorse all copies with a certificate of approval in Form B in the Schedule and shall cause one copy thereof to be registered in the Department of Agriculture and the other two copies to be returned to the association.

Registration and transfer rights.

(5) Notwithstanding anything in the by-laws of an association incorporated under this or any other Act mentioned in paragraph *(b)* of section two, no person shall be deprived of the right to register or transfer pure-bred live stock unless he has violated or is reasonably suspected by an association to have violated

(a) a by-law of an association relating to eligibility for registration, establishment of production credentials or payment of fees,

(b) section sixteen or section seventeen of this Act, or

R.S., c. 6.

(c) any provision of the *Animal Contagious Diseases Act* or the regulations thereunder relating to the identification, marking or testing of animals.

Binding effect of by-laws.

7. The by-laws of an association bind each member thereof as fully as though he had subscribed his name and affixed his seal thereto.

6. This is the present section 6 with no change in substance except sub-clause (5). This provision is intended to restrict the right of associations to deprive persons of registration privileges.

7. This is the same as the present section 7.

Financial liability of members limited.

8. The financial liability of a member of an association to the creditors of an association is limited to the amount due from him in respect of membership and registration fees.

Powers.

9. An association may

Property.

(a) acquire, hold and dispose of real and personal property necessary for the carrying out of the objects of the association;

Bills and notes.

(b) draw, make, accept, endorse and execute promissory notes, bills of exchange and other negotiable instruments necessary for the carrying out of the objects of the association, but nothing in this paragraph authorizes an association to issue a note payable to bearer or intended to be circulated as money, or to engage in the business of banking; and

Funds.

(c) use the funds of the association for any purpose calculated to benefit the particular breed or species of live stock mentioned in the application, including grants to exhibitions.

Approval of certificates.

10. (1) The Minister may examine, and when satisfied that it is correct, may approve under seal a certificate of registration issued by an association that is affiliated with other associations pursuant to this Act.

Notice of errors.

(2) When it appears to the association that issued it that a certificate of registration approved by the Minister is incorrect, notice of that fact shall forthwith be given to the Minister by the association.

Inspection of private breeding records.

(3) The Minister may at any time conduct an inspection of private breeding records, of the adequacy of the system of identification practised by an association and of the manner in which the system of identification is being practised.

Chief Registration Officer.

(4) The Minister may authorize an officer in the Department of Agriculture, who shall be known as the Chief Registration Officer, to approve certificates of registration under this section on behalf of the Minister.

Notice of meetings and annual report.

11. An association shall send to the Minister

(a) in the same manner as to members, notices of meetings setting out proposed amendments to the by-laws, and

(b) immediately after each annual meeting, a copy of the annual report, including a statement of the receipts and disbursements of the association for the preceding fiscal year and of its assets and liabilities, together with a list of the officers of the association, and where the association is affiliated with other associations pursuant to this Act, a list of its representatives elected to the Canadian National Live Stock Record Board.

8. This is the same as the present section 9.

9. This is the same as the present section 8.

10. This is the same as the present section 10 except sub-clauses (3) and (4) which are new. Under the present Act an association may authorize the Minister to conduct these inspections but under the proposed amendment the Minister may do it independently.

11. This is substantially the same as the present section 11.

Inquiries.

12. (1) The Minister may appoint a person to hold an inquiry into the manner in which an association is or has been conducting its business, and every person so appointed, for the purposes of the inquiry, has all the powers of a commissioner under the *Inquiries Act*.

Powers of Minister.

(2) Upon the conclusion of an inquiry held under this section the Minister may require the association to take, or he may take, such action as he considers necessary to provide for the proper conduct of the business of the association.

Directions to associations in default.

(3) The Minister at any time, upon being satisfied that an association has failed for a period of twelve months to carry on business or for any period has failed to conduct its business in accordance with the provisions of its by-laws and this Act, may make such direction to the association as to him seems proper in the interest of the purposes for which the association was incorporated.

When association fails to comply.

(4) Where an association fails within the period prescribed by the Minister to carry out any direction given by the Minister under subsection three, the Minister may

Business taken over.

(a) authorize his representative on the Canadian National Live Stock Record Board to take over and carry on the property and business of the association, and for such purposes the representative has all the powers of the association, and may authorize the Canadian National Live Stock Record Committee to keep live stock records, issue and record certificates of registration, and perform related functions, or

Corporate powers cancelled.

(b) declare the corporate powers of the association at an end, and thereupon the association shall cease to be an association within the meaning of this Act.

Property and business may be returned and rights resumed.

(5) The representative of the Minister on the Canadian National Live Stock Record Board shall, at any time when he is thereunto directed by the Minister, hand over to the association the property and business of the association taken over by him under this section, together with a statement of receipts and expenditures covering the period during which he had control of the same, and in such case the association shall fully resume the powers given it by this Act.

Winding-up.

(6) In the event of the Minister declaring the corporate powers of an association to be at an end, the affairs of the association shall be wound-up in accordance with such regulations as may from time to time in that behalf be made by the Minister.

12. This is substantially the same as the present section 12.

Affiliated associations.

13. (1) Associations may, by executing articles of affiliation and having them registered as provided in this section, affiliate with each other for keeping live stock records, issuing certificates of registration and of transfer, and performing such other services on behalf of the affiliated associations as are authorized by the articles of affiliation.

Name.

(2) The affiliation shall be known as the Canadian National Live Stock Records, and shall be the successor to the Canadian National Live Stock Records as constituted immediately prior to the commencement of this Act.

Articles of affiliation.

(3) The articles of affiliation shall be in a form prescribed by the Minister and shall

Governing body.

(a) provide for a governing body to be known as the Canadian National Live Stock Record Board and which shall be representative of the affiliated associations;

Administrative committee.

(b) provide for an administrative committee to be known as the Canadian National Live Stock Record Committee;

Director.

(c) provide for the appointment of an officer to be known as the Director, Canadian National Live Stock Records;

Basis of representation.

(d) provide the basis of representation upon and set out the method of appointment of representatives from the various affiliated breed associations to the Canadian National Live Stock Record Board;

Chairman.

(e) provide for election of a chairman and a vice-chairman;

Power and authority.

(f) prescribe the power and authority of the Canadian National Live Stock Records on behalf of, and as agents of, the affiliated associations;

Business.

(g) describe the manner in which the business of the Board shall be conducted; and

Elections.

(h) set forth the method of election of members of the Committee.

Execution of articles of affiliation.

(4) An association desiring to affiliate under this section shall execute in triplicate the articles of affiliation under its corporate seal duly attested by the signatures of its proper officers in that behalf, and shall forward the executed articles of affiliation to the Minister.

Approval.

(5) When the Minister is satisfied that the articles of affiliation are properly executed, he shall endorse all copies with a certificate of approval in Form B in the Schedule, and cause one copy to be registered in the Department of Agriculture and the other two copies to be returned to the association, and from the date of the certificate of approval the association is affiliated with all other associations that have executed and registered articles of affiliation under this section.

13. This corresponds to section 13 of the present Act. There was some doubt whether associations incorporated under previous enactments are entitled to affiliate under the present Act. The new definition of "association" in the Bill now makes it clear that they can. The new clause also simplifies the procedure for affiliation.

Amendment.

(6) Executed articles of affiliation may, with the approval of at least two-thirds of the associations that have executed articles of affiliation under this section, be amended in such form as the Minister may prescribe.

Associations previously affiliated.

(7) All associations affiliated under the name of Canadian National Live Stock Records immediately prior to the commencement of this Act shall be deemed, for a period of not more than one year after the commencement of this Act, to be affiliated under this section.

Chief Registration Officer to represent unincorporated associations.

14. (1) The Chief Registration Officer, or such other officer in the Department of Agriculture as the Minister may designate, shall represent the Minister on, and be a member of, the Canadian National Live Stock Record Board, and such representative shall represent the interest of breeds for which no record association has been incorporated and may authorize the Canadian National Live Stock Record Committee to keep live stock records, issue and record certificates of registration and perform related functions in respect of such breeds.

Transfer of funds when association incorporated.

(2) Upon the incorporation of an association representing any breed, records for which have been kept under subsection one, the Canadian National Live Stock Record Committee at the request of the representative of the Minister on the Canadian National Live Stock Record Board shall hand over to the association any property and funds pertaining to the breed in the custody of the Committee.

OFFICERS.

Officers.

15. There may be appointed, in the manner authorized by law, such officers, clerks and employees as are necessary for carrying out the provisions of this Act.

OFFENCES AND PENALTIES.

No other person to keep records.

16. (1) Except as authorized by this Act, where an association for a specified breed exists, no person shall in respect of that breed conduct a book of record or issue a certificate of registration or any document purporting to be a certificate of breeding.

Penalty.

(2) Every person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding two months.

14. This is new and is designed to provide for registrations by unincorporated associations.

15. This is the same as the present section 16.

16. This was previously subsection (2) of section 4.

False statements.

17. (1) Every person who

(a) knowingly signs or presents, or causes or procures to be signed or presented, to the recording officer of an association or to the person in charge of the Canadian National Live Stock Records, any declaration or any application for registration or any transfer of ownership respecting any animal, containing any material false statement or representation;

Misuse of certificate.

(b) knowingly represents that a certificate of registration applies to an animal other than the one in respect of which it was issued;

Alteration of certificate.

(c) falsifies or alters a certificate of registration or of a transfer or of any document of or pertaining to a pure-bred animal registered in the records of an association;

Sale of unidentified animal as pure-bred.

(d) sells as pure-bred an animal that is not identified as prescribed by the by-laws of any association;

Sale of pure-bred animal without furnishing certificate.

(e) sells as pure-bred or contracts to sell as pure-bred any animal of a class or breed in respect of which an association has been incorporated, without furnishing, or agreeing as an integral part of the contract of sale to furnish, the certificate of registration, together with the duly recorded transfer of ownership thereof, to the actual buyer; or

Sale of animal as pure-bred when no association established for the breed.

(f) sells as pure-bred or contracts to sell as pure-bred any animal of a class or breed in respect of which an association has been incorporated, that is not registered or eligible for registration as pure-bred by the association;

Penalties.

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars and not less than fifty dollars or to imprisonment for a term not exceeding two months.

Animals registered in foreign books deemed pure-bred.

(2) Any animal owned in Canada of a class or breed for which no record exists in Canada, and duly registered in a foreign book of record recognized as authentic by the Minister shall, for the purposes of this section, be deemed to be pure-bred.

Unlawful use of names.

18. Every person who uses without authority the name of the Canadian National Live Stock Records, Canadian National Live Stock Record Board, Canadian National Live Stock Record Committee, or of any association, or any name so nearly resembling any of those names that it is likely to deceive the public, is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding two months.

Penalty.

17. This is a revision of sections 17 and 18 of the present Act.

18. This is substantially the same as the present section 19.

Penalty when not otherwise provided for.

19. Every person who violates any provision of this Act in respect of which no penalty is elsewhere provided in this Act is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars.

Time for complaint.

20. Section eleven hundred and forty-two of the *Criminal Code* does not apply to proceedings in respect of an offence under this Act.

REPEAL.

Repeal.

21. *The Live Stock Pedigree Act, 1932*, chapter forty-nine of the statutes of 1932, is repealed.

20. This is the present section 22.

SCHEDULE.

Form A.

Application for Incorporation.

1. We, the undersigned (set out the names in full, places of residence and occupations) hereby apply for incorporation as an association under "The Live Stock Pedigree Act, 1949".

2. The name of the association is to be, (name of association).

3. The objects for which the association is to be formed are:—

(a) To keep a record of the pedigrees of pure-bred (name of breed and species of animal).

(b) (Here insert clearly any special or additional objects).

4. The names, in full, places of residence and occupations of the first officers of the association are:—(Set out in full, no initials).

Dated at.....this.....

day of.....19.....

Witness:

(Signatures of witnesses) } (Signatures of applicants)

Affidavit of Execution.

I, (name in full, place of residence and occupation) make oath and say:—

1. That I know (name of applicants in full) named in the foregoing (or annexed) application.

2. That I was personally present and did see the said application, and duplicate thereof, executed by each of the said applicants.

3. That I am a subscribing witness to the said application and duplicate.

Sworn before me at.....
this.....day of.....19.... } .....
(Signature of witness)

.....
A notary public,
(or a commissioner, etc.)

(Note: If all the applicants do not sign before the one witness, insert in the affidavit the names only of those whom the witness saw sign, and so on for each witness.)

Form B.

CERTIFICATE.

Pursuant to The Live Stock Pedigree Act, 1949, I certify that the within (application, by-laws, articles of affiliation, as the case may be) is (are) hereby approved this.....

day of.....19.....

.....
Minister of Agriculture.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 133 A4.

An Act respecting the Application of a National Trade Mark to Commodities and respecting the True Description of Commodities.

Read a first time, Monday, 24th October, 1949.

Honourable Senator ROBERTSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
48048 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL A[4].

An Act respecting the Application of a National Trade Mark to Commodities and respecting the True Description of Commodities.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title.

Short title.

1. This Act may be cited as *The National Trade Mark and True Labelling Act.*

Interpretation.

Definitions.

2. In this Act

"Minister". *(a)* "Minister" means the Minister of Trade and Commerce;

"National Research Council". *(b)* "National Research Council" means the Honorary Advisory Council for Scientific and Industrial Research;

"national trade mark". *(c)* "national trade mark" means the national trade mark established by this Act; and

"prescribed". *(d)* "prescribed" means prescribed pursuant to this Act.

Explanatory Notes.

1. This Act is intended to replace sections 16 to 19 of *The Dominion Trade and Industry Commission Act, 1935*, which is repealed by section 9 of this Act. The purposes of the replacement are:

(a) to provide that regulations regarding application of the national trade mark to commodities are to be made by the Governor in Council instead of by the Minister of Trade and Commerce to whom such regulatory powers of the Dominion Trade and Industry Commission were transferred by Order in Council P.C. 883 of March 13, 1947;

(b) to enable commodities entitled to bear the national trade mark to be designated, being commodities for which standards or specifications will have been established under this Act or other statutory authority;

(c) to confine to commodities bearing the national trade mark the present wide powers of the Governor in Council, under clauses *(a)* and *(b)* of present section 17A (1), to establish mandatory standards and specifications;

(d) to confine to persons who control the qualities of a commodity the right to apply the national trade mark to it, and to provide effective means of withdrawing the privilege of using the mark if the commodity does not conform to the prescribed standards or specifications;

(e) to enable the public to be given a clear understanding that application of the national trade mark to a commodity constitutes a representation that the commodity conforms to specifically cited statutes or regulations.

2. Definitions.

National Trade Mark.

National trade mark.

3. Notwithstanding any other statute or law, the words "Canada Standard" or the initials "C.S." shall be a national trade mark, and the exclusive property in and the right to the use of that trade mark is hereby declared to be vested in His Majesty in right of Canada, subject to the provisions of this Act.

Regulations respecting national trade mark.

4. (1) The Governor in Council may make regulations

(a) prescribing the classes and kinds of commodities to which the national trade mark may be applied and the persons who may apply it;

(b) prescribing the terms and conditions on which the national trade mark may be applied to commodities or packages or containers thereof;

(c) prescribing the form and manner in which the national trade mark shall be applied to commodities, packages or containers;

(d) prescribing the standards or specifications, including those established under any other Act of Parliament, to which any commodity shall conform if the national trade mark is applied thereto;

(e) prescribing the implied warranties that application of the national trade mark to any commodity shall represent;

(f) prescribing the circumstances in which the right of any person to apply the national trade mark to any commodity, package or container may be terminated or suspended; and

(g) prohibiting acts inconsistent with anything so prescribed.

Use of national trade mark.

(2) No person shall use the national trade mark except as authorized by the regulations.

True Description of Commodities.

Regulations respecting description of commodities.

5. (1) The Governor in Council may make regulations

(a) prescribing the form and manner in which any commodity designated by him or any package or container thereof, if marked or labelled or described in advertising for the purpose of indicating the material content or quality of such commodity or the size or contents by weight or measure of the package or container, shall be marked or labelled or described in advertising for such purpose;

(b) prohibiting acts inconsistent with anything so prescribed.

Regulations to be laid before Parliament.

(2) Every regulation made under section four or this section shall be laid before Parliament within thirty days after it is made, or if Parliament is then not sitting, within thirty days after the commencement of the next ensuing session thereof.

3. This clause re-enacts subsection (1) of section 18 of the present Act, without change except to substitute the word "Canada" for the words "Dominion of Canada".

4. This clause, confined as mentioned in the notes to clause 1 preceding, replaces subsection (1) of section 17A (other than paragraph *(c)* thereof), subsection (2) of section 18 and subsection (1) of section 19 of the present Act. They provide as follows:

"**17**A. (1) In any case where the Commission, after study and investigation pursuant to the powers contained in this Act, reports and advises in favour of the establishment of commodity standards for any commodity or in favour of the establishment of grades for any commodity or in favour of prescribing the words by which the material content of any commodity shall be represented, the Governor in Council may:—

(a) prescribe standards of quality for any commodity in accordance with the terms of a report made pursuant to the provisions of this Act and prescribe the manner in which such commodity shall be sold, offered for sale, or displayed for sale, and if such commodity is sold in packages or containers, the size, kind, and marking, branding or labelling of such packages or containers;

(b) establish grades for any commodity in accordance with the terms of a report made pursuant to this Act and prescribe the manner in which such commodity shall be sold, offered for sale, or displayed for sale, and if such commodity is sold in packages or containers, the size, kind, and marking, branding or labelling of such packages or containers;

(c) prescribe the words by which the material content of any commodity shall be represented by marking on such commodity or on any package in which such commodity is marketed.

"**18.** (2) Such national trade mark, as applied to any commodity pursuant to the provisions of this Act or any other Act of the Parliament of Canada, shall constitute a representation that such commodity conforms to the requirements of a specification of a commodity standard for such commodity or class of commodity established under the provisions of any Act of the Parliament of Canada.

"**19.** (1) Any producer or manufacturer or dealer or merchant in Canada may apply the national trade mark "Canada Standard" or initials "C.S.", to any commodity produced or manufactured or sold by him or to the covering thereof, in such manner as the Commission may by regulation prescribe, under and subject to the following conditions:

(a) Such commodity shall conform to the requirements of a specification of a commodity standard for such commodity or class of commodity established under the provisions of any Act of the Parliament of Canada;

(b) Where grade designations, whether numerical or alphabetical or special, have been established under the provisions of any Act of the Parliament of Canada for various qualities of such commodity, the appropriate grade designation for each quality of such commodity shall be conspicuously applied to the commodity, or on the covering thereof, in association with the words "Canada Standard" or initials "C.S." in such form as the Commission may by regulation prescribe: Provided that the Commission may by regulation prescribe a list of specific commodities to which, in its opinion, it is impossible to apply this paragraph, and this paragraph shall not apply to any commodity appearing in such list."

5. This clause replaces paragraph *(c)* of subsection (1) of section 17A of the present Act (see *ante*), with added provision in order to more effectually and adequately prevent public deception or imposition.

Additional duties of National Research Council.

6. In addition to its powers and duties under any other statute or law, the National Research Council shall, at the request of the Minister,

(a) study, investigate, report and advise upon all matters relating to commodity standards or specifications;

(b) prepare draft standards or specifications for any commodity or for any grade or type thereof and recommend methods of designating the same; and

(c) analyse and report upon any commodity as to its quality, properties and content, and as to whether and to what extent it conforms to the requirements of any prescribed standard or prescribed specification.

Reports on commodities forwarded.

7. (1) The National Research Council shall, in respect of any commodity forwarded to it by the Minister, report

(a) the ingredients of the commodity, in so far as such information may be necessary to the proper use of the commodity;

(b) any adulterants and harmful, injurious or deleterious substances the commodity may be found to contain;

(c) its quality and probable performance and efficiency; and

(d) whether it conforms to any prescribed standard or prescribed specification,

and if adequate information to answer the enquiry is not available, the National Research Council shall analyse or test the commodity.

Reports not to be used commercially.

(2) The report of the National Research Council upon any analysis or test made under this section shall not be used for advertising or commercial purposes in any way; and any person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction, for each such offence, to a fine not exceeding one hundred dollars.

Reports privileged.

(3) No action or other proceedings may be instituted against the National Research Council or any officer or employee of the Council in respect of any advice, information or report given or made in good faith under this Act or any other Act of the Parliament of Canada.

6. This clause, as amended, re-enacts section 16 of the present Act which provides as follows:

"**16.** In addition to its powers and duties under any other statute or law, the National Research Council shall, on the request of the Commission, from time to time,

(a) study, investigate, report and advise upon all matters relating to commodity standards;

(b) prepare draft specifications of commodity standards for any commodity or grade, and recommend methods of designating such grade;

(c) analyse and report upon any commodity as to its quality, properties and content, and as to whether and to what extent it conforms to the requirements of any recognized or generally accepted standard."

7. Subclause (1) of this clause, as amended, re-enacts subsection (1) of section 17 of the present Act which provides as follows:

"**17.** (1) The National Research Council shall, in respect of any commodity forwarded to it by the Commission or the Director of Public Prosecutions, report

(a) the ingredients of such commodity, in so far as such information may be necessary to the proper use of the commodity;

(b) any adulterants and harmful, injurious or deleterious substance the commodity may be found to contain;

(c) its quality and probable performance and efficiency; and

(d) whether it conforms to any recognized or generally accepted standard and specification;

and if adequate information to answer the inquiry is not already available, the National Research Council shall analyse or test the commodity."

Subclauses (2) and (3) re-enact, without change, subsections (2) and (3) of section 17 of the present Act.

Offences and Penalties.

Offences and penalties.

8. Every person who

(a) applies the national trade mark to any commodity, package or container without authority so to do under the regulations;

(b) applies the national trade mark to any commodity, or to any package or container of a commodity, that does not conform to all of the prescribed requirements;

(c) sells, offers for sale, displays for sale or advertises a commodity to which he has applied the national trade mark and that does not conform to prescribed standards or prescribed specifications;

(d) sells, offers for sale, displays for sale or advertises a commodity to which the national trade mark is applied and that he knows or has reason to believe does not conform to prescribed standards or prescribed specifications;

(e) falsely advertises or otherwise falsely represents any commodity as having the national trade mark lawfully applied thereto;

(f) sells, offers for sale, displays for sale or advertises a commodity that is not marked or labelled in accordance with the regulations;

(g) applies to any commodity, package or container any mark that is similar to the national trade mark; or

(h) otherwise contravenes or fails to observe any regulation;

is guilty of an offence and is liable on summary conviction or conviction upon indictment to a fine, if a corporation, not exceeding five thousand dollars, or, if an individual, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Repeal.

Repeal. 1935, c. 59.

9. *The Dominion Trade and Industry Commission Act, 1935*, is repealed.

8. This clause replaces subsection (2) of section 19 and subsections (3), (4) and (5) of section 17A of the present Act, bringing the penalty provisions into accord with the changed character and purposes of the Act. The present provisions are as follows:

"**19.** (2) Every person who applies the national trade mark "Canada Standard" or initials "C.S.", to any commodity in violation of the conditions hereinbefore provided shall be guilty of an offence and liable upon indictment, or upon summary conviction, to a penalty, for each and every such offence, not exceeding five thousand dollars in the case of a corporation, and not exceeding one thousand dollars in the case of an individual and in addition in the case of an individual to imprisonment for any term not exceeding six months.

"**17**A. (3) In case an Order in Council has been made under the provisions of this section with respect to any commodity, no person shall sell or offer for sale or display for sale such commodity except in accordance with the provisions of such Order in Council.

(4) Any person who sells or offers for sale or displays for sale any commodity contrary to the provisions of this section, or of any Order in Council made under the provisions hereof, shall be guilty of an offence and liable upon indictment, or upon summary conviction to a penalty for each and every such offence not exceeding five thousand dollars in the case of a corporation and not exceeding one thousand dollars in the case of an individual, and in addition in the case of an individual to imprisonment for any term not exceeding six months.

(5) This section shall not apply to any commodity which under any other Act of the Parliament of Canada or under any Order in Council or regulation made thereunder is subject to regulation as to standard of quality or as to grading or marking."

9. Provisions of the present Act not dealt with in this Bill are inoperative or unnecessary.

142.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 142.

An Act to amend The National Housing Act, 1944.

First reading, October 31, 1949.

THE MINISTER OF RECONSTRUCTION AND SUPPLY.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

47828

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA

BILL 142.

An Act to amend The National Housing Act, 1944.

1944-45, c. 46; 1945 (2nd Sess.) c. 26; 1946, c. 61; 1947, c. 40; 1947-48, c. 63.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Paragraph four of section two of *The National Housing Act, 1944*, chapter forty-six of the statutes of 1944-45, is repealed and the following substituted therefor:

"builder". "(4) 'builder' means a person who builds houses for sale or for rent;"

(2) Paragraph five A of section two of the said Act, as enacted by section one of chapter twenty-six of the statutes of 1945 (second session), is repealed and the following substituted therefor:

"co-operative housing project". "(5A) 'co-operative housing project' means a housing project built by a co-operative association incorporated under the laws of Canada or of any province;"

Explanatory Notes.

The proposed amendments to The National Housing Act, 1944, involve four major changes—

(a) Part I relating to loans to assist in the construction of houses for home ownership is being changed to provide for a basic joint loan of 80% of the lending value of the house to the prospective home owner who is building his own home, or having it built, or to a builder who is building for sale to home purchasers. The Corporation is being authorized to make an additional loan amounting to one-sixth of the basic loan to the home owner or to the home purchaser if the costs or purchase price of the home are, in the opinion of the Corporation, fair and reasonable.

(b) Provisions are being added so as to permit joining with a province in the assembly of land and the construction of houses for sale or for rent under arrangements by which costs, profits and losses will be shared on the basis of 75% federally and 25% by the province.

(c) The amount of the loan that may be guaranteed for home inprovement or home extension purposes is being increased 25% over the amount now specified in the Act.

(d) The provisions of the Act relating to loans to assist in the construction of co-operative housing projects are being amended to facilitate their application to co-operative associations.

CLAUSE 1. (1) The words "on land which he owns" are being deleted from the definition of "builder" so that the definition will not exclude a builder who holds a long-term lease or other satisfactory interest in the land. The definition of "builder" presently reads:

"(4) 'builder' means a person who builds houses for sale or for rent on land which he owns;"

(2) The definition of "co-operative housing project" is being changed to conform to the new provisions relating to loans to co-operatives contained in clause 2 subclause 4 of this Bill. The definition of "co-operative housing project" presently reads:

"(5A) 'co-operative housing project' means a housing project built by a corporation or trustee in which not less than seventy-five per centum of the family housing units in a housing project are leased to shareholders in the Corporation or cestui que trust under the trust deed for a term at least as long as the term of the joint loan;"

2. (1) Paragraph (a) of subsection two of section four of the said Act, as enacted by section three of chapter forty of the statutes of 1947, is repealed and the following substituted therefor:

Terms of contract.

"*(a)* a joint loan shall be made only to the person (in this section called the 'home owner') who owns the land or is a lessee thereof under a long-term lease, and intends to occupy the house or one of the family housing units thereof, or to a builder who intends to sell the house to a person (in this section called the 'home purchaser') who will own and occupy the house or one of the family housing units thereof;'

(2) Paragraph *(c)* of subsection two of section four of the said Act, as enacted by section nine of chapter sixty-one of the statutes of 1946, is repealed and the following substituted therefor:

Idem.

"*(c)* a joint loan shall not exceed eighty per centum of the lending value of the house;"

(3) Paragraph *(i)* of subsection two of section four of the said Act, as enacted by section ten of chapter sixty-one of the statutes of 1946, is repealed and the following substituted therefor:

Idem.

"*(i)* a joint loan shall be for a term not in excess of thirty years;"

(4) Subsections three and four of section four of the said Act and subsections five, six and seven of the said section, as enacted by section four of chapter forty of the statutes of 1947, are repealed and the following substituted therefor:

Additional loans by Corporation to home owners and home purchasers.

"(3) In addition to the joint loan referred to in this section a loan may be made by the Corporation to the home owner or home purchaser in an amount not exceeding one-sixth of the joint loan if the cost of the house to the home owner or the purchase price thereof to the home purchaser is, in the opinion of the Corporation, fair and reasonable.

CLAUSE 2. (1) Paragraph *(a)* of subsection (2) of section 4 is being amended for drafting purposes only. "Home owner" and "home purchaser" are defined. There is no change in substance. Said paragraph *(a)* presently reads:

> "*(a)* a joint loan shall be made only to the person who owns the land or is a lessee thereof under a long-term lease, and intends to occupy the house or one of the family housing units thereof, or to a builder who intends to sell the house to a person who will own and occupy the house or one of the family housing units thereof;"

(2) This amendment provides that the basic joint loan under section 4 of the Act may be 80% of the lending value of the house. The existing graduated scale of percentages of lending value is being eliminated, and the restriction relating to the owner-labour contribution is deleted. Paragraph *(c)* presently reads:

> "*(c)* a joint loan shall not exceed the aggregate of—
> (i) ninety-five per centum of the first two thousand dollars of the lending value of the house or any part thereof;
> (ii) eighty-five per centum of the amount by which the lending value of the house exceeds two thousand dollars and does not exceed four thousand dollars;
> (iii) seventy per centum of the amount by which the lending value of the house exceeds four thousand dollars;
> or such lesser proportion of the lending value as the Governor in Council may by regulation prescribe: Provided that the contract shall provide that the amount of a joint loan shall not exceed an amount equal to the lending value of the house less the value of the work to be done by the owner or lessee as fixed by the Corporation;"

(3) Provides that a joint loan shall not be in excess of thirty years and takes the place of existing paragraph (i) of subsection (2) of section 4 and existing subsection (5) of section 4 relating to the term of the loan. Paragraph (i) presently reads:

> "(i) a joint loan shall be for a term not in excess of twenty-five years from the date of completion of the house, except that in the case of a house to be constructed in an area that, in the opinion of the Corporation, is adequately protected by community planning and appropriate zoning restrictions the loan may be for a term exceeding twenty-five years, but not in excess of thirty years;"

(4) Repeals present subsections (3), (4), (5), (6) and (7) of section 4.

New subsections (3), (4) and (5) authorize the Corporation to make the additional one-sixth loan where the sale price or cost to the home purchaser or home owner is fair and reasonable, and provides that the additional loan shall be secured by the same mortgage or hypothec and be repayable over the same term and bear the same rate of interest as the mortgage or hypothec securing the joint loan.

Repayment of additional loan.

(4) Repayment of the loan made under subsection three shall be secured by the mortgage, hypothec or other security taken in accordance with paragraph *(h)* of subsection two, and all the provisions of the mortgage, hypothec or other security shall be made applicable to such loan.

Administration of additional loan.

(5) The contract referred to in subsection two shall provide for the administration of the loan made under subsection three, on such terms and conditions as may be agreed upon between the approved lending institution and the Corporation.

Loans to co-operative associations.

(6) Notwithstanding subsections one and two a joint loan may be made by His Majesty and an approved lending institution with which His Majesty has entered into a contract under this section to a co-operative association to assist in the construction of a co-operative housing project in an amount not exceeding eighty per centum of the lending value of the project if

(a) the instrument of incorporation of the co-operative association and its by-laws are approved by the Corporation; and

(b) the Corporation is satisfied that

(i) in the case of a project that will continue to be owned and managed by the co-operative association after completion of construction, at least eighty per cent of the family housing units of the project will be occupied by members or shareholders of the co-operative association; or

(ii) in the case of a project consisting of houses that on completion of construction are to be conveyed to members or shareholders of the association, at least eighty per cent of the members or shareholders will each own a house.

Security.

(7) In the first instance repayment of the joint loan made under subsection six shall be secured by a first mortgage or hypothec on all the family housing units in the project.

Additional loan to co-operative association.

(8) Where a joint loan has been made under subsection six, the Corporation may make an additional loan to the co-operative association in an amount not exceeding one-sixth of the joint loan if

(a) in the opinion of the Corporation

(i) the costs of the project to the co-operative association have been fair and reasonable, and

(ii) each member or shareholder of the co-operative association will occupy one of the family housing units of the project;

(b) each member or shareholder of the co-operative association holds a lease from the co-operative association of such family housing unit for a term of not less than the term of the joint loan; and

New subsections (6), (7), (8) and (9) contain the new provisions relating to loans to co-operatives. A basic loan of 80% of the lending value of a co-operative housing project may be made in the first instance and secured by a blanket mortgage. If the shareholders or members of the co-operative are on completion of the project to own their homes individually the Corporation may make an additional loan to each such member or shareholder upon his receiving title to his home.

Where the co-operative association is to continue as such after the completion of construction and the ownership of the project is to remain in the co-operative association, an additional loan may be made to such co-operative association if each shareholder or member is to occupy a unit under a lease as long as the term of the loan and agrees that in the event of the mortgage being foreclosed and there being a deficiency in the mortgage account he will pay his proportionate share of such deficiency. The provisions relating to co-operatives as they presently exist are found in subsections (3) and (4) of section 4, which read as follows:

"(3) Notwithstanding anything contained in the two last preceding subsections, a joint loan may be made by His Majesty and an approved lending institution with which His Majesty has entered into a contract under this section to a trustee or corporation constituted or incorporated for the purpose of constructing and managing a co-operative housing project if:—

(a) each cestui que trust or each member or shareholder of the corporation has or is to have possession of a family housing unit in the project under a lease for a term at least as long as the term of the joint loan;

(b) each cestui que trust or said member or shareholder has an interest in the trust or owns shares or stock of the corporation in the proportion which the cost of construction of the said family housing unit bears to the cost of construction of the said project;

(c) each cestui que trust or said member or shareholder is obligated to pay his proportionate share of all operating costs of the project and of the monthly or other instalments of principal and interest in respect of the joint loan and taxes, together with a proportionate share of the said operating costs, instalments or taxes which any other cestui que trust or member or shareholder fails to pay; and

(d) the terms of the trust instrument or the charter or other instrument of incorporation and by-law of the borrower have been approved by the Corporation and the terms of the said contract shall, subject to subsection four of this section, apply mutatis mutandis in respect of any joint loan made pursuant to this subsection.

(4) The maximum and minimum limits of the amount of the joint loan which may be made to a trustee or corporation described in the last preceding subsection shall be the aggregate of the maximum or minimum amounts, as the case may be, of joint loans which would be authorized under paragraph *(c)* of subsection two of this section for the number of family housing units in the project each having a lending value equal to the average lending value of each of the said family housing units."

(c) each member or shareholder of the co-operative association has entered into an agreement with the approved lending institution and His Majesty undertaking that in the event of His Majesty and the lending institution realizing upon the mortgage, hypothec or other security the member or shareholder will pay his proportionate share of any deficiency.

Conveyance of house to member or shareholder.

(9) Where the construction under subsection six of a project consisting of houses has reached a stage satisfactory to the Corporation and the co-operative association conveys one of the houses of the project to one of its members or shareholders, the first mortgage, hypothec or other security may be discharged in respect of the house and a new joint mortgage, hypothec or other security taken in favour of His Majesty and the approved lending institution from the member or shareholder in an amount equal to the portion of the joint loan made in respect of the house in the first instance, and the Corporation may at the time of the conveyance make an additional loan to the member or shareholder under the provisions of subsection three.

"house" defined.

(10) For the purposes of this section, 'house' means a building, together with the land upon which it is situated, intended for human habitation, containing not more than two family housing units, including facilities ordinarily required in connection with a dwelling place."

3. Subsection six of section four B of the said Act, as enacted by section thirteen of chapter sixty-one of the statutes of 1946, is repealed and the following substituted therefor:

Purchases deemed loans.

"(6) For the purposes of *The Central Mortgage and Housing Corporation Act* and section seven of this Act, moneys expended for purchases under paragraph (c) of subsection two shall be deemed to be loans made under this Part, and losses resulting from such purchases shall be deemed to be losses in respect of loans made under this Part."

4. Subsection four of section six of the said Act, as enacted by section fourteen of chapter sixty-one of the statutes of 1946, is repealed and the following substituted therefor:

Purchases deemed loans. 1945 (2nd. Sess.), c. 15.

"(4) For the purposes of *The Central Mortgage and Housing Corporation Act* and section seven of this Act, purchases under subsections two and three of this section shall be deemed to be loans made under this Part, and losses resulting from such purchases shall be deemed to be losses in respect of loans made under this Part."

New subsection (10) is a repetition of existing subsection (7) of section 4 and has been repealed and repeated for renumbering purposes only.

CLAUSE 3. The amendment to subsection (6) of section 4B is for the purpose of correcting an accounting problem between the Corporation and the Treasury. Purchases under the integrated plan by the Corporation from a builder who has been unable to sell a house are by the present legislation deemed to be losses, which may be drawn by the Corporation from the Treasury. The amendment provides that moneys used for the purposes of such purchases shall be deemed to be loans and therefore must be borrowed from the Treasury by the Corporation. Under the present legislation the Corporation both owns the house and is able to draw the full purchase price from the Treasury as a loss. Under the proposed amendment the Corporation will be able to draw from the Treasury only such amount as may be determined as a loss when the house is sold by the Corporation.

Subsection (6) of section 4B presently reads:

"(6) For the purposes of The Central Mortgage and Housing Corporation Act, and section seven of this Act, purchases under paragraph *(c)* of subsection two of this section and payments under subsection five of this section shall be deemed to be losses in respect of loans made under this Part."

CLAUSE 4 is similar in purpose to Clause 3, but deals with the purchase of the lending institution's share of a mortgage and corrects the accounting problem in the same way. Subsection (4) of section 6 presently reads:

"(4) For the purposes of The Central Mortgage and Housing Corporation Act and section seven of this Act, purchases under subsections two and three of this section shall be deemed to be losses in respect of loans made under this Part".

5. Section seven of the said Act is repealed and the following substituted therefor:

Loans and losses paid out of Consolidated Revenue Fund.
1935, c. 58.
1938, c. 49.

"**7.** The Minister may make loans under this Part and pay losses in respect of loans made under this Part or under *The Dominion Housing Act*, 1935, or *The National Housing Act*, 1938, sustained after the coming into force of this Part not exceeding, in the aggregate, three hundred million dollars out of unappropriated moneys in the Consolidated Revenue Fund."

6. Paragraphs *(d)*, *(e)* and *(f)* of subsection one of section seventeen of the said Act, as amended by section twenty-one of chapter sixty-one of the statutes of 1946, are repealed and the following substituted therefor:

Payment of losses.

"*(d)* in the case of a home improvement loan, the principal amount of the loan did not exceed two thousand five hundred dollars in the case of a one-family dwelling, or two thousand five hundred dollars for the first family housing unit and an additional twelve hundred and fifty dollars for every other family housing unit in the case of a multiple-family dwelling;

(e) in the case of a home extension loan, the principal amount did not exceed thirty-seven hundred and fifty dollars for the first family housing unit, which was to be added to the existing home as a result of the expenditure of the loan and twelve hundred and fifty dollars for each additional family housing unit so to be added;

(f) the loan was repayable in full by the terms thereof in not more than three years if the principal amount of the loan did not exceed, in the case of a home improvement loan, twelve hundred and fifty dollars for a one-family dwelling or for each family housing unit in a multiple-family dwelling or, in the case of a home extension loan, twelve hundred and fifty dollars for each family housing unit to be comprised within the multiple-family dwelling, and in not more than five years in the case of any other loan;"

7. Section nineteen of the said Act, as enacted by section twenty-four of chapter sixty-one of the statutes of 1946, is repealed and the following substituted therefor:

No liability on excess of $125,000,000.

"**19.** The Corporation is not liable under this Part to make any payment to a bank or approved instalment credit agency in respect of loss sustained by it as a result of a home improvement loan or a home extension loan made after the aggregate principal amount of guaranteed home improvement loans and guaranteed home extension loans equals one hundred and twenty-five million dollars."

CLAUSE 5. New section 7 raises the appropriation for Part I purposes from one hundred million dollars to three hundred million dollars. The words "or any purchase price payable under the last preceding section" have been deleted, as the subject-matter has been covered by Clause 4 of this Bill.

CLAUSE 6 raises the amount of loans for home inprovement and home extension purposes by 25% from those presently specified. Paragraphs (d), (e) and (f) of subsection (1) of section 17 presently read:

"*(d)* in the case of a home improvement loan, the principal amount of the loan did not exceed two thousand dollars in the case of a one-family dwelling, or two thousand dollars for the first family housing unit and an additional one thousand dollars for every other family housing unit in the case of a multiple-family dwelling;

(e) in the case of a home extension loan, the principal amount did not exceed three thousand dollars for the first family housing unit, which was to be added to the existing home as a result of the expenditure of the loan and one thousand dollars for each additional family housing unit so to be added;

(f) the loan was repayable in full by the terms thereof in not more than three years if the principal amount of the loan did not exceed, in the case of a home improvement loan, one thousand dollars for a one-family dwelling or for each family housing unit in a multiple-family dwelling, or, in the case of a home extension loan, one thousand dollars for each family housing unit to be comprised within the multiple-family dwelling , and in not more than five years in the case of any other loan;"

CLAUSE 7. New section 19 provides for an increase of 25% in the aggregate amount of loans that may be guaranteed under the Home Improvement and Home Extension section. Section 19 presently reads:

"**19.** The Corporation is not liable under this Part to make any payment to a bank or approved instalment credit agency in respect of loss sustained by it as a result of a home improvement loan or a home extension loan made after the aggregate principal amount of guaranteed home improvemen loans and guaranteed home extension loans equals one hundred million dollars".

8. Paragraph *(a)* of subsection two of section thirty-four of the said Act, as enacted by section six of chapter sixty-three of the statutes of 1947-48, is repealed and the following substituted therefor:

Powers of Corporation.

"*(a)* hold, operate, manage, heat, maintain, supervise, alter, renovate, add to, improve, repair, demolish, and salvage properties acquired by the Corporation;"

9. The said Act is further amended by adding thereto the following section:

Corporation may undertake projects jointly with provinces.

"**35.** (1) The Corporation may pursuant to agreements made between the Government of Canada and the government of any province undertake jointly with the government of the province or any agency thereof projects for the acquisition and development of land for housing purposes and for the construction of houses for sale or for rent.

Agreements with provinces.

(2) An agreement referred to in subsection one shall provide that the capital cost of the project and the profits or losses thereon shall be shared seventy-five per centum by the Corporation and twenty-five per centum by the government of the province or an agency thereof and shall contain such other provisions as are considered necessary or advisable to give effect to the purposes and provisions of this section, and notwithstanding section eighteen of *The Central Mortgage and Housing Corporation Act*, shall be executed on behalf of the Government of Canada by the Minister with the approval of the Governor in Council.

Expenditures paid out of special account or appropriations.

(3) Out of moneys appropriated by Parliament for the purposes of this section or out of the special account established by subsection four the Minister

(a) may advance to the Corporation for the purpose of meeting the Corporation's share of the capital cost of projects undertaken under this section such amounts as may be requested by the Corporation, on such terms and conditions as are approved by the Minister of Finance, and the Corporation shall give to the Minister in respect of such advances debentures or other evidences of indebtedness as the Minister may require; and

(b) shall reimburse the Corporation for losses sustained by it as a result of the sale or operation of any of the projects undertaken by the Corporation under this section.

Special account established.

(4) There shall be established a special account in the Consolidated Revenue Fund to which shall be credited out of unappropriated moneys in the Consolidated Revenue Fund the sum of fifty million dollars.

CLAUSE 8 amends paragraph (a) of subsection (2) of section 34 to allow the Corporation to exercise the powers specified in this paragraph in respect of other properties which it has acquired, as well as in respect of "housing projects".

CLAUSE 9 adds new section 35, authorizing the joint acquisition and development of land and the construction of housing projects for sale or for rent by the federal government and provincial governments.

Restoration of special account.

(5) Out of moneys appropriated by Parliament for the purposes of this section there shall be credited to the special account established by subsection four an amount equal to the amounts paid out of the special account in the fiscal year immediately preceding the fiscal year during which such appropriation was made.

Regulations.

(6) The Governor in Council may make regulations with respect to the projects that may be undertaken by the Corporation under this section prescribing

(a) the type of land which may be acquired for housing purposes and the maximum purchase price that may be paid for such land;

(b) the type, maximum costs and rentals of housing units that may be constructed;

(c) the number of housing units for which commitments may be given;

(d) the rates of interest and amortization that may be charged against the capital costs of a project undertaken under this section;

(e) the conditions under which family housing units may be sold or leased;

(f) any other matters deemed necessary or advisable to carry out the purposes or provisions of this section."

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

143

BILL Z3.

An Act to amend The Export and Import Permits Act.

Read a first time, Monday, 24th October, 1949.

Honourable Senator ROBERTSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

48044

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL Z[3].

An Act to amend The Export and Import Permits Act.

1947, c. 17; 1947-48, c. 16.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section fourteen of *The Export and Import Permits Act*, chapter seventeen of the statutes of 1947, as enacted by section five of chapter sixteen of the statutes of 1947-48, is repealed and the following substituted therefor:

Expiration.

"**14.** This Act shall expire on the thirty-first day of March, nineteen hundred and fifty-two."

Explanatory Notes.

Section 14 of the present Act, as amended in 1948, provides as follows:

"**14.** This Act shall expire on the thirty-first day of March, nineteen hundred and fifty."

The purpose of the Bill is to extend the life of the Act as there will be need to continue export permit control in regard to many goods, including strategic materials and equipment, and import permit control in regard to goods that are subject to price support or inter-governmental allocation or arrangement.

144.

First Session, Twenty-first Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 144.

An Act to amend the Combines Investigation Act.

First reading, November 4, 1949.

THE MINISTER OF JUSTICE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
41496 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 144.

An Act to amend the Combines Investigation Act.

R.S., c. 26; 1935, c. 54; 1937, c. 23; 1946, c. 44.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection two of section thirty-one of the *Combines Investigation Act*, chapter twenty-six of the Revise Statutes of Canada, 1927, as enacted by section ten of chapter forty-four of the statutes of 1946, is repealed and the following substituted therefor:—

Attorney General of Canada may institute and conduct prosecutions. R.S., c. 36.

"(2) The Attorney General of Canada may institute and conduct any prosecution or other proceedings under this Act, or under section four hundred and ninety-eight or section four hundred and ninety-eight A of the *Criminal Code*, and for such purposes he may exercise all the powers and functions conferred by the *Criminal Code* on the attorney general of a province."

2. Section thirty-nine of the said Act is amended by adding thereto the following subsection:

Corporations to be tried without a jury.

"(3) Notwithstanding anything in the *Criminal Code* or in any other statute or law, a corporation charged with an offence under this Act or under section four hundred and ninety-eight or section four hundred and ninety-eight A of the *Criminal Code*, shall be tried without the intervention of a jury."

3. The said Act is further amended by adding thereto, immediately after section thirty-nine thereof, the following section:

Evidence.

Definitions. "Agent of a participant".

"**39A.** (1) In this section

(a) "agent of a participant" means a person who by a document admitted in evidence under this section appears to be or is otherwise proven to be an officer, agent, servant, employee or representative of a participant,

Explanatory Notes.

The amendments provided in this Bill are designed to facilitate enforcement of the *Combines Investigation Act*, and of related *Criminal Code* provisions. They relate to court procedure concerning undue monopolistic trade restrictions and unlawful combinations in restraint of trade.

1. Under the *Criminal Code* only the attorney general of a province has status to present an indictment. Since for some time the practice has been for the Attorney General of Canada to take responsibility in major combines prosecutions, this amendment is designed to give him equal status with an attorney general of a province without excluding the latter. The subsection to be repealed reads:

"**31.** (2) The Minister of Justice may instruct counsel to attend on behalf of the Minister at all proceedings consequent on any information being laid for an offence under this Act."

2. New. This subsection provides that in combines prosecutions corporations are to be tried by a judge without a jury.

3. New. Subsection (1) defines the persons whose acts or documents may be introduced into evidence under the rebuttable presumptions established by subsection (2).

Subsection (2) establishes a rebuttable presumption that an employee acting in connection with his employer's business has authority so to act and a rebuttable presumption that relevant documents in the business files of those involved in an alleged combine are authentic records from which a court or a jury may properly draw any reasonable inferences.

"document."

(b) "document" includes any document appearing to be a carbon, photographic or other copy of a document, and

"participant".

(c) "participant" means any accused and any person who, although not accused, is alleged in the charge or indictment to have been a co-conspirator or otherwise party or privy to the offence charged.

Evidence against a participant.

(2) In a prosecution under section thirty-two of this Act or under section four hundred and ninety-eight or section four hundred and ninety-eight A of the *Criminal Code*:

(a) anything done, said or agreed upon by an agent of a participant shall *prima facie* be deemed to have been done, said or agreed upon, as the case may be, with the authority of that participant;

(b) a document written or received by an agent of a participant shall *prima facie* be deemed to have been written or received, as the case may be, with the authority of that participant; and

(c) a document proved to have been in the possession of a participant or on premises used or occupied by a participant or in the possession of an agent of a participant shall be admitted in evidence without further proof thereof and shall be *prima facie* evidence:

(i) that the participant had knowledge of the document and its contents;

(ii) that anything recorded in or by the document as having been done, said or agreed upon by any participant or by an agent of a participant was done, said or agreed upon as recorded and, where anything is recorded in or by the document as having been done, said or agreed upon by an agent of a participant, that it was done, said or agreed upon with the authority of that participant;

(iii) that the document, where it appears to have been written by any participant or by an agent of a participant, was so written and, where it appears to have been written by an agent of a participant, that it was written with the authority of that participant."

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 145.

An Act respecting the Acquisition of the Temiscouata Railway.

First reading, November 4, 1949.

THE MINISTER OF TRANSPORT.

8OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TL THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
47932 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 145.

An Act respecting the Acquisition of the Temiscouata Railway.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Agreement ratified ond confirmed.

1. The Agreement set out in the Schedule to this Act, dated the fourteenth day of October, nineteen hundred and forty-nine, between His Majesty the King in right of Canada and the Temiscouata Railway Company, is hereby ratified and confirmed and shall take effect according to its terms, and the said Agreement is hereby declared to have been duly ratified, approved and sanctioned in accordance with section fifteen of An Act respecting the Temiscouata Railway Company, chapter one hundred and twenty-nine of the statutes of 1904, and the terms thereof shall be binding upon all shareholders and holders of general mortgage bonds, whether they have been or have not been registered.

Payment out of C.R. Fund.

2. The Minister of Finance may, out of unappropriated moneys in the Consolidated Revenue Fund of Canada, pay any amounts, not exceeding in the aggregate four hundred and eighty thousand dollars, that are payable under the terms of the said Agreement at such times and in such manner as are set out in the Agreement.

Explanatory Note.

The purpose of the Bill is to provide for the purchase by the Government of the Temiscouata Railway.

SCHEDULE.

THIS AGREEMENT made this fourteenth day of October, 1949,

BETWEEN

HIS MAJESTY THE KING in right of Canada (hereinafter called "the Government"),

OF THE FIRST PART,

— and —

TEMISCOUATA RAILWAY COMPANY, a body politic and corporate, having its head office at Riviere du Loup, in the Province of Quebec, (hereinafter called "the Temiscouata"),

OF THE SECOND PART.

WHEREAS the Temiscouata owns and operates a line of railway from a point on the Intercolonial Railway at or near Riviere du Loup, in Quebec, to a point on Canadian National Railways at or near the Town of Edmundston, in New Brunswick, and a branch line of railway from or near the latter point to a point on the River St. John at or near the mouth of the St. Francis River;

AND WHEREAS under the provisions of Chapter 129 of the Statutes of Canada, 1904, the Temiscouata is empowered to sell its railway, works, properties and franchises to amongst others the Government of Canada, upon such terms and conditions as are agreed upon by the directors of the Temiscouata and the Government;

AND WHEREAS by the said Act of 1904 it is further provided that any such agreement for sale shall not be valid until it has first been ratified by a majority of the votes of the shareholders and holders of general mortgage bonds entitled to vote and present or represented by proxy at a special general meeting duly called for the purpose of considering it, and also by a majority in value of three-fourths of such holders of general mortgage bonds present in person or by proxy at such meeting;

AND WHEREAS the directors of the Temiscouata were empowered by the said Act of 1904 to make an issue of consolidated mortgage income bonds;

AND WHEREAS under the provisions of Chapter 137 of the Statutes of Canada, 1907, the Temiscouata was authorized pending the issue of said consolidated mortgage income bonds to issue scrip certificates to the persons entitled under the said Act of 1904 to receive consolidated mortgage income bonds;

AND WHEREAS by the said Act of 1907 it was further provided that at all general meetings of the Temiscouata, the holders of such scrip certificates who have, one month previous to the day of meeting, registered their scrip certificates or transfers thereof, shall have, while the scrip certificates remain registered, the same rights, privileges and qualifications for voting (and for being elected as directors) as they would have had if registered as the holders of shares of the same nominal amount as the consolidated mortgage income bonds represented by the certificates registered in their names or in respect of which transfers to them have been registered;

AND WHEREAS the Board of Directors of the Temiscouata, at a meeting duly called according to law, approved of the sale to the Government, for the price and subject to the terms and conditions hereinafter mentioned, of its railway, works, properties and franchises and on the 26th day of August, 1949, enacted By-Law No. 12 of the Temiscouata in this connection;

AND WHEREAS notice that a special general meeting of the shareholders and holders of registered scrip certificates for the 5 per cent consolidated mortgage income bonds of the Temiscouata would be held on October 3, 1949, for the purpose of considering at said meeting or any adjournment or adjournments thereof and, if approved, ratifying, subject to any requisite sanction, ratification and implementation by the Governor-in-Council and/or the Parliament of Canada of, said By-law No. 12, was given by advertisement published in *The Canada Gazette* on the 3rd, 10th, 17th and 24th days of September and the 1st day of October, 1949, and in the London *Times* on the 3rd, 10th, 17th and 24th days of September, 1949;

AND WHEREAS the meeting of which notice was given as aforesaid was adjourned from October 3, 1949, to October 6, 1949 and thence to October 12, 1949;

AND WHEREAS at said last adjournment of said meeting the said By-law No. 12 as so enacted and the present agreement for sale and all the terms and conditions thereof were ratified in the following manner, namely, there being no shareholders present in person or by proxy, by the unanimous vote of the holders of over three-fourths in value of registered scrip certificates for the 5 per cent consolidated mortgage income bonds of the Temiscouata present at the said meeting or thereat represented by proxy; an extract of the Minutes of said adjourned meeting certified by the Secretary of the Temiscouata being hereto annexed marked "A";

NOW THEREFORE this agreement witnesseth as follows:—

1. In consideration of the sum of Four Hundred and Eighty Thousand ($480,000) dollars of lawful money of Canada payable as hereinafter provided, the Temiscouata hath sold, assigned, conveyed and made over as by these presents it doth hereby sell, assign, convey and make over unto the Government, free and clear of any charges, liens or encumbrances in respect of any bonds, debentures, debenture stock or

other like securities, or under any trust deed, all the right, title and interest of the Temiscouata in the whole of its railway, a general description whereof is set out in the schedule hereto, including the main and branch lines of railway, rolling stock and equipment, and all rights, franchises, powers, property, movable and immovable, assets and effects of every nature and description belonging to or possessed by the Temiscouata and situated in Canada and Great Britain (including cash on hand, securities and bills receivable) with the appurtenances, also all running powers and other rights, privileges and concessions whatsoever acquired by the Temiscouata by contract, agreement or otherwise, from any other company, Government, municipality or person, the whole being hereinafter referred to as "the property sold".

To Have, Hold, Use, Enjoy and Dispose of the property sold henceforth forever.

2. Upon the appropriation of funds for such end by the Parliament of Canada, the Government will pay the purchase price in pounds sterling (at the current rate of exchange on the day of payment) in London, England, to the Temiscouata's nominee; and the Temiscouata hereby designates the Temiscouata Railway Bondholders' Committee, Limited, as its nominee for the purposes hereof and directs the Government to remit the said purchase price to the said Committee, at Winchester House, Old Broad Street, London, E.C.2, provided, however, that the Government will pay in Canadian funds to any nominee of the said Committee in Canada so much of the purchase price as the said Committee may require the Government to pay in Canadian funds. It is hereby agreed that payment of the purchase price by the Government as aforesaid shall constitute a complete discharge to the Government.

3. The Temiscouata agrees that it will execute and deliver to the Government such further transfers, deeds, conveyances, assignments, bills of sale, leases, releases of encumbrances and instruments as may in the premises be necessary and proper, including such documents as may be required for the purpose of registration in any provincial registry offices or in the office of any Department of the Government; and the Temiscouata agrees that if the Government for the purpose of confirming its title in detail should, after survey of the land or parts of the land comprised in the property sold, deposit under the provisions of the Expropriation Act detail plans of such land or of parts thereof, there shall be payable to the Temiscouata no further compensation over and above the said purchase price.

4. The Temiscouata shall forthwith hand over to the Government all books of accounts, plans, profiles, maps, agreements, title deeds, leases, records and all other documents or books relating to the property sold and being in the possession of the Temiscouata, including all policies of insurance covering the property sold.

5. The Government shall assume the current liabilities of and the legal claims of third parties and employees against the Temiscouata at the date of ratification and confirmation of this agreement by the

Parliament of Canada, except such liabilities as have not been incurred in and such claims as have not arisen from the normal operation of the property sold. The Government shall assume no liability arising out of claims by or on behalf of stockholders of the Temiscouata.

6. This agreement shall be subject to ratification and confirmation by the Parliament of Canada and shall become effective from the date of such ratification and confirmation.

IN WITNESS WHEREOF the parties hereto have executed these presents.

SIGNED, SEALED AND DELIVERED in six originals in the presence of:

(sgd.) W. Whitmarsh

HIS MAJESTY THE KING IN RIGHT OF CANADA

By:

(sgd.) J. C. Lessard,
Deputy Minister of Transport

(SEAL)

(sgd.) F. T. Collins,
Secretary

Pursuant to Order in Council (P.C. No. 5186) dated the fourteenth day of October, 1949.

TEMISCOUATA RAILWAY COMPANY

By:

(sgd.) J. H. Proulx

(sgd.) G. Michaud

(sgd.) Louis Pratte,
Director

(SEAL)

(sgd.) L. N. Ouellet,
Secretary

SCHEDULE

A line of railway extending southeasterly from a point on the Intercolonial Railway (now called Canadian National Railways) at Riviere du Loup, in Quebec, to Edmundston, in New Brunswick, where it makes connection with the National Transcontinental Railway (now also called Canadian National Railways), a distance of 81·5 miles, more or less, together with a branch extending westerly from Edmundston to Connors, in New Brunswick, a distance of 31·3 miles, more or less, the whole comprising a railway mileage of 112·8 miles, more or less.

This is the schedule referred to in the agreement for sale made the 14th day of October, 1949 between His Majesty the King in right of Canada and Temiscouata Railway Company.

HIS MAJESTY THE KING in right of Canada

By:

(sgd.) J. C. Lessard,
Deputy Minister of Transport

(sgd.) F. T. Collins,
Secretary

TEMISCOUATA RAILWAY COMPANY

By:

(sgd.) Louis Pratte,
Director

(sgd.) L. N. Ouellet,
Secretary

"A"

EXTRACT OF MINUTES OF AN ADJOURNED SPECIAL GENERAL MEETING OF SHAREHOLDERS AND HOLDERS OF REGISTERED SCRIP CERTIFICATES FOR THE 5 PER CENT CONSOLIDATED MORTGAGE INCOME BONDS OF TEMISCOUATA RAILWAY COMPANY HELD AT THE HEAD OFFICE OF THE COMPANY IN RIVIERE-DU-LOUP, PROVINCE OF QUEBEC, CANADA, ON 12TH OCTOBER, 1949, AT 10 O'CLOCK OF THE FORENOON.

There were present in person or by proxy the following:—

Name	Number of Shares or Face Value (in pounds) of Scrip Certificates registered in his name	Represented
C. E. Dube	£ 780. 0. 0	By L. N. Ouellet, his proxy
Louis Pratte	780. 0. 0	In person
J. H. Proulx	780. 0. 0	" "
Georges Michaud	780. 0. 0	" "
Temiscouata Railway Bond-holders' Committee Limited	582,896.13. 4	By L. N. Ouellet, its proxy
	£586,016.13. 4	

being the holders of over three-fourths in value of the scrip certificates issued or authorized to be issued for the said 5 per cent consolidated mortgage income bonds of the Company.

.....

Upon motion duly proposed and seconded, it was unanimously resolved that By-law No. 12 of the Company's by-laws enacted by the Directors on the 26th day of August, 1949, ...be and the same is hereby ratified, approved and confirmed.

The Chairman then laid before and read to the meeting a draft agreement for sale by the Company to His Majesty the King, in right of Canada, of the Company's railway, works, properties and franchises, the operative portions of such agreement for sale reading as follows:—

"1. In consideration of the sum of Four Hundred and Eighty Thousand ($480,000) dollars of lawful money of Canada payable as hereinafter provided, the Temiscouata hath sold, assigned, conveyed and made over as by these presents it doth hereby sell, assign, convey and make over unto the Government, free and clear of any charges,

liens or encumbrances in respect of any bonds, debentures, debenture stock, or other like securities or under any trust deed, all the right, title and interest of the Temiscouata in the whole of its railway, a general description whereof is set out in the schedule hereto, including the main and branch lines of railway, rolling stock and equipment, and all rights, franchises, powers, property, movable and immovable, assets and effects of every nature and description belonging to or possessed by the Temiscouata and situated in Canada and Great Britain (including cash on hand, securities and bills receivable) with the appurtenances, also all running powers and other rights, privileges and concessions whatsoever acquired by the Temiscouata by contract, agreement or otherwise, from any other company, Government, municipality or person, the whole being hereinafter referred to as "the property sold".

To Have, Hold, Use, Enjoy and Dispose of the property sold henceforth forever.

2. Upon the appropriation of funds for such end by the Parliament of Canada, the Government will pay the purchase price in pounds sterling (at the current rate of exchange on the day of payment) in London, England, to the Temiscouata's nominee; and the Temiscouata hereby designates the Temiscouata Railway Bondholders' Committee, Limited, as its nominee for the purposes hereof and directs the Government to remit the said purchase price to the said Committee at Winchester House, Old Broad Street, London, E.C.2, provided, however, that the Government will pay in Canadian funds to any nominee of the said Committee in Canada so much of the purchase price as the said Committee may require the Government to pay in Canadian funds. It is hereby agreed that payment of the purchase price by the Government as aforesaid shall constitute a complete discharge to the Government.

3. The Temiscouata agrees that it will execute and deliver to the Government such further transfers, deeds, conveyances, assignments, bills of sale, leases, releases of encumbrances and instruments as may in the premises be necessary and proper, including such documents as may be required for the purpose of registration in any provincial registry offices or in the office of any Department of the Government; and the Temiscouata agrees that if the Government for the purpose of confirming its title in detail should, after survey of the land or parts of the land comprised in the property sold, deposit under the provisions of the Expropriation Act detail plans of such land or of parts thereof, there shall be payable to the Temiscouata no further compensation over and above the said purchase price.

4. The Temiscouata shall forthwith hand over to the Government all books of accounts, plans, profiles, maps, agreements, title deeds, leases, records and all other documents or books relating to the property sold and being in the possession of the Temiscouata, including all policies of insurance covering the property sold.

5. The Government shall assume the current liabilities of and the legal claims of third parties and employees against the Temiscouata

47932—2

at the date of ratification and confirmation of this agreement by the Parliament of Canada except such liabilities as have not been incurred in and such claims as have not arisen from the normal operation of the property sold. The Government shall assume no liability arising out of claims by or on behalf of stockholders of the Temiscouata.

6. This agreement shall be subject to ratification and confirmation by the Parliament of Canada and shall become effective from the date of such ratification and confirmation."

Upon motion duly proposed and seconded, it was unanimously resolved that the foregoing agreement for sale be and the same is hereby ratified.

CERTIFIED TO BE A TRUE EXTRACT
Riviere-du-Loup, October 12th, 1949.

(sgd.) L. N. OUELLET,
Secretary,
Temiscouata Railway Company

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 146.

An Act to authorize the granting of a subsidy to the Government of the Province of British Columbia in aid of the construction of an extension to the Pacific Great Eastern Railway.

First reading, November 4, 1949.

THE MINISTER OF TRANSPORT

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

47937

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 146.

An Act to authorize the granting of a subsidy to the Government of the Province of British Columbia in aid of the Construction of an extension to the Pacific Great Eastern Railway.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Pacific Great Eastern Railway Aid Act.*

Subsidy to British Columbia for construction of railway.

2. The Governor in Council may grant to the Government of the province of British Columbia a subsidy of fifteen thousand dollars per mile, but not exceeding eighty-two and seven-tenths miles, towards the construction of a line of railway from Quesnel in the province of British Columbia to Prince George in the said province.

How subsidies shall be paid.

3. The subsidy hereby authorized shall be payable out of the Consolidated Revenue Fund of Canada at the option of the Governor in Council, and may be paid upon the report of the Minister of Transport as to the mileage constructed, in such manner and in such amounts, and subject to such conditions, if any, as the Governor in Council deems expedient.

147.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 147.

An Act to amend the Animal Contagious Diseases Act.

First reading, November 4, 1949.

THE MINISTER OF AGRICULTURE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

46553

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 147.

An Act to amend the Animal Contagious Diseases Act.

R.S., c. 6; 1947-48, c. 11.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Paragraphs *(a)* and *(b)* of subsection two of section fourteen of the *Animal Contagious Diseases Act*, chapter six of the Revised Statutes of Canada, 1927, are repealed and the following substituted therefor:

Compensation to owners.

"*(a)* in the case of horses, two hundred dollars for pure-bred animals and one hundred dollars for grade animals;

(b) in the case of cattle, one hundred dollars for pure-bred animals and forty dollars for grade animals, and if the sale of the carcass is unlawful an additional amount for pure-bred and grade animals equal to the value the carcass would have if the sale were lawful, such value to be determined by the Minister or by some person appointed by him for that purpose;

(c) in the case of swine, fifty dollars for pure-bred animals and thirty dollars for grade animals; and

(d) in the case of sheep, fifty dollars for pure-bred animals and twenty dollars for grade animals."

Repeal.

2. Section fifteen of the said Act is repealed.

Compensation for cattle after 31st March, 1947, and before this Act comes into force.

3. Where compensation was paid in respect of cattle slaughtered pursuant to the *Animal Contagious Diseases Act* before the commencement of this Act but after the thirty-first day of March, nineteen hundred and forty-seven, for the reason that they were affected with bovine tuberculosis, the owners of the slaughtered cattle shall be paid in respect of each carcass, the sale of which was unlawful at the time of slaughter, additional compensation equal to the average

Explanatory Notes.

1. The repealed paragraphs *(a)* and *(b)* read as follows:

"*(a)* in any case of grade animals, one hundred and fifty dollars for each horse, sixty dollars for each head of cattle, and fifteen dollars for each pig or sheep; and

(b) in the case of pure-bred animals three hundred dollars for each horse, one hundred and fifty dollars for each head of cattle, and fifty dollars for each pig or sheep."

2. Repealed section 15 reads:

"15. The compensation, if any, shall be two-thirds of the value of the slaughtered animal determined as aforesaid, before it became affected with infectious or contagious disease, or came in contact with or in dangerous proximity to animals so affected.

2. When it is clearly shown that an animal has been slaughtered on insufficient grounds and that the slaughter was not in accordance with or justifiable under this Act, the owner shall be entitled to compensation at the full value of the animal so slaughtered."

value the carcasses would have had if the sale had been lawful, such average value to be determined by the Minister having regard to the average weights and prices of cattle marketed in Canada during the period from the first day of April, nineteen hundred and forty-seven, to the commencement of this Act.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 148.

An Act to authorize the provision of moneys to meet certain capital expenditures made and capital indebtedness incurred by the Canadian National Railways System during the calendar year 1949, and to authorize the guarantee by His Majesty of certain securities to be issued by the Canadian National Railway Company.

First reading, November 4, 1949.

THE MINISTER OF FINANCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
48180 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 148.

An Act to authorize the provision of moneys to meet certain capital expenditures made and capital indebtedness incurred by the Canadian National Railways System during the calendar year 1949, and to authorize the guarantee by His Majesty of certain securities to be issued by the Canadian National Railway Company.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *Canadian National Railways Financing and Guarantee Act, 1949.*

Power to issue securities for capital expenditures.

2. Subject to the provisions of this Act and the approval of the Governor in Council, the Canadian National Railway Company (herein called "the National Company") may issue notes, obligations, bonds, debentures or other securities (herein called "securities") bearing such rates of interest and subject to such other terms and conditions as the Governor in Council may approve, to provide the amounts necessary to meet in whole or in part capital expenditures made or capital indebtedness incurred during the calendar year 1949 by or on behalf of any companies or railways comprised in the National Railway System as defined in *The Canadian National Railways Capital Revision Act, 1937*, on any or all of the following accounts, such expenditures or indebtedness being (herein called "authorized expenditures")—

Additions and Betterments (less retirements)	$24,500,000	
New Equipment	8,700,000	
Barraute Branch Line	612,890	
Acquisition of Securities and retirement of Capital Obligations	1,692,000	
		$35,504,890

Less: Available from Reserves for Depreciation and Debt Discount Amortization.....	15,738,000
	$19,766,890

Proviso.

Provided, however, that for such purposes the aggregate principal amount at any one time outstanding of the securities which the National Company is authorized by this section to issue from time to time shall not exceed the sum of $19,766,890.

Minister of Finance may make temporary loans for capital expenditures.

3. The Minister of Finance, with the approval of the Governor in Council, may make temporary loans to the National Company out of the Consolidated Revenue Fund for the purpose of meeting authorized expenditures, bearing such rates of interest and subject to such other terms and conditions as the Governor in Council may determine and secured by securities which the National Company is authorized to issue from time to time under the provisions of section two of this Act, upon applications for such loans approved by the Minister of Transport, made from time to time by the National Company to the Minister of Finance:

Proviso.

Provided, however, that the aggregate principal amount at any one time outstanding of the loans which the Minister of Finance is hereby authorized to make from time to time to the National Company shall not exceed the sum of $19,766,890.

Issue and guarantee of substituted securities.

4. Should any such temporary loans be made within the limits aforesaid, definitive securities may subsequently be issued and guaranteed under the provisions of this Act to repay such loans or any part thereof.

Power to aid other companies.

5. The National Company may aid and assist, in any manner, not inconsistent with the terms of section two, any other or others of the said companies and railways and, without limiting the generality of the foregoing, may for its own requirements and also for the requirements of any other or others of the said companies and railways from time to time:—

(a) apply the proceeds of any issue of securities in meeting authorized expenditures on its own account or on account of any other or others of the said companies and railways;

(b) make advances for the purpose of meeting authorized expenditures to any other or others of the said companies and railways, upon or without any security, at discretion.

Guarantee.

6. The Governor in Council may authorize the guarantee of the principal and interest of the securities, which the National Company may issue from time to time under the provisions of this Act.

Form and terms of guarantee.

7. (1) The guarantee or guarantees may be in such forms and subject to such terms and conditions as the Governor in Council may determine to be appropriate and applicable thereto and may be signed on behalf of His Majesty by the Minister of Finance or the Acting Minister of Finance or by such other person as the Governor in Council may from time to time designate and such signature shall be conclusive evidence for all purposes of the validity of the guarantee and that the provisions of this Act have been complied with.

Method of guarantee.

(2) Any such guarantee may be either a general guarantee covering the total amount of the issue or be a separate guarantee endorsed on each obligation.

Temporary guarantees.

(3) With the approval of the Governor in Council temporary guarantees may be made, to be subsequently replaced by permanent guarantees.

Proceeds paid to credit of Minister of Finance in trust.

8. (1) The proceeds of any sale, pledge, or other disposition of any guaranteed securities shall be deposited in the first place either in the Consolidated Revenue Fund or to the credit of the Minister of Finance and Receiver General of Canada, in trust for the National Company in one or more banks designated by him.

Application for the release of any part of the proceeds.

(2) The Board of Directors of the National Company may from time to time authorize application to be made to the Minister of Transport for the release of any part of the proceeds deposited as aforesaid to the National Company for the purpose of meeting specified authorized expenditures within the respective limits, mentioned in section two of this Act, and the Minister of Transport may in his discretion approve the said applications and upon the request of the Minister of Transport, the Minister of Finance may release the amount or amounts of such applications or part thereof accordingly.

When revenue of National Railway System insufficient to meet operating and income charges.

9. If at any time before the first day of April, nineteen hundred and fifty, the available revenues of the National Railway System are not sufficient to pay all the operating and income charges of the System as and when due, the Minister of Finance may, with the approval of the Governor in Council, upon applications made by the National Company and approved by the Minister of Transport, place at the disposal of the National Company such amounts as may be necessary to enable the National Company to meet all such charges:

Proviso.

Provided that all such amounts shall be reimbursed to the Minister of Finance from the annual revenues of the National Railway System in so far as such revenues are sufficient and any insufficiency shall be provided for by subsequent deficit appropriation by Parliament.

When revenue of Trans-Canada Air Lines and subsidiaries insufficient to meet operating and income charges.

10. If at any time before the first day of April, nineteen hundred and fifty, the available revenues of the Trans-Canada Air Lines and subsidiaries are not sufficient to pay all the operating and income charges thereof as and when due, the Minister of Finance may with the approval of the Governor in Council, upon applications made by the Trans-Canada Air Lines and approved by the Minister of Transport, place at the disposal of the Trans-Canada Air Lines such amounts as may be necessary to enable the Trans-Canada Air Lines and subsidiaries to meet all such charges:

Proviso.

Provided all such amounts shall be reimbursed to the Minister of Finance from the annual revenues of the Trans-Canada Air Lines and subsidiaries in so far as such revenues are sufficient and any insufficiency shall be provided for by subsequent deficit appropriation by Parliament.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

149

BILL F.

An Act respecting Bankruptcy.

Read a first time, Tuesday, 4th October, 1949.

Honourable Senator ROBERTSON.

OTTAWA
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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
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1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL F.

An Act respecting Bankruptcy.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as the *Bankruptcy Act, 1949.*

*INTERPRETATION.

Definitions.

2. In this Act,

"affidavit". *(a)* "affidavit" includes statutory declaration and affirmation; *(a)*

"assignment". *(b)* "assignment" means an assignment filed with the official receiver; *(c)*

"bankrupt". *(c)* "bankrupt" means a person who has made an assignment or against whom a receiving order has been made or the legal status of such a person; *(i)*

"bankruptcy". *(d)* "bankruptcy" means the state of being bankrupt or the fact of becoming bankrupt; *(j)*

"claim provable in bankruptcy". *(e)* "claim provable in bankruptcy" or "provable claim" or "claim provable" includes any claim or liability provable in proceedings under this Act by a preferred, secured or unsecured creditor; *(q)*

"corporation". *(f)* "corporation" includes any company incorporated or authorized to carry on business by or under an Act of the Parliament of Canada or of any of the provinces of Canada, and any incorporated company, wheresoever incorporated, that has an office in or carries on business within Canada, but does not include building societies having a capital stock, nor incorporated banks, savings banks, insurance companies, trust companies, loan companies or railway companies; *(d)*

"court". *(g)* "court" means the court having jurisdiction in bankruptcy or a judge thereof and includes a registrar when exercising the powers of the court conferred upon him under this Act; *(e)*

* The definitions are arranged alphabetically. At the end of each is found the letter of the corresponding definition in the French version of this Act, the alphabetical order being necessarily different in the two languages.

2. *(a)* No change.

(b) The distinction between "an assignment" and an "authorized assignment" is unnecessary. The word "authorized" may well be eliminated throughout the Act. The words "filed with" are substituted for the words "accepted and filed by".

The former paragraph *(b)* has been deleted. It read as follows:

"*(b)* 'alimentary debt' means a debt incurred for necessaries or maintenance;"

(c) This is a new definition. It is introduced to avoid the repetition of the phrase "who has made an authorized assignment or against whom a receiving order has been made" wherever it occurs in the Act.

The former paragraph *(c)* has been deleted. It read as follows:

"*(c)* 'appeal court' means the court having jurisdiction in bankruptcy, under this Act, on appeal;"

(d) This is a new definition. It is introduced for the same reason as paragraph *(c)* immediately above.

The former paragraph *(d)* has been deleted as confusing and unnecessary. It read as follows:

"*(d)* 'assignment' includes conveyance;"

(e) Formerly 2*(o)*. The word "debt" has been replaced by "claim" and the words underlined in the last two lines have been substituted for "by this Act made provable in bankruptcy or in proceedings under an authorized assignment". The purpose of the latter change is to simplify and clarify the definition.

The former paragraph *(e)* has been deleted. It read as follows:

"*(e)* 'assignor' means the maker of an assignment, whether under this Act such maker may lawfully make such assignment or such assignment may lawfully be made, or not;"

(f) Formerly 2 *(k)*. No change.

The former paragraph *(f)* has been deleted in view of the definition of an assignment contained in paragraph *(b)* above. It read as follows:

"*(f)* 'authorized assignment' means an assignment accepted and filed by the Official Receiver;"

(g) Formerly 2(*l*). The former definition was as follows:

"(*l*) 'court' or 'the court' means the court which is invested with original jurisdiction in bankruptcy under this Act;"

The purpose of the change is to widen the definition to include judges and registrars.

The former paragraph *(g)* has been deleted. The term "assignor" or "authorized assignor" is no longer employed, all persons in bankruptcy being designated as "bankrupts". The paragraph read as follows:

"*(g)* 'authorized assignor' means an insolvent assignor whose debts provable under this Act exceed five hundred dollars;"

'creditor". (h) "creditor" means a person having a claim, preferred, secured or unsecured, provable as a claim under this Act; (f)

"debtor". (i) "debtor" includes an insolvent person and any person who, at the time an act of bankruptcy was committed by him, resided or carried on business in Canada and, where the context requires, includes a bankrupt; (h)

"insolvent person". (j) "insolvent person" means a person who is not bankrupt and who resides or carries on business in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and

(i) who is for any reason unable to meet his obligations as they generally become due, or

(ii) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or

(iii) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due; (n)

"locality of a debtor". (k) "locality of a debtor" means the principal place

(i) where the debtor has carried on business during the year immediately preceding his bankruptcy;

(ii) where the debtor has resided during the year immediately preceding his bankruptcy;

(iii) in cases not coming within subparagraph (i) or (ii), where the greater portion of the property of such debtor is situate; (k)

(h) The former definition, 2 *(m)*, was as follows:

"*(m)* 'creditor' with relation to any meeting held under authority of this Act, shall, in the case of a corporation, include bondholder, debenture holder, shareholder and member of the corporation;"

The former paragraph *(h)* has been deleted. It read as follows:

"*(h)* 'available act of bankruptcy' means an act of bankruptcy committed within six months before the date of
(i) the presentation of a bankruptcy petition, or
(ii) the making of an authorized assignment, or
(iii) the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction mentioned in section sixty-five;"

(i) This is a new definition and replaces the former paragraph *(p)* which read as follows:

"*(p)* 'debtor' includes any person, whether a British subject or not, who, at the time when any act of bankruptcy was done or suffered by him, or any authorized assignment was made by him
(i) was personally present in Canada, or
(ii) ordinarily resided or had a place of residence in Canada, or
(iii) was carrying on business in Canada personally or by means of an agent or manager, or
(iv) was a corporation or a member of a firm or partnership which carried on business in Canada;"

The former paragraph *(i)* is unnecessary and has been deleted. It read as follows:

"*(i)* 'bank' or 'chartered bank' means an incorporated bank carrying on the business of banking under the *Bank Act*;"

(j) Formerly 2*(u)* which read in part as follows: " 'insolvent person' and 'insolvent' includes a person, whether or not he has done or suffered an act of bankruptcy".

The former paragraph *(j)* is unnecessary and has been deleted. It read as follows:

"*(j)* 'banker' includes any person owning, conducting or in charge of any bank or place where money or securities for money are received upon deposit or held subject to withdrawal by depositors;"

(k) This was formerly paragraph *(y)*. No substantial change.

"Minister". *(l)* "Minister" means the Minister of Justice; *(l)*

"person". *(m)* "person" includes a partnership, an unincorporated association, a corporation, a co-operative society or organization, the successors of such partnership, association, corporation, society or organization, and the heirs, executors, administrators or other legal representative of a person, according to the law of that part of Canada to which the context extends; *(m)*

"prescribed". *(n)* "prescribed" means prescribed by General Rules; *(o)*

"property". *(o)* "property" includes money, goods, things in action, land, and every description of property, whether real or personal, movable or immovable, legal or equitable, and whether situate in Canada or elsewhere and includes obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, in, arising out of, or incident to property; *(b)*

"proposal". *(p)* "proposal" includes a proposal for a composition, for an extension of time, or for a scheme of arrangement; *(p)*

"resolution". *(q)* "resolution" or "ordinary resolution" means a resolution carried in manner provided by section eighty-one; *(r)*

"secured creditor". *(r)* "secured creditor" means a person holding a mortgage, hypothec, pledge, charge, lien or privilege on or against the property of the debtor or any part thereof as security for a debt due or accruing due to him from the debtor, or a person whose claim is based upon, or secured by, a negotiable instrument held as collateral security and upon which the debtor is only indirectly or secondarily liable; *(g)*

"sheriff". *(s)* "sheriff" includes bailiff and any officer charged with the execution of a writ or other process under this Act or any other Act or proceeding with respect to any property of a debtor; *(t)*

(l) This was formerly paragraph *(mm)*, which read as follows:

"*(mm)* 'Minister' means the Minister of Finance;"

(m) This was formerly paragraph *(cc)* but has been extended to include cooperatives or similar organizations carrying on business.

(n) This was formerly paragraph *(ee)*. No change.

The former paragraph *(n)* is unnecessary and has been deleted as the position of custodian is now eliminated. It read as follows:

"*(n)* 'custodian' means the person duly authorized to exercise the functions of custodian for the time being;"

(o) Formerly paragraph *(ff)*. No change.

(p) This is a new definition which has been inserted with a view to eliminating much needless repetition of words.

(q) This was formerly paragraph *(bb)* and has been combined with the former paragraph *(hh)*.

The former paragraph *(q)* is unnecessary and has been deleted. It read as follows:

"*(q)* 'discharge' means the release of a bankrupt or authorized assignor from all his debts provable in bankruptcy or under an authorized assignment save such as are excepted by this Act;"

(r) Formerly paragraph (*ii*). No change.

The former paragraph *(r)* has been deleted as the expression has been abandoned. It read as follows:

"*(r)* 'gazetted' means published in the *Canada Gazette;*"

(s) This was formerly paragraph *(jj)*. The words "under this Act or any other Act or proceeding with respect to any property of a debtor" have been added to make the definition include bailiffs and other officers acting in all forms of judicial and extrajudicial process.

The former paragraph *(s)* has been transferred to section 166(3).

"special resolution".

(t) "special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors with proven claims present, personally or by proxy, at a meeting of creditors and voting on the resolution; *(s)*

"Superintendent".

(u) "Superintendent" means the Superintendent of Bankruptcy; *(u)*

"trustee". "licensed trustee".

(v) "trustee" or "licensed trustee" means a person who is licensed or appointed under this Act. *(v)*

(t) This is a new definition and is similar to the definition in the English Act.

The former paragraph *(t)* is confusing in view of the definition of "property" and has therefore been deleted. It read as follows:

> "*(t)* 'goods' includes all chattels personal and movable property;"

(u) This was formerly paragraph *(nn)*. No change.

(v) This was formerly paragraph *(kk)*. The following words at the end of the definition have been deleted as being unnecessary: "as a trustee in bankruptcy or under an authorized assignment or in connection with a proposal by a debtor for a composition, extension or scheme of arrangement".

The former paragraph *(v)* is unnecessary and has been deleted. It read as follows:

> "*(v)* 'judge' means a judge of the court, which is by this Act invested with original jurisdiction in bankruptcy;"

The former paragraph *(w)* has been transferred to section 41(3).

The former paragraphs *(x)*, *(z)*, *(aa)*, *(dd)* and *(gg)* are unnecessary and have been deleted. They read as follows:

> "*(x)* 'local newspaper' means a newspaper published in and having a circulation throughout the bankruptcy district or division which includes the locality of the debtor;"
>
> "*(z)* 'oath' includes affirmation and statutory declaration;"
>
> "*(aa)* 'Official Receiver' means the person having authority in the locality of the debtor to exercise the functions of the official receiver for the time being;"
>
> "*(dd)* 'petition' means petition in bankruptcy;"
>
> "*(gg)* 'registrar' includes any other officer who performs duties like to those of a registrar;"

The former paragraph *(ll)* has also been deleted. It is incorporated in section 25. The paragraph read as follows:

> "*(ll)* 'wage-earner' means one who works for wages, salary, commission or hire at a rate of compensation not exceeding fifteen hundred dollars per year, and who does not on his own account carry on business;"

PART I.

ADMINISTRATIVE OFFICIALS.

Superintendent.

Appointment.

3. (1) The Governor in Council shall appoint a Superintendent of Bankruptcy to hold office during pleasure and who shall be paid such salary as the Governor in Council may fix.

Extent of supervision.

(2) The Superintendent shall supervise the administration of all estates to which this Act applies.

3. This was formerly section 36A which read as follows:

"**36A.** (1) The Governor in Council may appoint an officer to be called the Superintendent of Bankruptcy who shall hold office during pleasure and who shall be paid such salary as may be authorized.

(2) The Superintendent shall supervise, as herein provided, the administration of all bankrupt or insolvent estates to which this Act applies, except estates administered under section thirty-five hereof.

(3) The Superintendent shall

(a) keep a record of every application for licence received by him in cases where licences have been granted, and of the appointment of custodians and trustees pursuant to subsection eight of section thirty-six, and shall

(b) enter in a book under the name of the person licensed the name of every insolvent debtor in respect of whose estate such licensee is appointed as trustee, the value from time to time of the assets in the hands of the licensee, and particulars of the security deposited by such licensee;

(c) in each case before the renewal of any licence, make a report to the Minister that the application should or should not in his opinion be granted, giving his reasons therefor;

(d) keep a record of the licences as they are issued;

(e) from time to time make or cause to be made such inspection of the administration of estates as he deems expedient;

(f) require each licensee under this Act from time to time either to increase or decrease the security deposited with the Superintendent to such extent as the Superintendent may from time to time determine;

(g) receive and keep a record of all complaints from any creditor or other person interested in any bankrupt or insolvent estate coming under the jurisdiction of the Superintendent, and make such specific investigations with regard to such complaints as the Superintendent may determine, and report to the Minister thereon;

(h) make a report to the Minister after any investigation by the Superintendent or any one on his behalf, if it should appear that any licensee under this Act has not fully complied with the law with regard to the proper administration of any bankrupt or insolvent estate together with such recommendations to the Minister as the Superintendent may deem advisable or expedient;

(i) make such report to the court in connection with any application by a debtor or a trustee for his discharge as the Superintendent sees fit.

(4) The Minister, after consideration of any report received by him from the Superintendent and after a reasonable time has been given to the licensee to be heard by him, and upon such further inquiry and investigation as he deems proper to make, may suspend or cancel the licence of any licensee, and in such case shall direct that such licensee be removed as trustee of all bankrupt or insolvent estates being administered by such licensee, and may appoint some other licensee to act as trustee in the place or stead of the trustee whose licence has been suspended or cancelled. The trustee so appointed by the Minister shall continue to act as trustee until removed or replaced by the Court or the creditors under this Act.

(5) Such employees as are required to assist the Superintendent to perform his functions under this Act shall be appointed according to the provisions of the *Civil Service Act*."

Duties of Superintendent.

(3) The Superintendent shall, without limiting the authority conferred in subsection two,

(a) receive applications for licences and renewals thereof to act as trustees under this Act, and, as authorized by the Minister, issue licences and renewals thereof to such persons whose applications have been approved;

(b) keep a record of all licences granted and of the renewals thereof as they are issued;

(c) where not otherwise provided for, require the deposit of one or more continuing guaranty bonds for the due accounting of all property received by trustees and for the due and faithful performance by them of their duties in the administration of estates to which they are appointed, in such amount as the Superintendent may determine, which amount may be increased or decreased as he may deem expedient; the security shall be in a form satisfactory to the Superintendent and may be enforced by the Superintendent for the benefit of the creditors;

(d) keep such records as he may deem advisable of proceedings under this Act;

(e) from time to time make or cause to be made such inspection or investigation of estates as he may deem expedient and for the purpose of the inspection or investigation the Superintendent or any person appointed by him for the purpose shall have access to and the right to examine all books, records, documents and papers pertaining or relating to any estate;

(f) receive and keep a record of all complaints from any creditor or other person interested in any estate and make such specific investigations with regard to such complaints as the Superintendent may determine;

(g) examine trustees' accounts of receipts and disbursements and final statements.

Superintendent may intervene.

(4) The Superintendent may intervene in any matter or proceeding in court as he may deem expedient as though he were a party thereto.

Outside investigations.

(5) The Superintendent may engage such accountants or other persons as he may deem advisable to conduct any inspection or investigation or to take any other necessary action outside of the office of the Superintendent, and the cost and expenses thereof shall, when certified by the Superintendent, be payable out of the appropriation for the office of the Superintendent.

(3) *(a)* and *(b)* These are summarized redrafts of the former subsections (3) *(a)*, *(b)*, *(c)* and *(d)* covering the essential requirements therein.

(c) This was formerly subsection (3) *(f)* which has been revised and extended so as to set out more explicitly the duty of the Superintendent in regard to the security to be furnished by trustees and further authorizing the Superintendent to enforce the security as occasion arises.

(d) This is a new paragraph. The present provisions provide only for the keeping of records with respect to the issue of licences. Records relating to the result of the administration of estates are of more importance. It cannot be set out in sufficient detail exactly what such records should be.

(e) The former paragraph has been extended to remove any doubt as to the authority of the Superintendent when making inspections or investigations. It also contains substantively the provisions of former section 157 (2) which are accordingly deleted and which read as follows:

> "**157.** (2) The Superintendent or any person appointed by him for such purpose shall have access to all books, records, documents and papers connected with the estate of any bankrupt or authorized assignor, kept by any registrar, clerk or officer in bankruptcy."

(f) This was formerly subsection (3) *(g)*. No material change.

(g) This is a new paragraph creating express authority for the examination of trustees' statements.

(4) This is a new subsection. This additional power is deemed necessary to see that proper facts and information are placed before the court.

(5) This was formerly Rule 174 slightly amended. It read as follows:

> "*Rule* **174.** The Superintendent may engage such chartered accountants or other persons as he may deem advisable to conduct any inspection or investigation or to take any other necessary action outside of the office of the Superintendent, and the cost and expenses thereof shall, when certified by the Superintendent, be payable out of the appropriation for the office of the Superintendent of Bankruptcy".

Superintendent may examine bank account.

(6) The Superintendent or anyone duly authorized by him in writing on his behalf is entitled to have access to and to examine and make copies of the banking accounts of a trustee in which estate funds may have been deposited, and, when required, all deposit slips, cancelled cheques or other documents relating thereto in the custody of the bank or the trustee shall be produced for examination.

Superintendent may examine private records and documents.

(7) The Superintendent or any one duly authorized by him in writing on his behalf may with the leave of the court examine the private books, records, documents and bank accounts of a trustee or any other person designated in the order granting such leave for the purpose of tracing or discovering the property or funds of an estate when there are reasonable grounds to believe or suspect that the property or funds of an estate have not been properly disclosed or dealt with and for such purpose may under a warrant from the court enter upon and search any premises.

Report to Minister.

(8) When any investigation has been made by the Superintendent or any one on his behalf, and it appears that any licensee under this Act has not performed his duties properly or has been guilty of any improper conduct or has not fully complied with the law with regard to the proper administration of any estate, the Superintendent may make a report to the Minister together with such recommendations to the Minister as the Superintendent may deem advisable.

Superintendent may require estate funds to be remitted for safe-keeping.

(9) Where an estate is left without a trustee by death, removal or incapacity or by non-renewal of the trustee's licence, the Superintendent for the protection of the estate may require the funds to the credit of the estate on deposit in a bank or elsewhere to be remitted to the Superintendent for deposit with the Receiver General to the credit of the estate pending the appointment of a trustee. The requisition of the Superintendent shall state the fact as to death, removal, incapacity or non-renewal of licence and shall be conclusive evidence thereof in favour of the bank or other depository acting thereon and upon remission to the Receiver General of such funds the liability of the bank or other depository in respect of the debt represented by the funds so remitted shall cease and determine.

Appointment of employees.

(10) Such employees as are required to assist the Superintendent to perform his functions under this Act shall be appointed according to the provisions of the *Civil Service Act*.

(6) This is a new subsection. On various occasions a proper investigation has been blocked by the refusal of the trustee to permit the bank account to be examined. For this reason it is deemed necessary that the Superintendent should have this right.

(7) This is a new subsection. Situations have often arisen where the Superintendent was unable to trace estate funds which had not been properly dealt with. The provision requiring the leave of the court ought to give any person the necessary protection as a *prima facie* case would necessarily have to be made out showing that there were good grounds to believe or suspect the wrongful disposition of funds of an estate.

(8) This is a redraft of former section 36A (3) *(h)*.

(9) This is a new subsection and is deemed necessary to protect and preserve funds of an estate in such contingencies.

(10) This was formerly section 36A (5).

Official Receivers.

Bankruptcy districts and divisions.

4. (1) Each of the provinces of Canada constitutes one bankruptcy district for the purposes of this Act but the Governor in Council may divide any bankruptcy district into two or more bankruptcy divisions and name or number them.

Official receivers.

(2) The Governor in Council shall appoint one or more official receivers in each bankruptcy division who shall be deemed to be officers of the court and who shall have and perform the duties and responsibilities specified by this Act and General Rules and the official receivers are entitled to receive as their remuneration the fees of the office.

Report to Superintendent.

(3) The official receiver shall make a report to the Superintendent, in the prescribed form, of every bankruptcy originating in his division, and he shall also notify the Superintendent of any subsequent increase or decrease in the security filed by the trustee.

Registrar to act for official receiver.

(4) In the absence or illness of the official receiver or pending the appointment of a successor when the office is vacant, the registrar shall perform the duties of the official receiver.

Trustees.

Licensing of Trustees.

Application for licence.

5. (1) A person desiring to obtain a licence to act as a trustee shall file with the Superintendent an application for a licence in such form as may be prescribed, and, when requested by the Superintendent, shall provide such security for the due and faithful performance of his duties in such form and amount as the Superintendent requires.

Investigation and report.

(2) The Superintendent shall make an investigation into the character and qualifications of any applicant for licence as the Superintendent deems advisable or expedient and shall report to the Minister the result of the investigation, together with his recommendation for or against the granting of the application and his reasons therefor.

Licence.

(3) The Minister, as soon as he has received a report from the Superintendent as to the character and qualifications of an applicant for a licence, may, if he considers it will be of public advantage so to do, authorize the issue of a licence, which shall specify the bankruptcy district or districts or any part thereof in which the licensee is entitled to act.

4. (1) This was formerly section 160 (1) and began as follows: "Each province of Canada shall constitute", etc.

(2) The wording has been revised for simplification and a clause with respect to fees added. This was formerly section 160 (2). It read as follows:

> **"160.** (2) There shall be one Official Receiver in each bankruptcy district or division who shall be deemed to be an officer of the court and who as such Official Receiver shall have and perform only such duties and responsibilities as are prescribed by this Act and Rules, and shall be appointed by the Governor in Council."

(3) This new subsection merely confirms the procedure at present in effect.

(4) This is a revision of former Rule 90A. Its purpose is obvious.

5. (1) Formerly section 36 (2). No substantial change.

(2) Formerly subsection (3). The word "qualifications" is substituted for "business experience, and efficiency".

(3) Formerly subsection (4). It read as follows:

> **"36.** (4) The Minister, as soon as he has received a report from the Superintendent as to the qualifications of any applicant for licence, and that proper security has been duly deposited and that the applicant has conformed to the requirements of this Act may, if he considers it will be of public advantage so to do, issue the licence, and may in and by the licence restrict the powers and duties of the licensee to any bankruptcy district or any part thereof."

It is proposed that the licences and renewals thereof shall henceforth be issued by the Superintendent, *with the authorization of the Minister.*

Form of licence.

(4) The licence shall be in the prescribed form and shall expire on the thirty-first of December in each year but may be renewed from year to year subject, however, to such qualification or limitation as to the Minister may seem expedient; the fee payable for the licence and any renewal thereof shall be determined by the Minister.

Appointment and Substitution of Trustees.

Appointment of trustee by creditors.

6. (1) The creditors at any meeting by special resolution may appoint or substitute another licensed trustee for the trustee named in an assignment, receiving order or proposal, or otherwise appointed or substituted.

Suspension or cancellation of licence.

(2) The Minister, after consideration of any report received by him from the Superintendent, pursuant to subsection eight of section three, and after a reasonable opportunity has been afforded the licensee to be heard in respect thereof, and upon such further inquiry and investigation as he deems proper, may suspend or cancel the licence of any licensee and in such case shall direct that the licensee be removed as trustee of all estates being administered by such licensee and may appoint some other licensee or licensees to act as trustee of all or any of such estates in the place or stead of the trustee whose licence has been suspended or cancelled.

(4) Formerly subsection (5). No material change.

The former subsections (1) and (6) have been deleted as unnecessary.

The provisions of the former subsection (7) have been transferred to the sections dealing with the powers and duties of the trustee (section 8(6)).

The former subsection (8) is now section 6(5).

Former subsection (9) is confusing and has also been eliminated, the section itself being revised accordingly.

These subsections read as follows:

"**36.** (1) The Minister may issue a licence to any qualified person who has complied with the requirements of this Act and such person so licensed shall be a licensed trustee under this Act."

"(6) The validity of any licence purporting to be issued by the Minister under this Act shall not be called in question on behalf or at the instance of any person other than the Minister."

"(7) Every licensed trustee shall for the purpose of obtaining possession of and realizing upon the assets of the bankrupt or authorized assignor have power to act as such anywhere."

"(9) The word "prescribed" when used in this section means prescribed by the Minister."

6. Formerly section 37 which read as follows:

"**37.** (1) The creditors shall at their first meeting appoint by ordinary resolution a trustee for the administration of the estate.

(2) The creditors may, by ordinary resolution, at any meeting and the court may for cause appoint a new trustee and remove a trustee who is in office.

(3) When a new trustee is appointed or substituted, all the property and estate of the debtor shall forthwith vest in the new trustee without any conveyance or transfer, and he shall gazette a notice of the appointment or substitution and register an affidavit of his appointment in the office of the registrar of the court from which the receiving order was issued, or in the case of an authorized assignment, in every office in which the original assignment or copy or counterpart thereof was lodged, registered or filed.

(4) Registration of such affidavit in any land registration district, land titles office, registry office or other land registration office, or lodging or filing such affidavit as aforesaid, shall have the same effect as the registration, lodging or filing of a conveyance or of a transfer to the new trustee.

(5) The new trustee shall pay to the removed trustee, out of the funds of the estate, his proper remuneration and disbursements, which shall be ascertained as provided by section eighty-five of this Act.

(6) No trustee shall be bound to assume the duties of trustee in matters relating to assignments or receiving orders or to compositions, extensions, or arrangements by debtors.

(7) The court, upon being satisfied that there are assets which have not been realized or distributed under this Act may, on the application of any person interested, at any time after the discharge of the trustee as hereinafter provided for, appoint a trustee to complete the administration of the estate. Such trustee shall be governed by the provisions of this Act as if appointed trustee in the first instance.

(8) Every trustee duly appointed shall, in addition to the security required by section 36A of this Act, forthwith give security in cash or by bond of an approved guarantee company, satisfactory to the Official Receiver for the due accounting for, the payment and the transfer of all moneys and property received by him as trustee. Such security shall be deposited with the Official Receiver and shall be given in favour of the creditors generally and may be enforced by one of them on behalf of all by direction of the court. The amount of the said security may be reduced by the Official Receiver at any time or from time to time during the administration of the estate on resolution of the Inspectors."

(1) This is a redraft of subsections (1) and (2). The abolition of the position of custodian makes it possible to eliminate a situation which has always been more or less an anomaly and very confusing, that is, with respect to the title to property during the interval between the bankruptcy and the first meeting of creditors. Under the present scheme the trustee originally appointed is the trustee with the privilege to the creditors to appoint any other person they see fit.

(2) This was formerly section 36 A (4).

By official receiver.

(3) In the event of the death or incapacity of a trustee or of the licence of a trustee not being renewed or where a trustee has not been appointed by the Minister under subsection two, the official receiver shall appoint a trustee to complete the administration of the estate and shall perform the duties of trustee until a trustee is duly appointed.

By court.

(4) The court on application of any interested person may for cause remove a trustee and appoint another licensed trustee in his place.

Locality in which there is no licensed trustee, etc.

(5) When the debtor resides or carries on business in a locality in which there is no licensed trustee, and no licensed trustee can be found who is willing to act as trustee, the court or the official receiver may appoint a responsible person residing in the locality of the debtor to administer the estate of the debtor, and that person for this purpose has all the powers of a licensed trustee under this Act and the provisions of this Act apply to that person as if he had been duly licensed under section five.

No trustee bound to act.

(6) No trustee is bound to assume the duties of trustee in matters relating to assignments, receiving orders or proposals, but, having accepted an appointment as such, he shall, until discharged or another trustee is appointed in his stead, perform the duties required of a trustee under this Act.

Effect of defect or irregularity in appointment.

(7) No defect or irregularity in the appointment of a trustee shall vitiate any act done by him in good faith.

Official Name.

Official name of trustee in bankruptcy proceedings.

7. The official name of a trustee acting in bankruptcy proceedings is "The Trustee of the Estate of ....a bankrupt,"

(insert the name of the bankrupt)

In proposal proceedings prior to bankruptcy.

and the official name of a trustee acting with respect to a proposal by an insolvent person is "The Trustee acting *in re* the proposal of....."

(insert the name of the debtor)

(3) This is a new subsection designed to assure continuity of administration.

(4) This provision was formerly contained in subsection (2) of section 37 only as an incidental part thereof, and for greater precision the powers of the court have been separated and placed in this subsection.

(5) This was formerly subsection (8) of section 36. It has been redrafted to specify more clearly the circumstances in which an unlicensed person may act as a trustee in bankruptcy, and to secure greater control over the administration of estates by such persons. It read as follows:

> "**36.** (8) Notwithstanding the provisions of this Act, when the debtor resides or carries on business at a distance far removed from the nearest licensed trustee, the Court or the Official Receiver may, having regard as far as the Court or Official Receiver deems just to the wishes of the creditors, appoint a responsible person residing in the locality of the debtor as custodian, and such person shall be eligible to be appointed by the creditors as trustee and shall, for the purposes of the administration of the estate of such debtor, have all the powers of a licensed trustee under this Act and thereupon the provisions of this Act shall apply to such person as if he had been duly licensed hereunder."

(6) This was formerly subsection (6) of section 37 which has been amended so as to make it obligatory for a trustee to continue his duties until relieved thereof.

(7) This was formerly section 186 (2) and has been included in this section as a more logical place for its insertion.

Subsection (7) of the former section 37 as above quoted has been slightly modified and is now section 19 (11).

The former subsection (8) has been transferred to "Duties and Powers of Trustees" and becomes section 8 (1).

7. Formerly section 38 in which has been incorporated section 38 (2) of the Act (R.S.C. 1927, c. 11) which has now been restored. Section 38 read as follows:

> "**38.** The official name of a trustee acting in bankruptcy or authorized assignment proceedings shall be "The Trustee of the Property of..... a Bankrupt (or Authorized Assignor)" (inserting the name of the bankrupt or assignor), and by that name the trustee may in any part of Canada or elsewhere hold property of every description, make contracts, sue or be sued, enter into any engagement binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office."

Duties and Powers of Trustees.

Security to be furnished by trustee.

8. (1) Every trustee duly appointed shall, in addition to the security required by section five, forthwith give security in cash or by bond of a guaranty company satisfactory to the official receiver for the due accounting for, the payment and the transfer of all property received by him as trustee and for the due and faithful performance of his duties; the security shall be deposited with the official receiver and shall be given in favour of the creditors generally and may be enforced by any succeeding trustee or by any one of the creditors on behalf of all by direction of the court; the amount of the security may be increased or reduced by the official receiver.

Duties of trustee.

(2) The trustee shall, as soon as may be, take possession of the deeds, books, records and documents and all property of the bankrupt and make an inventory, and for the purpose of making an inventory the trustee is entitled to enter upon any premises on which the books, records, documents or property of the bankrupt may be, notwithstanding that they may be in the possession of a sheriff, a secured creditor, or other claimant thereto.

Trustee to be receiver.

(3) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the court, and the court may on his application enforce such acquisition or retention accordingly.

Right of trustee to books of account, etc.

(4) No person is, as against the trustee, entitled to withhold possession of the books of account belonging to the bankrupt or any papers or documents relating to the accounts or to any trade dealings of the bankrupt or to set up any lien thereon.

Property to be delivered to trustee.

(5) Where a person has in his possession or power any property of the bankrupt that he is not by law entitled to retain as against the bankrupt or the trustee, he shall deliver the property to the trustee.

Power to act anywhere.

(6) For the purpose of obtaining possession of and realizing upon the property of the bankrupt a trustee has power to act as such anywhere.

8. (1) This was formerly subsection (8) of section 37 and read as follows:

"**37.** (8) Every trustee duly appointed shall, in addition to the security required by section 36A of this Act, forthwith give security in cash or by bond of an approved guarantee company, satisfactory to the Official Receiver for the due accounting for, the payment and the transfer of all moneys and property received by him as trustee. Such security shall be deposited with the Official Receiver and shall be given in favour of the creditors generally and may be enforced by one of them on behalf of all by direction of the court. The amount of the said security may be reduced by the Official Receiver at any time or from time to time during the administration of the estate on resolution of the Inspectors."

This subsection has been changed to broaden the purpose of the security and to enable the succeeding trustee or any creditor to enforce it. Under the present Act the security only provides for "due accounting" and is enforceable only by the creditors generally.

(2) To the former section 39 (1) has been added part of section 34 (1) now deleted owing to the abolition of the position of custodian. The powers therein conferred are now transferred to the trustee. Section 39 (1) read as follows:

"**39.** (1) The trustee shall, as soon as may be, take possession of the deeds, books and documents of the debtor and all other parts of his property capable of manual delivery."

(3) No material change. Formerly section 39 (2).

(4) This was formerly Rule 167 and is placed here as a matter of substantive law rather than a matter of procedure. The added words have been taken from section 99 (3) of the Australian Act.

(5) This is a new subsection which has been adopted from section 99 (5) and (6) of the Australian Act.

(6) This was formerly section 36 (7). No material change.

Conservatory measures.

(7) The trustee may when necessary in the interests of the estate

(i) take conservatory measures and summarily dispose of property that is perishable or likely to depreciate rapidly in value; and

(ii) carry on the business of the bankrupt until the date fixed for the first meeting of creditors.

May obtain legal advice or take action before first meeting.

(8) The trustee may prior to the first meeting of creditors obtain such legal advice and take such court proceedings as he may consider necessary for the recovery or protection of the property of the bankrupt.

How trustee may proceed in case of emergency.

(9) In the case of an emergency where the necessary authority cannot be obtained from the inspectors in time to take appropriate action, the trustee may obtain such legal advice and institute such legal proceedings and take such action as he may deem necessary in the interests of the estate.

Trustee to verify bankrupt's statement.

(10) The trustee shall verify the bankrupt's statement of affairs.

Divesting of property by trustee.

(11) The trustee may, with the permission of the inspectors, divest himself of all or any part of his right, title or interest in any real or immovable property of the bankrupt by a notice of quit claim or disclaimer, and the master or registrar of the land titles or registry office, as the case may be, where title to such real or immovable property is registered shall accept and register such notice when tendered for registration.

(12) Registration of a notice under subsection eleven operates as a discharge or release of any documents previously registered by or on behalf of the trustee with respect to the property referred to in the notice.

When trustee may initiate criminal proceedings.

(13) The trustee may initiate such criminal proceedings as may be authorized by the creditors, the inspectors or the court against any person believed to have committed an offence under this Act.

(7) This subsection replaces the former section 34 (2) which read as follows:

> "**34.** (2) The custodian may under the direction of the Official Receiver take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or may carry on the business of the debtor for such period as the court deems advisable."

(8) This is a new subsection creating an express authority heretofore only inferred.

(9) This is new. Often quick action is imperative to protect and conserve the assets. The trustee is presumed to be a person of sound judgment and, acting on the advice of a responsible solicitor, he may be trusted to act reasonably and in good faith knowing that his actions will later be scrutinized by the creditors, the inspectors or the court.

(10) This has been removed from former section 130(1) from "Duties of Debtor" to "Duties and Powers of Trustees" where it more properly belongs. Section 130(1) read as follows:

> "**130.** (1) It shall be the duty of the custodian to verify the debtor's statement of affairs and to make an inventory of his assets."

(11) and (12) These are new subsections to provide a procedure whereby a trustee can divest himself of any interest he may have in the property of a bankrupt. Heretofore a receiving order, assignment or caution may have been registered against certain property as a precaution, with little information as to the precise interest of the bankrupt therein. The registration in many cases caused much embarrassment when it was found that the trustee had no real interest to protect. These subsections enable the cloud on the title to be cleared away in a simple manner.

(13) A trustee as the statutory agent of the creditors is naturally expected to perform executory acts on their behalf and it is considered advisable that there should be some express authority in regard to the initiation of criminal proceedings just as well as with respect to the many civil phases of the administration.

Duties of trustee regarding returns.

(14) The trustee is not liable to make any return which the bankrupt was required to make more than two years prior to the commencement of the calendar year, or the fiscal year of the bankrupt where that is different from the calendar year, in which he became a bankrupt.

Trustee to permit inspection of records.

(15) The trustee shall at all reasonable times permit any authorized person to inspect the books and papers of the bankrupt in order to prepare or verify returns which the bankrupt is by statute required to file.

(14) and (15) Many statutes require the trustee to make out and file returns which it was the duty of the bankrupt to do. This has often imposed an onerous duty on the trustee. In some instances, the preparation of such returns has occupied several weeks and has involved the estate in substantial costs. Moreover, in some cases, the returns are so far in arrears that the trustee is unable to secure the required information and the winding up of the estate is delayed accordingly.

The following is a list of some of the returns required to be filed by a trustee in Ontario:—

(a) Dominion Income Tax T2 Returns.
(b) " Excess Profits Tax Returns.
(c) " Income Tax Deductions at Source—T4 and T4 Supplementary Returns.
(d) " Sales Taxes—Monthly statements of sales on which taxes are payable.
(e) " Stock Transfer Taxes.
(f) " List of Victory Bonds and credits due debtor's employees on account of pay roll deductions made by the debtor.
(g) " Unemployment Insurance Commission—particulars of wages paid and stamps affixed to employees' insurance books.
(h) Provincial—Corporation Tax Returns.
(i) " Stock Transfer Tax Returns S.T.I.
(j) " Workmen's Compensation Board Returns.

It is considered that the liability of the trustee in respect of returns should be limited to those for the period mentioned in subsection 14.

The former section 8 is deleted as it is no longer necessary to retain these provisions. Section 8 read as follows:

> "**8.** Notwithstanding anything in this Part appearing, no act or omission of a debtor in respect of any debt which
> *(a)* was contracted or existed before the first day of July one thousand nine hundred and twenty; or
> *(b)* is or is evidenced by any judgment or negotiable or renewable instrument the cause or consideration whereof existed before the first day of July, one thousand nine hundred and twenty, whether or not such judgment or instrument is a renewal or one of several renewals, proceeding from the same cause or consideration;
>
> shall be deemed an available act of bankruptcy, nor shall any such debt be deemed sufficient to found the presentation of a bankruptcy petition, but it shall be provable in any proceedings otherwise founded under this Part, and otherwise."

Trustee shall insure property.

9. (1) The trustee shall forthwith insure and keep insured in his official name all the insurable property of the bankrupt, until sold or disposed of.

Losses payable to trustee.

(2) All insurance covering property of the bankrupt in force at the date of the bankruptcy shall, immediately, and without any notice to the insurer or other action on the part of the trustee, and notwithstanding any statute or rule of law or contract or provision to a contrary effect, become and be, in the event of loss suffered, payable to the trustee as fully and effectually as if the name of the trustee were written in the policy or contract of insurance as that of the insured or as if no change of title or ownership had come about and the trustee were the insured.

Moneys to be deposited in bank.

(3) The trustee shall deposit in a chartered bank, in a separate trust account in the name of the estate to which they belong, all moneys of the estate, and he shall not withdraw or remove therefrom, without the permission in writing of the inspectors or the order of the court, any such moneys, except for payment of dividends and charges incidental to the administration of the estate.

(4) All payments made by a trustee shall be made by cheque drawn on the estate account.

Not into private account.

(5) The trustee shall not deposit any sums received by him as a trustee in his private banking account.

Books to be kept by trustee.

(6) The trustee shall keep proper books and records of the administration of each estate to which he is appointed, in which shall be entered a record of all moneys received or disbursed by him, a list of all creditors filing claims, the amount and disposition thereof and a copy of all notices sent out and the original signed copy of all minutes, proceedings had, and resolutions passed at any meeting of creditors or inspectors, court orders and all such other matters or proceedings as may be necessary to give a complete account of his administration of the estate.

Trustee's records to be property of estate.

(7) The estate books, records and documents relating to the administration of an estate shall be deemed to be the property of the estate, and, in the event of any change of trustee or the administration being taken over by the official receiver, all such books, records and documents shall forthwith be delivered to the substituted trustee or to the official receiver, as the case may be.

Records may be inspected.

(8) The trustee shall permit the books and records of the estate to be inspected and copies thereof made by the Superintendent, the bankrupt or any creditor or their agents at any reasonable time.

9. (1) Formerly section 40 (1) which read as follows:

"**40.** (1) The trustee shall forthwith insure and keep insured in his Official name until sold or disposed of, all the insurable property of the debtor, to the fair realizable value thereof or to such other insurable amount as may be approved by the inspectors or by the court, in insurance companies authorized to carry on business in the province wherein the insured property is situate."

(2) No material change. Formerly section 40 (2).

(3) and (4) These provisions were formerly contained in section 50 (1). The words underlined are inserted to provide that there shall be a separate trust account for each bankrupt estate, and that all payments made by a trustee shall be made by cheque drawn upon the estate account.

(5) This was formerly section 50(2). It read as follows:

"**50.** (2) No trustee under a receiving order authorized assignment or composition or scheme of arrangement shall pay any sums received by him as a trustee into his private banking account."

(6) This section replaces former section 55. It prescribes the records to be kept for each estate, a provision hitherto lacking as, notwithstanding the words "in manner prescribed" and "as may be prescribed" in the former section, nothing has ever been prescribed regarding these matters.

Section 55 formerly read as follows:

"**55.** The trustee of a bankrupt or assignor shall keep, in manner prescribed proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt or authorized assignor may, subject to the control of the court, personally or by his agent inspect any such books."

(7) This is a new subsection the principal purpose of which is to provide a means of obtaining essential information in cases where the trustee dies before completing the administration of estates under his control. In the past this situation has created long delays and some confusion and expense.

(8) This is a new subsection. Its purpose is obvious.

Reports by trustee.

(9) The trustee shall from time to time report,

(a) when required by the inspectors, to every creditor,

(b) when required by any specific creditor, to such creditor, and

(c) when required by the Superintendent, to such Superintendent or the creditors,

showing the condition of the bankrupt's estate, the moneys on hand, if any, and particulars of any property remaining unsold.

Charge for disbursements only.

(10) The trustee is entitled to charge against the estate of the bankrupt, for the preparation and delivery of any such report, only his actual disbursements.

Documents to be forwarded to Superintendent and Statistician.

(11) The trustee shall promptly after their receipt or preparation mail to the Superintendent and to the Dominion Statistician true copies of the documents referred to in section one hundred and fourteen and/or a true copy of

(a) the notice referred to in section sixty-eight;

(b) the statement referred to in paragraph *(d)* of section one hundred and seventeen;

(c) the trustee's final statement of receipts and disbursements and the dividend sheet;

(d) every order made by the court upon the application for discharge of a bankrupt or annulling any bankruptcy;

and file a copy of the documents referred to in paragraphs *(b)* and *(c)* in the court.

Notices, etc., to be forwarded to Superintendent.

(12) The trustee shall forward promptly to the Superintendent copies of all notices, reports and statements sent by him to the creditors and, when required, copies of such other documents as the Superintendent may specify.

Duty of trustee on expiration of licence or removal.

(13) Every trustee whose licence has been cancelled or suspended or has not been renewed or who has been removed as trustee shall within ten days prepare and forward to the Superintendent a detailed financial statement of the receipts and disbursements together with a list of and report on the unadministered property of every estate under his administration for which he has not been discharged and shall forward to such other trustee as may be appointed in his stead or, pending the appointment of a trustee, to the official receiver, all the remaining property of every estate under his administration together with all the books, records and documents relating thereto.

Trustee to file report before discharge.

(14) Every trustee before proceeding to his discharge shall, unless he has already done so, prepare and file in the court the report referred to in section one hundred and twenty-eight and forward a copy thereof to the Superintendent.

(9) This was formerly section 56 (1). No change other than the amendment contained in paragraph *(c)*.

(10) Formerly section 56 (2). No change.

(11) This was formerly section 57 (1). It read as follows:

"**57.** (1) The trustee of a bankrupt or assignor shall promptly after their receipt or preparation mail to the Superintendent and to the Dominion Statistician, Department of Trade and Commerce, Ottawa, a true copy of

(a) the notice referred to in Section twenty-eight of this Act;

(b) the statement referred to in section one hundred and twenty-nine of this Act;

(c) the abstract of receipts and disbursements and the dividend sheet referred to in section seventy-eight of this Act;

(d) every order made by the court upon the application for discharge of any bankrupt or authorized assignor;"

Paragraph *(e)* has been deleted as it duplicated paragraph *(c)*. It read as follows:

"*(e)* the statement prepared by the trustee upon which a final dividend is declared; and"

Paragraph *(f)* is deleted. It is now included in paragraph *(d)*. It read as follows:

"*(f)* any order made under subsection five of section nineteen of this Act annulling any adjudication of bankruptcy."

The provisions of the former subsection (2) are now included in subsection (8). Subsection (2) read as follows:

"(2) Any person shall be entitled to examine and make copies of all or any of the documents mentioned in subsection one hereof, which are in the possession of the trustee."

(12) This is a new subsection, the provisions of which were formerly contained in Rule 175.

(13) This is a new subsection. Its purpose is to insure that a trustee shall immediately after his removal or the cancellation, suspension or non-renewal of his licence make an accounting of his administration.

(14) This subsection is new. Its purpose is to make certain that a report will be available for any application for discharge of a bankrupt not dealt with before the trustee's discharge and that it will be prepared when all the facts and circumstances of the case are fresh in his memory.

Powers exercisable by trustee with permission of inspectors.

10. (1) The trustee may, with the permission of the inspectors, do all or any of the following things:—

(a) sell or otherwise dispose of for such price or other consideration as the inspectors may approve all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt, by tender, public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(b) lease any real or immovable property;

(c) carry on the business of the bankrupt, so far as may be necessary for the beneficial administration of the estate, for which purpose the trustee may, upon payment in full for value received after the bankruptcy, require any executory contract to which the bankrupt was a party to be carried out without regard to any indebtedness due and owing at the time of the bankruptcy;

(d) bring, institute, or defend any action or other legal proceeding relating to the property of the bankrupt;

(e) employ a solicitor or other agent to take any proceedings or do any business that may be sanctioned by the inspectors;

(f) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time, subject to such stipulations as to security and otherwise as the inspectors think fit;

(g) Incur obligations, borrow money and give security on any property of the estate by mortgage, hypothec, charge, assignment, pledge or otherwise, such obligations and money borrowed to be discharged or repaid with interest out of the property of the bankrupt in priority to the claims of the creditors;

(h) compromise and settle any debts owing to the bankrupt;

10. (1) Formerly section 43 (1).

(a) The word "tender" has been inserted, and, for greater certainty, the words "or otherwise dispose of for such price or other consideration as the inspectors may approve".

(b) Formerly paragraph *(aa)*.

(c) Formerly paragraph *(b)*. The added provision is deemed necessary as often-times the carrying on of a business depends on contracts in force being continued and it removes the unsavoury practice whereby creditors may take an advantage of the situation to obtain a preference over other creditors by demanding payment in full of past-due debts.

(d) Formerly paragraph *(c)*. No change.

(e) Formerly paragraph *(d)*. No change.

(f) Formerly paragraph *(e)*. No change.

(g) To the former paragraph *(f)* has been added part of section 51 (1). Paragraph *(f)* read as follows:

"*(f)* Mortgage or pledge any part of the property of the debtor for the purpose of raising money for the payment of his debts;"

(h) This paragraph was formerly *(g)* and read as follows:

"*(g)* Refer any dispute to arbitration, compromise any debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the debtor and any person who may have incurred any liability to the debtor, on the receipt of such sums, payable at such time, and generally on such terms, as may be agreed on;"

The former paragraph *(h)* is now unnecessary in view of the amendments to paragraph *(i)*. It read as follows:

"*(h)* Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable against the estate;"

(*i*) compromise any claim made by or against the estate;

(*j*) divide in its existing form amongst the creditors, according to its estimated value, any property that from its peculiar nature or other special circumstances cannot be readily or advantageously sold;

(*k*) elect to retain for the whole or part of its unexpired term, or to assign, surrender, or disclaim any lease of, or other temporary interest in, any property of the bankrupt;

(*l*) appoint the bankrupt to aid in administering the estate in such manner and on such terms as the inspectors may direct.

Permission limited to particular thing or class.

(2) The permission given for the purposes of this section shall not be a general permission to do all or any of the above mentioned things, but shall only be a permission to do the particular thing or things or class of thing or things that the permission specifies.

Borrowing powers with permission of court.

11. (1) With the permission of the court, an interim receiver or a trustee, prior to the appointment of inspectors, may make necessary or advisable advances, incur obligations, borrow money and give security on the property of the debtor in such amounts and on such terms and upon such property as may be authorized by the court and such advances, obligations and money borrowed shall be repaid out of the property of the debtor in priority to the claims of the creditors.

(i) This has been revised and simplified for greater clarity. Paragraph *(i)* formerly read as follows:

"*(i)* Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the debtor, made or capable of being made on the trustee by any person or by the trustee on any person;"

(j) No change.

(k) The words deleted are unnecessary.

(l) This was formerly section 46 and read as follows:

"**46.** (1) The trustee, with the permission in writing of the inspectors, may appoint the debtor himself to superintend the management of the property of the debtor or any part thereof, or to carry on the trade of the debtor for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the trustee may direct.

(2) The trustee may, with like permission, make from time to time such allowance as he may think just to the debtor out of his property for the support of the debtor and his family, or in consideration of his services, if he is engaged in winding-up his estate, but any such allowance may be reduced by the court."

The former section 10 has been deleted as being a matter of routine administrative procedure. The second part is contained in section 14. Section 10 formerly read as follows:

"**10.** Every Official Receiver with whom an assignment is filed, shall, when the same is completed as hereinbefore provided, deposit the same in the court having jurisdiction in the locality of the debtor, and if subsequently the trustee is displaced by a new trustee, such new trustee shall within four days of his appointment give notice thereof to the said court."

11. (1) This was formerly section 51 (1) to which has been added the first part of the former subsection (2). The word "custodian" has been deleted where it occurs in this section as being superfluous since this functionary has been eliminated. It has been deemed advisable to provide that the authorization of the court be obtained in the case of an interim receiver. That part of subsection (1) which grants the necessary authority to the trustee with the permission of the inspectors is now included in paragraph *(g)* of section 10 (1).

Security under *Bank Act*.

(2) For the purpose of giving security under section eighty-eight of the *Bank Act* the trustee or interim receiver if authorized to carry on the business of the bankrupt is deemed to be a person engaged in the class of business previously carried on by the bankrupt.

Limit of obligations and carrying on of business.

(3) The creditors or inspectors may by resolution limit the amount of the obligations that may be incurred, the advances that may be made or moneys that may be borrowed by the trustee and may limit the period of time during which the business of the bankrupt may be carried on by the trustee.

Debts deemed to be debts of estate.

(4) All debts incurred and credit received in carrying on the business of a bankrupt are deemed to be debts incurred and credit received by the estate.

Trustee not obliged to carry on business.

(5) The trustee is not under obligation to carry on the business of the bankrupt where in his opinion the realizable value of the property is insufficient to protect him fully against possible loss occasioned by so doing and the creditors or inspectors, upon demand made by the trustee, neglect or refuse to secure him against such possible loss.

Reimbursement of trustee's advances.

(6) The court may make an order providing for the sale of any or all of the assets of the estate either by tender, private sale or public auction and setting forth the terms and conditions of the sale and directing that the proceeds therefrom shall be used for the purpose of reimbursing the trustee in respect of any costs that may be owing to him or of any moneys he may have advanced for the benefit of the estate.

Court may vest property in trustee.

(7) If no bid is received for the assets sufficient to reimburse the trustee, the court may make an order vesting in the trustee personally all assets of the estate and upon the making of the order the rights and interests of the creditors and of the bankrupt to the assets shall be determined and ended.

(2) This was formerly section 51 (2). The words deleted have been transferred to subsection (1).

(3) This was formerly section 51(3). No change.

(4) The purpose of the new subsection is to limit the *personal* responsibility of the trustee carrying on the business of the bankrupt to liabilities the payment of which may be assumed by him personally.

(5) This was formerly section 51(3A).

(6) This was formerly section 51(4) which has been greatly simplified.

(7) The object of the change in this subsection is to simplify the unnecessarily cumbersome procedure in these matters and the provisions of former section 51 (5) and (6) have been condensed and combined in subsection (7). Subsections (5) and (6) formerly read as follows:

"(5) If the property of a debtor is so offered for sale and, within thirty days after the time set for the opening of tenders, no tender or offer of an amount sufficient to repay the advances made and liabilities incurred by the trustee and also his proper costs and expenses, is received by the court, then the court may, after such notice to the debtor and the creditors as to it may seem proper, permit the trustee, in his personal capacity, to bid such a sum as is sufficient to repay him his advances, costs, expenses, and the amount of any liabilities incurred by him and reasonable remuneration and, conditional upon no higher bid being received before actual vesting of the property in him in his personal capacity, to purchase the whole or any part of such property at such prices and upon such terms as shall be approved by the court.

(6) If the trustee so purchases the whole or any part of such property it shall pass to and vest in him in his personal capacity when the court so orders whereupon all rights and interests of the debtor and the creditors in or to it shall be determined and ended."

Trustee may apply to court for directions.

12. (1) A trustee may apply to the court for directions in relation to any matter affecting the administration of the estate of a bankrupt and the court shall give in writing such directions, if any, as to it appear proper in the circumstances.

To report to court after three years.

(2) Where an estate has not been fully administered within three years after the bankruptcy, the trustee shall so report to the court within three months thereafter and the court shall make such order as it may see fit to expedite the administration.

Redirection of bankrupt's mail.

13. The court, on the application of the trustee, may from time to time order that for such time, not exceeding three months, as the court thinks fit, post letters, post packets and telegrams addressed to the bankrupt at any of the places mentioned in the order shall be redirected, sent or delivered to the trustee by the Postmaster General or the officers acting under him, or by the various government and other telegraph and cable systems operating in Canada, or by the operators thereof.

Duty of former trustee on substitution.

14. (1) Upon the appointment of a substituted trustee, the former trustee shall forthwith pass his accounts before the court and deliver to the substituted trustee all the property of the estate, together with all books, records and documents of the bankrupt and of the administration.

Duty of substituted trustee.

(2) The substituted trustee shall

(a) publish notice of his appointment in the *Canada Gazette* in the prescribed form;

(b) if appointed by the creditors, file with the court a copy of the minutes of the meeting, signed by the chairman;

(c) notify the Superintendent of his appointment;

(d) if required by the inspectors, register a notice of his appointment in any registry or land titles office where the assignment or receiving order has been registered; and

(e) as soon as funds are available, pay to the former trustee his remuneration and disbursements as approved by the court.

12. (1) Formerly section 42. The words deleted are unnecessary.

(2) This is new.

13. Formerly section 140. No material change.

The former section 13(1) now becomes section 31. The former section 13(2) now becomes section 33. Section 13(3) has been deleted as it had been repeated in the former section 18 which now becomes section 35(2). It formerly read as follows:

> "**13.** (3) If approved by the court such extension, composition or scheme of arrangement shall be binding on all the creditors."

14. (1) This is a new subsection specifying the duties placed upon a trustee who has been removed.

(2) This is an entirely new redraft containing within it all the essentials of the former section 37 (3), (4) and (5).

Appeal to court against trustee.

15. Where the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the court and the court may confirm, reverse or modify the act or decision complained of and make such order in the premises as it thinks just.

Proceeding by creditor when trustee refuses to act.

16. (1) Where a creditor requests the trustee to take any proceeding that in his opinion would be for the benefit of the estate and the trustee refuses or neglects to take the proceeding, the creditor may obtain from the court an order authorizing him to take the proceeding in his own name and at his own expense and risk, upon notice being given the other creditors of the contemplated proceeding, and upon such other terms and conditions as the court may direct and upon such order being made the trustee shall assign and transfer to the creditor all his right, title and interest in the chose in action or subject matter of the proceeding, including any document in support thereof.

Benefits belong to creditor.

(2) Any benefit derived from a proceeding taken pursuant to subsection one, to the extent of his claim and the costs, belongs exclusively to the creditor instituting the proceeding, and the surplus, if any, belongs to the estate.

Trustee may institute proceeding.

(3) Where, before an order is made under subsection one, the trustee, with the permission of the inspectors, signifies to the court his readiness to institute the proceeding for the benefit of the creditors, the order shall fix the time within which he shall do so, and in that case the benefit derived from the proceeding, if instituted within the time so fixed, belongs to the estate.

Remuneration of Trustee.

To be voted by creditors.

17. (1) The remuneration of the trustee shall be such as is voted to the trustee by ordinary resolution at any meeting of creditors.

Not to exceed 7½ per cent.

(2) Where the remuneration of the trustee has not been fixed under subsection one, the trustee may insert in his final statement and retain as his remuneration, subject to increase or reduction as hereinafter provided, a sum not exceeding seven and one-half per cent of the amount remaining out of the realization of the property after the claims of the secured creditors have been paid or satisfied.

15. This was formerly section 84. No change.

16. This was formerly section 69. It has been changed to allow a creditor to take proceedings in his own name rather than in the name of the trustee. In many cases the idemnity for costs demanded by trustees has prevented such proceedings being taken by creditors when it was desirable that they be taken.

The former section 16 (1) to (5) has been transferred to section 34.

17. Formerly section 85. This section has been redrafted and simplified to some extent and its provisions extended to cover situations, *i.e.*, carrying on the bankrupt's business and where successive trustees are appointed, not specifically covered by the former section. Section 85 was formerly as follows:

"**85.** (1) The remuneration of the trustee in bankruptcy or in any other proceedings under this act, for his services, excepting those rendered *(a)* upon the adjustment of the rights of contributories as among themselves, and *(b)* in connection with the application of a bankrupt or authorized assignor for a discharge, shall be such as is voted to the trustee by a majority of creditors present at any general meeting.

(2) In the excepted cases the trustee's remuneration shall be fixed by the court.

(3) Where the remuneration of the trustee has not been fixed under the two last preceding subsections before the final dividend, the trustee may insert in the final dividend sheet and retain as his remuneration a sum not exceeding five per cent of the cash receipts, subject to reduction by the court upon application of any creditor or of the debtor.

(4) The remuneration of the trustee for all services shall not under any circumstances exceed five per cent of the cash receipts, except with the approval in writing of the inspectors and of the court.

(5) The disbursements of a trustee shall in all cases be taxed by the prescribed officer.

(6) In fixing the remuneration of the trustee, only that part of the sale price of real or immovable property which is available for distribution amongst creditors other than secured creditors claiming as such against the property shall be taken into account. Provided that this subsection shall not affect the application of subsection four of this section.

(7) If in any case after the trustee has paid all expenses of administration and has realized all available assets, the commissions allowable under subsection three of this section do not amount to one hundred dollars, the inspectors may grant the trustee a fee which with the commissions, if any, already paid or to be paid to him, shall not exceed one hundred dollars."

The former section 17 has been deleted as being a matter of routine procedure. It read as follows:

"**17.** If the court approves the proposal, the approval may be testified by the seal of the court, being attached to the instrument containing the terms of the proposed composition, extension or scheme, or by the terms being embodied in an order of the court."

For carrying on debtor's business or in case of a proposal.

(3) Where the business of the debtor has been carried on by the trustee or under his supervision he may be allowed such special remuneration for such services as the creditors or the inspectors may by resolution authorize, and, in the case of a proposal, such special remuneration as may be agreed to by the debtor, or in the absence of agreement with the debtor such amount as may be approved by the court.

Successive trustees.

(4) In the case of two or more trustees acting in succession the remuneration shall be apportioned between the trustees in accordance with the services rendered by each and in the absence of agreement between the trustees the court shall determine the amount payable to each.

Court may increase or reduce.

(5) On application by the trustee, a creditor or the debtor and upon notice to such parties as the court may direct, the court may make an order increasing or reducing the remuneration.

Discharge of Trustee.

Disposal of unrealizable property.

18. (1) With the permission of the inspectors, any property found incapable of realization shall be returned to the bankrupt prior to the trustee's application for discharge.

Final disposition of property of the estate.

(2) Where a trustee is unable to dispose of any property as provided in this section, the court may make such order as it may consider necessary.

Application to court.

19. (1) When a trustee has completed the duties required of him with respect to the administration of the property of a bankrupt, he shall apply to the court for a discharge.

Discharge of trustee.

(2) The court may discharge a trustee with respect to any estate upon full administration thereof or, for sufficient cause, before full administration.

Discharge when another trustee has been appointed and accounts satisfactory.

(3) A trustee when replaced by another trustee is entitled to be discharged if he has accounted to the satisfaction of the inspectors and the court for all property that came to his hands, and a period of three months has elapsed after the date of such substitution without any undisposed of claim or objection having been made by the bankrupt or any creditor.

18. (1) This is a new subsection. It is presumed that the trustee will realize upon all the property capable of realization and under such circumstances there can hardly be any objection to the bankrupt having returned to him property of no value.

(2) This subsection has been added to complete the procedure in such cases.

19. (1) This is a new subsection creating an obligation on the trustee to obtain a discharge, which heretofore was not the case.

(2) No material change. Formerly section 86 (1). The former subsection (2) is deemed unnecessary and has been deleted. It read:

> "**86.** (2) The court shall require proof of the extent of administration and (where there has not been full administration) of the condition of the estate and of the alleged sufficient cause."

(3) No substantial change. This was formerly subsection (3) of section 86.

When estate deemed fully administered.

(4) When the trustee's accounts have been approved by the inspectors and taxed by the court and all objections, applications and appeals have been settled or disposed of and all dividends have been paid, the estate is deemed to have been fully administered.

Objections to be filed with court and trustee.

(5) Any interested person desiring to object to the discharge of a trustee shall, at least seven days prior to the date of the hearing, file notice of his objection with the registrar setting out his reasons therefor and serve a copy of the notice on the trustee.

Court may grant discharge.

(6) The court shall consider such objection and may grant or withhold a discharge accordingly or give such directions as it may deem proper in the circumstances.

Fraud or breach of trust.

(7) Nothing in or done under authority of this section shall relieve or discharge or be deemed to relieve or discharge a trustee from the results of any fraud.

Effect of discharge of trustee.

(8) The discharge of a trustee discharges him from all liability

(a) in respect of any act done or default made by him in the administration of the property of the bankrupt, and

(b) in relation to his conduct as trustee,

but any discharge may be revoked by the court on proof that it was obtained by fraud or by suppression or concealment of any material fact.

Security released.

(9) The discharge of a trustee under this section operates as a release of the security provided pursuant to subsection one of section eight.

Trustee on discharge remains *de facto* trustee.

(10) Notwithstanding his discharge, the trustee shall remain *de facto* the trustee of the estate for the performance of such duties as may be incidental to the full administration of the estate.

Appointment of trustee by court to complete administration.

(11) The court, upon being satisfied that there are assets which have not been realized or distributed, may, on the application of any interested person, appoint a trustee to complete the administration of the estate, and the trustee shall be governed by the provisions of the Act, in so far as they are applicable.

(4) This was formerly subsection (4) of section 86. The changes are self-explanatory and have been made to conform to the procedure established by the Act.

(5) This is a new subsection. It sets up a procedure to enable an objecting creditor to place his objection before the court.

(6) This is a new subsection. Its purport is obvious.

(7) This was formerly subsection (6) of section 86. No material change.

The former subsection (7) of section 86 has been deleted in view of the revised procedure provided by section 18. It read as follows:

"**86.** (7) Upon the discharge of the trustee, assets, if any, not realized or distributed shall vest in the Receiver General for the benefit of the creditors."

(8) This is a new subsection. It has been adopted from section 93 (3) of the English Act. It sets up the legal effect of a discharge but provides for revocation on proof that it was obtained by fraud or suppression of material fact.

The former subsection (8) is unnecessary and has been deleted. It read:

"**86.** (8) There shall be no fee on this application unless it is contested."

(9) This was formerly subsection (5) of section 86. No change.

(10) This is a new subsection. Its purpose is to remove the present disadvantages of the necessity of appointing a new trustee every time any contingency arises after the trustee of an estate has been discharged.

(11) Formerly section 37 (7). No substantial change.

PART II.

Receiving Orders and Assignments.

Acts of Bankruptcy.

Acts of bankruptcy.

20. A debtor commits an act of bankruptcy in each of the following cases:—

Assignment.

(a) if in Canada or elsewhere he makes an assignment of his property to a trustee for the benefit of his creditors generally, whether it is an assignment authorized by this Act or not;

Fraudulent conveyance.

(b) if in Canada or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property or of any part thereof;

Fraudulent preference.

(c) if in Canada or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, that would under this Act be void as a fraudulent preference;

Absconding.

(d) if with intent to defeat or delay his creditors he does any of the following things, namely, departs out of Canada, or, being out of Canada, remains out of Canada, or departs from his dwelling house or otherwise absents himself;

Execution unsatisfied, property sold by sheriff or no property to be found.

(e) if he permits any execution or other process issued against him under which any of his property is seized, levied upon or taken in execution to remain unsatisfied until within four days from the time fixed by the sheriff for the sale thereof or for fourteen days after such seizure, levy or taking in execution, or if the property has been sold by the sheriff, or if the execution or other process has been held by him for fourteen days after written demand for payment without seizure,

20. This was formerly section 3.
(a) No change.

(b) No change.

(c) No substantial change.

(d) No substantial change.

(e) No material change.

levy or taking in execution or satisfaction by payment, or if it is returned endorsed to the effect that the sheriff can find no property whereon to levy or to seize or take, but where interpleader proceedings have been instituted in regard to the property seized the time elapsing between the date at which such proceedings were instituted and the date at which such proceedings are finally disposed of, settled or abandoned shall not be taken into account in calculating any such period of fourteen days;

Exhibits statement showing insolvency.

(f) if he exhibits to any meeting of his creditors any statement of his assets and liabilities that shows that he is insolvent, or presents or causes to be presented to any such meeting a written admission of his inability to pay his debts;

Fraudulent disposition of property.

(g) if he assigns, removes, secretes or disposes of or attempts or is about to assign, remove, secrete or dispose of any of his property with intent to defraud, defeat or delay his creditors or any of them;

Notice of suspension of payment.

(h) if he gives notice to any of his creditors that he has suspended or that he is about to suspend payment of his debts;

Default in proposal.

(i) if he defaults in any proposal made under this Act;

Ceasing to meet liabilities.

(j) if he ceases to meet his liabilities generally as they become due.

Unauthorized assignments are void.

(2) Every assignment of his property other than an assignment pursuant to this Act, made by an insolvent debtor for the general benefit of his creditors, shall be null and void.

(f) No change.

(g) No material change.

(h) No change. Formerly paragraph *(i)*. The former paragraph *(h)* has been deleted. It read as follows:

> "*(h)* If he makes any bulk sale of his goods without complying with the provisions of any Bulk Sales Act applicable to such goods in force in the province within which he carries on business or within which such goods are at the time of such bulk sale;"

(i) This is a new paragraph. Its purpose is to make the default in the payment of a proposal an act of bankruptcy available to the creditors. At present the creditors of a debtor who has defaulted under a proposal cannot avail themselves of the prior "act of bankruptcy" unless it has taken place within six months before the filing of the petition.

(j) No change.

(2) Formerly section 9(7).

Petition for Receiving Order.

Bankruptcy petition.

21. (1) Subject to this section one or more creditors may file in court a petition for a receiving order against a debtor if, and if it is alleged in the petition that,

Conditions on which creditor may petition.

(a) the debt or debts owing to the petitioning creditor or creditors amount to one thousand dollars; and

(b) the debtor has committed an act of bankruptcy within six months next preceding the filing of the petition.

If petitioning creditor is a secured creditor.

(2) Where the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of a receiving order being made against the debtor, or give an estimate of the value of his security, and in the latter case he may be admitted as a petitioning creditor, to the extent of the balance of the debt due to him after deducting the value so estimated, in the same manner as if he were an unsecured creditor.

Affidavit.

(3) The petition shall be verified by affidavit of the petitioner or by someone duly authorized on his behalf having personal knowledge of the facts alleged in the petition.

Consolidation of petitions.

(4) Where two or more petitions are filed against the same debtor or against joint debtors, the court may consolidate the proceedings or any of them on such terms as the court thinks fit.

Where petition may be filed.

(5) The petition shall be filed in the court having jurisdiction in the locality of the debtor.

Proof of facts, etc.

(6) At the hearing the court shall require proof of the facts alleged in the petition and of the service of the petition, and, if satisfied with the proof, may make a receiving order.

Dismiss petition.

(7) Where the court is not satisfied with the proof of the facts alleged in the petition or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, it shall dismiss the petition.

21. Formerly section 4. The words "file" and "file in" have been substituted for the words "present" and "present to" wherever they occur in this section. The changes have been made in the interest of greater precision.

(1) This is a redraft of former subsections (1) and (3). These subsections read as follows:

> "4. (1) Subject to the conditions hereinafter specified, if a debtor commits an act of bankruptcy a creditor may present to the court a bankruptcy petition."
>
> "(3) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless
>
> *(a)* the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors amounts to five hundred dollars; and
>
> *(b)* the act of bankruptcy on which the petition is grounded has occurred within six months before the presentation of the petition."

(2) Formerly subsection (4).

(3) Formerly subsection (2). The added words have been included to permit the agent or duly authorized representative of the petitioner to make the affidavit. The important factor is that the facts alleged in the petition are verified by someone having personal knowledge thereof. The phrase "and served on the debtor in the prescribed manner" has been deleted as being more properly a matter for procedure already inserted in former Rule 77.

(4) This was formerly subsection (7) of section 163.

(5) No material change.

(6) The words deleted at the end of the subsection have been transferred to subsection (9). This subsection formerly read as follows:

> "4. (6) At the hearing the court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may adjudge the debtor a bankrupt and in pursuance of the petition, make an order, in this Act called a receiving order, for the protection of the estate, and appoint as custodian a licensed trustee, having regard, as far as the court deems just, to the wishes of the creditors."

(7) This formerly read as follows:

> "4. (7) If the court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or, in case an authorized assignment has been made, that the estate can be best administered under the assignment, or that for other sufficient cause no order ought to be made, it shall dismiss the petition."

Power to dismiss petition against some respondents only.

(8) Where there are more respondents than one to a petition the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

Appointment of trustee.

(9) Upon a receiving order being made, the court shall appoint a licensed trustee as trustee of the property of the bankrupt, having regard, as far as the court deems just, to the wishes of the creditors.

Stay of proceedings where facts alleged in petition denied.

(10) Where the debtor appears on the petition and denies the truth of the facts alleged in the petition, the court may, instead of dismissing the petition, stay all proceedings on the petition on such terms as it may see fit to impose on the petitioner as to costs or on the debtor to prevent alienation of his property and for such time as may be required for trial of the issue relating to the disputed facts.

Stay of proceedings for other reasons.

(11) The court may for other sufficient reason make an order staying the proceedings under a petition, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just.

Security for costs.

(12) A petitioner who is resident out of Canada may be ordered to give security for costs to the debtor, and proceedings under the petition may be stayed until such security is furnished.

Receiving order on another petition.

(13) Where proceedings on a petition have been stayed or have not been prosecuted with due diligence and effect, the court may, if by reason of the delay or for any other cause it is deemed just so to do, substitute or add as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act and make a receiving order on the petition of such other creditor, and shall thereupon dismiss on such terms as it may deem just the petition in the stayed or non-prosecuted proceedings.

Petition withdrawn only by leave.

(14) A petition shall not be withdrawn without the leave of the court.

(8) This was formerly section 166. No change.

(9) This was formerly included in subsection (6) of section 4 but it provided for the appointment of the custodian and not of the trustee. The purpose of the change is to eliminate the unnecessary office of custodian and unnecessary contests between trustees for appointment to estates.

(10) The words deleted are deemed an arbitrary denial of the ordinary civil rights of the debtor who in the case of a large disputed debt may have an undue hardship imposed on him to provide security before liability for the debt is legally established. This was formerly subsection (8) and read as follows:

> "4. (8) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security (if any) being given as the court may require for payment to the petitioner of any debt which may be established against him in due course of law and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt."

(11) This was formerly subsection (10) of section 163.

The former subsection (11) of section 4 has been transferred to section 41 (4). It read as follows:

> "4. (11) The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the presentation of the petition on which a receiving order is made against him."

(12) This is a revision of former Rule 75 which read as follows:

> "Rule 75. A petitioning creditor who is resident abroad, or whose estate is vested in a trustee under any law relating to bankruptcy, or against whom a petition is pending under any such law, or who has made default in payment of any judgment, order for payment of money or of any costs ordered by any Court to be paid by him to the debtor, may be ordered to give security for costs to the debtor and proceedings under the petition may be stayed until such security is furnished."

(13) A redraft of former sections 4 (9) and 163 (8) which read as follows:

> "4. (9) Where proceedings have been stayed or have not been prosecuted with effect the court may, if by reason of the delay or for any other cause it is deemed just so to do, make a receiving order on the petition of another creditor, and shall thereupon dismiss on such terms as it may deem just the petition in the stayed or non-prosecuted proceedings."
>
> "163. (8) Where the petitioner does not proceed with due diligence on his bankruptcy petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor, or may dismiss the petition."

(14) The words "after presentment" are unnecessary. This was formerly subsection (10) of section 4.

Power to present petition against one partner.

(15) Any creditor whose claim is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

Court may consolidate proceedings.

(16) Where a receiving order has been made against one member of a partnership, any other petition against a member of the same partnership shall be filed in or transferred to the same court, and the court may give such directions for consolidating the proceedings under the petitions as it thinks just.

Continuance of proceedings on death of debtor.

(17) Where a debtor against whom a petition has been filed dies, the proceedings shall, unless the court otherwise orders, be continued as if he were alive.

Petition against estate of deceased debtor.

22. (1) Subject to section twenty-one, a bankruptcy petition may be filed against the estate of a deceased debtor.

(2) After service of a petition upon the legal personal representative of a deceased debtor, he shall not make payment of any moneys or transfer any property of the deceased debtor, save as required for payment of the proper funeral and testamentary expenses, until the petition is disposed of, otherwise, in addition to any penalties to which he may be subject, he shall be personally liable therefor, but nothing in this section invalidates any payment or transfer of property made or any act or thing done by the legal personal representative in good faith before the service of the petition.

Costs of petition.

23. (1) When a receiving order is made, the costs of the petitioner shall be taxed and be payable out of the estate, unless the court otherwise orders.

(2) When the proceeds of the estate are not sufficient for the payment of any costs incurred by the trustee, the court may order such costs to be paid by the petitioner.

(15) This was formerly section 165 (1). No material change.

(16) This was formerly section 165 (2) which began as follows: "Where a receiving order has been made on a bankruptcy petition *by or* against one member of a partnership, any other bankruptcy petition *by or* against a member of the same partnership", etc. The words *"by or"* had been retained in error from the English Act.

(17) This was formerly section 163 (9). The words *"by or"* have been deleted here for the same reason.

The former section 21 has been deleted. It read as follows:

> **"21.** (1) In the case of a meeting to consider a proposal of a scheme of arrangement of the affairs of a corporation debtor of a nature that any change is made in the rights of the shareholders under the letters patent or other instrument of incorporation of the company or the right of participation in such scheme of any shareholder is made conditional upon the purchase by such shareholder of any new securities or upon any other payment or contribution by such shareholder, every shareholder of such corporation shall be notified in the manner prescribed by section twelve of this Act.
>
> (2) If at the meeting so convened shareholders representing three-fourths in value of the holders of each class of shares present in person or by proxy at such meeting, resolve to accept the proposal either as made or as altered or modified at the request of the meeting, it shall be deemed to be accepted by the shareholders.
>
> (3) If approved by the court such scheme of arrangement shall be binding upon all the shareholders
>
> *(a)* in the case of a corporation incorporated by or under an Act of the Parliament of Canada, upon the filing in the office of the Secretary of State of a certified copy of the scheme and of the court's approval thereof, and
>
> *(b)* in the case of a corporation incorporated other than by or under an Act of the Parliament of Canada, upon any necessary steps being taken to give effect thereto under the laws by or under which such company is incorporated."

22. This is a new section and is adopted in substance from section 130 of the English Act. Although the definition of a "person" is stated to include the heirs, executors, administrators or other legal personal representatives of a person, yet the courts in certain of the provinces have differed as to the right of a creditor to file a petition against the estate of a deceased debtor.

23. (1) This was formerly Rule 55 (1).

(2) This was formerly Rule 55 (2).

Interim Receiver.

Appointment of interim receiver.

24. (1) The court may, if it is shown to be necessary for the protection of the estate, at any time after the filing of a petition and before a receiving order is made, appoint a licensed trustee as interim receiver of the property of the debtor or of any part thereof and direct him to take immediate possession thereof upon such undertaking being given by the petitioner as the court may impose as to interference with the debtor's legal rights and as to damages in the event of the petition being dismissed.

Powers of interim receiver.

(2) The interim receiver may, under the direction of the court, take conservatory measures and summarily dispose of property that is perishable or likely to depreciate rapidly in value and exercise such control over the business of the debtor as the court deems advisable, but the interim receiver shall not unduly interfere with the debtor in the carrying on of his business except as may be necessary for such conservatory purposes or to comply with the order of the court.

Application of sections twenty-one et seq.

25. Sections twenty-one to twenty-four do not apply to persons engaged solely in farming or the tillage of the soil or to any person who works for wages, salary, commission or hire at a rate of compensation not exceeding twenty-five hundred dollars per year and who does not on his own account carry on business.

Assignments.

Assignment for general benefit of creditors.

26. (1) An insolvent person or, if deceased, his legal personal representative with the leave of the court, may make an assignment of all his property for the general benefit of his creditors.

Sworn statement.

(2) The assignment shall be accompanied by a sworn statement in the prescribed form showing the property of the debtor divisible among his creditors, the names and addresses of all his creditors and the amounts of their respective claims and the nature of each, whether secured, preferred or unsecured.

Filing of assigment.

(3) The assignment shall be offered to the official receiver in the locality of the debtor, and it is inoperative until filed with such official receiver, who shall refuse to file the same unless it is in the prescribed form or to the like effect and accompanied by the sworn statement required by subsection two.

Effect thereof.

24. (1) This was formerly section 5 (1). The words "if no custodian has been appointed and" were apparently included in the Act in error, as the custodian could not be appointed before the receiving order was made. The concluding words "or of any part thereof" are an unnecessary repetition of these words. The added words have been included as a measure of protection to the debtor.

(2) This was formerly section 5 (2). The latter part is new. Its purpose is to remove any misunderstanding respecting the powers and duties of the interim receiver. The appointment of an interim receiver is perhaps the most arbitrary proceeding known in civil law and some legislative direction on the manner in which the powers should be exercised is deemed necessary.

25. This was formerly section 7 and read as follows:

"7. The provisions of this Part shall not apply to wage-earners or to persons engaged solely in farming or the tillage of the soil."

The definition of a "wage-earner" (formerly section 2 *(ll)*) has been slightly changed and incorporated in the section.

26. This was formerly section 9.

(1) The subsection has been amended to bring it in line with section 22. The words "whose liabilities to creditors provable as debts under this Act exceed five hundred dollars" have also been deleted as being unnecessary in view of the definition of an "insolvent person". The subsection formerly read as follows:

"9. (1) Any insolvent debtor (other than a resident in the province of Quebec engaged solely in farming or the tilling of the soil) whose liabilities to creditors, provable as debts under this Act, exceed five hundred dollars, may, at any time prior to the making of a receiving order against him, make an assignment of all his property for the general benefit of his creditors."

(2) No change except that the words "secured, preferred, or unsecured" have been substituted for "privileged, secured or otherwise" for greater precision.

(3) No material change.

Appointment of trustee.

(4) Where the official receiver files the assignment he shall appoint as trustee a licensed trustee whom he shall, as far as possible, select by reference to the wishes of the most interested creditors if ascertainable at the time; the official receiver shall complete the assignment by inserting therein as grantee the name of the trustee.

Cancellation of assignment.

(5) Where the official receiver is unable to find a licensed trustee who is willing to act, he shall, after giving the bankrupt seven days' notice of his intention, cancel the assignment.

Procedure in small estates.

(6) Where the bankrupt is not a corporation and in the opinion of the official receiver the realizable assets of the bankrupt, after deducting the claims of secured creditors, will not exceed five hundred dollars, the provisions of the Act relating to summary administration of estates shall apply.

(4) This is a new subsection. It amends and combines parts of the former subsections (4), (5) and (6), which were as follows:

"(4) If the Official Receiver accepts the assignment, he shall file the same, whereupon the property of the debtor shall be deemed to be under the authority of the court and the debtor shall cease to have any capacity to dispose of or otherwise deal with such property.

(5) Immediately after the acceptance of the authorized assignment the Official Receiver shall appoint as custodian a licensed trustee whom he shall, as far as possible, select by reference to the wishes of the most interested creditors, if ascertainable at the time.

(6) Upon the appointment of the trustee by the creditors, the Official Receiver shall complete the authorized assignment by inserting therein as grantee the name of such trustee, and such assignment shall thereupon, subject to the provisions of this Act, and subject to the right of secured creditors vest, as of the date of the acceptance and filing of the said assignment, in the trustee, all the property of the debtor, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever."

The object of the changes is to simplify the procedure by the elimination of the unnecessary office of custodian and to have the trustee appointed by the official receiver as soon as the assignment is filed. The provisions in subsection (4) relating to the capacity of the debtor and those in subsection (6) as to the vesting of the property are now found in section 41 (5).

(5) This was formerly subsection (8) modified to bring it into conformity with the changed procedure introduced in this section.

The former subsection (7) has been deleted. It read as follows:

"(7) Every assignment of his property other than an authorized assignment made by an insolvent debtor for the general benefit of his creditors shall be null and void."

(6) This is a new subsection which brings into effect the provisions of sections 114 to 116 in their application to estates with limited assets.

PART III.

PROPOSALS.

By an insolvent person.
By a bankrupt.
Documents to be filed.

27. (1) A proposal may be made by

(a) an insolvent person, and

(b) a bankrupt.

(2) Proceedings for a proposal shall be commenced in the case of an insolvent person by lodging with a licensed trustee and in the case of a bankrupt by lodging with the trustee of the estate

(a) a copy of the proposal in writing setting out the terms of the proposal and the particulars of any securities or sureties proposed, signed by the debtor and the proposed sureties if any; and

(b) if the person making the proposal is bankrupt, the statement of affairs referred to in section one hundred and seventeen, or

(c) if the person making the proposal is not bankrupt, a statement showing the financial position of the debtor at the date of the proposal, verified by affidavit as being correct to the belief and knowledge of the debtor.

Approval of inspectors.

(3) A proposal made by a bankrupt shall be approved by the inspectors before any further action is taken thereon.

Proposal, etc., not to be withdrawn.

(4) No proposal or any security or guarantee tendered therewith may be withdrawn pending the decision of the creditors and the court.

Duties of trustee.

(5) The trustee shall make or cause to be made such an appraisal and investigation of the affairs and property of the debtor as to enable him to estimate with reasonable accuracy the financial situation of the debtor and the cause of the debtor's financial difficulties or insolvency and report the result thereof to the meeting of the creditors.

Trustee to report.

27. The sections dealing with proposals have been entirely revised with the following objects in view:

(i) To restore to the Act the right accorded to the debtor by section 13 of the *Bankruptcy Act, 1919*, to make a proposal to his creditors prior to making an authorized assignment or the making of a receiving order against him. This right was abrogated by the amendments of 1923 to the *Bankruptcy Act* because of the alleged abuses that had become associated with these proceedings due to lack of adequate supervision and control. It was subsequently restored in part by the *Companies' Creditors Arrangement Act, 1933*, which, however, restricted its operation to incorporated companies. One of the objects of the present changes is to restore to debtors the right to make a proposal prior to bankruptcy.

(ii) To secure for the creditors a greater percentage of the assets of debtors than can be secured under the present procedure whereby a debtor must be in bankruptcy before he can make a formal proposal to his creditors. It is believed that by restoring to the debtor the right of making a formal offer prior to bankruptcy many debtors will avail themselves thereof before their affairs become hopelessly involved and they are forced into bankruptcy.

This was formerly section 11 which read as follows:

"**11.** (1) Where an insolvent debtor intends to make a proposal for
(a) a composition in satisfaction of his debts; or
(b) an extension of time for payment thereof, or
(c) a scheme of arrangement of his affairs;
he may, after the making of a receiving order against him or the making of an authorized assignment by him, require in writing the trustee duly appointed to convene at the office of such trustee a meeting of such debtor's creditors for the consideration of such proposal.

(2) The debtor shall at the time when he requires the convening of such meeting, or before, lodge with the trustee
(a) a true statement of the debtor's affairs, including a list of his creditors, which list shall show the post office address of and the amount payable to each creditor, the whole statement being verified by the debtor by statutory declaration; and
(b) a proposal in writing signed by the debtor, embodying the terms of the proposed composition, extension or scheme and setting out the particulars of any sureties or securities proposed."

(1) and (2). These subsections have been completely revised in line with the new procedure. In addition, subsection (1) has been simplified by inserting the definition of a proposal in section 2 *(p)*.

(3) This provision is taken from the former section 12 (1).

(4) This was formerly section 13 (4). No material change.

(5) This is a new subsection and is self-explanatory.

Trustee shall call meeting of creditors.

28. (1) The trustee shall forthwith call a meeting of the creditors by sending by registered mail to every known creditor affected by the proposal and to the Superintendent at least ten days prior thereto

Documents to be mailed to creditors with notice of meeting.

(a) a notice of the date, time and place of the meeting;
(b) a condensed statement of the assets and liabilities;
(c) a list of the creditors affected by the proposal with claims amounting to twenty-five dollars or more and the amounts of their claims as known or shown by the debtor's books;
(d) a copy of the proposal;
(e) a form of proof of claim and proxy in blank, as prescribed, if not already sent; and
(f) a voting letter as prescribed.

In case of a prior meeting.

(2) Where a meeting of his creditors at which a statement or list of the debtor's assets, liabilities and creditors was presented was held before the trustee is so required by this section to convene a meeting to consider the proposal and at the time when the debtor requires the convening of such meeting the condition of the debtor's estate remains substantially the same as at the time of the former meeting, the trustee may omit observance of the provisions of paragraphs *(b)* and *(c)* of subsection one.

Adjournment of meeting for further investigation and examination.

29. Where the creditors by ordinary resolution at the meeting at which a proposal is being considered so require, the meeting shall be adjourned to such time and place as may be fixed by the chairman,

(a) to enable a further appraisal and investigation of the affairs and property of the debtor to be made, or
(b) for the examination under oath of the debtor or of such other person as may be believed to have knowledge of the affairs or property of the debtor, and the testimony of the debtor or such other person, if transcribed, shall be placed before the adjourned meeting or may be read in court upon the application for the approval of the proposal.

Creditor may assent or dissent by letter.

30. Any creditor who has proved his claim may assent to or dissent from the proposal by a letter to that effect addressed by registered mail to the trustee prior to the meeting and any assent or dissent if received by the trustee at or prior to the meeting has effect as if the creditor had been present and had voted at the meeting.

28. (1) This is a revision of former section 12 (1) to provide for meetings either before or after bankruptcy. Section 12 read as follows:

"**12.** (1) As soon as possible after a trustee has been required to convene a meeting of creditors to consider a proposal of a composition, extension or scheme of arrangement, he shall submit the proposal to the inspectors and if authorized by a majority of them shall forthwith fix a date for such meeting and send by registered mail to every known creditor

(a) at least ten days' notice of the time and place of meeting, the day of mailing to count as the first day's notice;

(b) a condensed statement of the assets and liabilities of the debtor;

(c) a list of his creditors; and

(d) a copy of his proposal.

(2) If any meeting of his creditors whereat a statement or list of the debtor's assets, liabilities and creditors was presented has been held before the trustee is so required to convene such meeting to consider such proposal and at the time when the debtor required the convening of such meeting the condition of the debtor's estate remains substantially the same as at the time of such former meeting, the trustee may omit observance of the provisions identified as *(b)* and *(c)* in the preceding subsection."

(2) No change.

29. This is a revision of subsections (1) and (2) of former section 15 to enable a further investigation to be made if deemed necessary. Section 15 formerly read as follows:

"**15.** (1) If creditors who hold ten per cent or more in amount of proved debts request the examination of the debtor, the trustee shall cause him to be examined under oath before the registrar or other officer appointed for that purpose by General Rules and his testimony to be taken down in writing.

(2) The testimony, so taken, may be read upon the hearing of the application for the approval of the composition or scheme of arrangement.

(3) The court if not satisfied with such testimony as so taken, may direct that the debtor attend before the court for the purpose of further examination."

Subsection (3) is unnecessary and has been deleted.

30. Formerly section 14. No substantial change.

The former section 30 has been deleted. It read:

"**30.** (1) If the receiving order or authorized assignment is not registered, or filed, or if notice of said receiving order or assignment is not published within the time and in the manner prescribed by this Part, an application may be made by any creditor or by the debtor to compel the registration or filing of the receiving order or assignment, or publication of such notice, and the judge shall make his order in that behalf and with or without costs, or upon the payment of costs by such person as he may, in his discretion, direct to pay the same.

(2) The judge may, in his discretion, impose a penalty on the trustee for any omission, neglect or refusal so to register, file, or publish as aforesaid, in an amount not exceeding the sum of five hundred dollars, and such penalty when imposed shall forthwith be paid by the trustee personally into and for the benefit of the estate of the debtor.

(3) Saving and preserving the rights of innocent purchasers, for value, neither the omission to publish or register as aforesaid, nor any irregularity in the publication or registration, shall invalidate the assignment or affect or prejudice the receiving order."

When proposal deemed to be accepted.

31. The creditors or any class of creditors may by special resolution resolve to accept the proposal as made or as altered or modified at the meeting or any adjournment thereof insofar as the proposal affects such creditors or class of creditors.

Creditors may provide for supervision of debtor's affairs.

32. At a meeting to consider a proposal the creditors, with the consent of the debtor, may include such provisions or terms in the proposal with respect to the supervision of the affairs of the debtor as they may deem advisable.

Application for approval.

33. Upon acceptance of the proposal by the creditors, the trustee shall apply to the court forthwith for its approval and shall send notice of the hearing of the application by registered mail, not less than fourteen days before the date of the hearing, to the debtor, to every creditor who has proved his claim and to the Superintendent; and the trustee, not less than three days before the date of the hearing, shall file in the prescribed form a report to the court on the proposal and shall forward a copy to the Superintendent not less than ten days before the date of the hearing.

31. This was formerly section 13 (1) and read as follows:

"**13.** (1) If at the meeting so convened to consider such proposal or at any subsequent meeting of creditors a majority of all the creditors and holding three-fourths in amount of all proved debts present in person or by proxy at such meeting resolve to accept the proposal either as made or as altered or modified at the request of the meeting, it shall be deemed to be duly accepted by the creditors."

The former section 31 has been deleted. It was as follows:

"**31.** The provisions of subsection one of section twenty-five and subsection three of section twenty-nine of this Act shall not apply to any judgment or certificate of judgment registered against real or immovable property in any of the provinces of Nova Scotia, New Brunswick or Quebec prior to the first day of July, one thousand nine hundred and twenty, which became, under the laws of the province wherein it was registered, a lien or hypothec upon such real or immovable property."

32. This is a new section and is self-explanatory.

33. This was formerly section 13 (2) and Rule 112 which read as follows:

"**13.** (2) The trustee shall forthwith, if the proposal is accepted by the creditors, apply to the court to approve it, and if the trustee does not make such application within ten days, the debtor or any creditor may do so."

"*Rule* **112.** Whenever an application is made to the court to approve of a composition, extension or scheme, the trustee shall, not less than seven days before the hearing of the application, send notice by registered mail of the application to the debtor and to every creditor who has proved his debt; and the trustee shall file his report not less than two days before the time fixed for hearing the application."

The former section 33 has been deleted. It read:

"**33.** (1) No advantage shall be taken of or gained by any creditor through any mistake, defect or imperfection in any authorized assignment or in any receiving order or proceedings connected therewith, if the same can be amended or corrected; and any mistake, defect or imperfection may be amended by the court.

(2) Such amendment may be made on application of the trustee or of any creditor on such notice being given to other parties concerned as the court shall think reasonable; and the amendment when made shall have relation back to the date of the assignment or petition in bankruptcy, but not so as to prejudice the rights of innocent purchasers for value."

Court to hear report of trustee, etc.

34. (1) The court shall, before approving the proposal, hear a report of the trustee in the prescribed form as to the terms thereof and as to the conduct of the debtor, and, in addition, shall hear the trustee, the debtor, any opposing, objecting or dissenting creditor and such further evidence as the court may require.

Court may refuse to approve the proposal.

(2) Where the court is of the opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the court shall refuse to approve the proposal, and the court may refuse to approve the proposal whenever it is established that the debtor has committed any one of the offences mentioned in sections one hundred and fifty-six to one hundred and fifty-eight.

Reasonable security.

(3) Where any of the facts mentioned in sections one hundred and thirty and one hundred and thirty-four are proved against the debtor, the court shall refuse to approve the proposal unless it provides reasonable security for the payment of not less than fifty cents in the dollar on all the unsecured claims provable against the debtor's estate or such percentage thereof as the court may direct.

Priority of claims.

(4) No proposal shall be approved by the court that does not provide for the payment in priority to other claims of all claims directed to be so paid in the distribution of the property of a debtor, and for the payment of all proper fees and expenses of the trustee on and incidental to the proceedings arising out of the proposal or in the bankruptcy, nor shall any proposal be approved in which any other person is substituted for the trustee to collect and distribute to the creditors any moneys payable under the proposal.

Power of court.

(5) In any other case the court may either approve or refuse to approve the proposal.

Annulment of bankruptcy and revesting of property.

(6) The approval by the court of a proposal made after bankruptcy operates to annul the bankruptcy and to revest in the debtor, or in such other person as the court may approve, all the right, title and interest of the trustee in the property of the debtor, unless the terms of the proposal otherwise provide.

Costs when proposal refused.

(7) No costs incurred by a debtor on or incidental to an application to approve a proposal other than the costs incurred by the trustee shall be allowed out of the estate if the court refuses to approve the proposal.

34. (1) This subsection combines the provisions formerly contained in section 16 (1) with the relevant provisions of former Rule 114.

(2) This subsection was formerly section 16 (2). The change is to include the penal offences in sections 156 to 158. The prohibition herein is deemed too arbitrary and the court should be allowed to exercise its discretion in the matter.

(3) This was formerly section 16 (3). No change except to delete the proviso and to add the words "and one hundred and thirty-four".

(4) This was formerly section 16 (5). Provision has been made for payment of the trustee's fees and expenses as a condition precedent to the approval of the proposal by the court. Provision has also been made to prevent unlicensed persons not subject to supervision by the Superintendent from obtaining control of the proceedings.

(5) This was formerly section 16 (4). By the re-arrangement of former subsections (4) and (5) the words deleted have become unnecessary. It read as follows:

> "**16.** (4) In any other case the court, subject to the provisions of subsection five of this section, may either approve or refuse to approve the proposal."

(6) This new subsection contains the provisions of subsection (5) of former section 19 as amended, which read as follows:

> "**19.** (5) If the court approves of the composition, extension or scheme, it may make an order annulling the bankruptcy or authorized assignment and vesting the property of the debtor in him or in such other person as the court may appoint on such terms and subject to such conditions, if any, as the court may declare."

(7) These provisions were formerly contained in Rule 115.

The former section 34 has been deleted. With the appointment of the trustee on the making of the receiving order or filing of the assignment the office of custodian becomes unnecessary. The essential provisions of this section are now included in section 8—"Duties and Powers of Trustees". Section 34 read as follows:

> "**34.** (1) The custodian whether appointed by the court pursuant to a receiving order, or by the Official Receiver pursuant to an authorized assignment, shall take immediate possession of the books and all the property of the debtor liable to seizure, and for the purpose of making an inventory thereof shall be entitled to enter upon any premises where the books or property of the debtor are, notwithstanding that such books or property are in the possession of a sheriff or secured creditor or other claimant thereto.
>
> (2) The custodian may under the direction of the Official Receiver take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or may carry on the business of the debtor for such period as the court deems advisable.
>
> (3) The custodian shall remain in possession until a trustee is appointed by the creditors.
>
> (4) Any person appointed as custodian pursuant to the provisions of this Act, shall during the term of his office as such custodian be deemed to be an officer of the court, and shall when so appointed forthwith give such security for the proper performance of his duties as shall be prescribed by General Rules."

Effective date of proposal.

35. (1) Where an insolvent person makes a proposal, the trustee shall file a copy thereof with the official receiver and the time of the filing of the proposal shall constitute the time for the determination of the claims of the creditors and for all other purposes of this Act.

Approval binding on creditors but does not release debtor from certain liabilities without assent.

(2) A proposal accepted by the creditors and approved by the court is binding on all the creditors with claims provable under this Act and affected by the terms of the proposal but does not release the debtor from the debts and liabilities referred to in section one hundred and thirty-five, unless the creditor assents thereto.

Certain persons not released.

(3) The acceptance of a proposal by a creditor does not release any person who would not be released under this Act by the discharge of the debtor.

Proceedings in case of default.

36. (1) Where default is made in payment of any instalment due in pursuance of the proposal or where it appears to the court that the proposal cannot proceed without injustice or undue delay, or that the approval of the court was obtained by fraud, the court may, on application by the trustee or by any creditor, set aside the proposal and make such order as it deems proper in the circumstances.

Not to invalidate things done.

(2) An order under subsection one shall be made without prejudice to the validity of any sale, disposition of property or payment duly made, or thing duly done, under or in pursuance of the proposal.

Proposal may be annulled.

(3) A proposal, although accepted or approved, may be annulled by the court at the request of the trustee or of any creditor whenever the debtor is afterwards convicted of any offence under this Act.

35. (1) This is a new subsection. The effective date of all other proceedings is fixed in the Act. This is deemed necessary with respect to these particular proceedings.

(2) This was formerly section 18 (1) and (2) simplified and harmonized with section 137. Subsections (1) and (2) of section 18 were as follows:

"**18.** (1) A composition, extension or scheme accepted and approved shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable under this Act, but shall not release the debtor from any liability under a judgment against him in an action for seduction, or under an affiliation order or for alimony, or under a judgment against him as co-respondent in a matrimonial case or for necessaries of life or alimentary debts, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(2) Notwithstanding anything herein contained, a composition, extension or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents (as, for the purposes solely of proceedings relating to a composition, extension or scheme he may, notwithstanding anything in this Act, so assent) to such composition, extension or scheme."

(3) Formerly section 18 (3).

The former section 35 has been deleted. It read as follows:

"**35.** (1) Notwithstanding anything contained in this Act, if the Lieutenant-Governor in Council of any province authorizes any officer of the provincial government to act as custodian and trustee under this Act, the Official Receiver shall in the case of any assignment by a person engaged solely in farming or the tillage of the soil appoint such officer as custodian.

(2) Any officer so appointed to the office of custod an by the Official Receiver shall thereupon in addition to such office be and be deemed to be the trustee as if appointed under subsection one of section thirty-seven of this Act, and shall continue to be the trustee until properly removed under subsection two of the said section thirty-seven.

(3) In case any such provincial officer is appointed custodian and trustee, he shall not be entitled under this Act to be paid any remuneration as custodian or trustee nor any of the costs enumerated as costs of custodian in Part III of the General Rules."

36. (1) Formerly section 19 (2). The words "adjudge the debtor bankrupt, make a receiving order against him and annul the composition, extension or scheme" have been replaced by the words underlined at the end of the subsection.

(2) Formerly section 19 (3). The word "adjudication" has been replaced by the word "order".

(3) Formerly section 196 (2) extended to cover any offence under the Act. The subsection formerly read as follows:

"**196.** (2) Any composition, extension or scheme of arrangement, although accepted or approved, may be annulled at the request of the trustee or of any creditor whenever the debtor is afterwards convicted of any offence mentioned in section one hundred and ninety-one of this Act."

The former subsections (1) and (4) of section 19 are unnecessary and have been deleted. They read:

"**19.** (1) The provisions of a composition, extension or scheme under this Act may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court."

(4) Where a debtor is adjudged bankrupt under this section any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy proceedings."

Where proposal is conditional on purchase of new securities.

37. A proposal made conditional upon the purchase of shares or securities or upon any other payment or contribution by the creditors shall provide that the claim of any creditor who elects not to participate in the proposal shall be valued by the court and shall be paid in cash upon approval of the proposal.

Provisions of Act to apply to all proposals.

38. (1) All the provisions of this Act, in so far as they are applicable, apply *mutatis mutandis* to proposals.

Companies' Creditors Arrangement Act not affected.

(2) Nothing in this Act shall be deemed to affect the operation of *The Companies' Creditors Arrangement Act, 1933*, and the court may order that a proposal made by a corporation pursuant to section twenty-seven be taken up and continued under *The Companies' Creditors Arrangement Act, 1933*.

37. This was formerly section 20 which has been greatly simplified. This section has been further amended to provide for its application to creditors only. It read as follows:

"**20.** (1) Any scheme of arrangement under which the right of participation therein of any creditor, or of any shareholder of a debtor which is a corporation, is made conditional upon the purchase by such creditor or shareholder of any new securities or upon any other payment or contribution by such creditor or shareholder shall provide that the claim of any creditor or shares of any such shareholder who elects not to participate in the scheme shall be valued by the court at the amount, if any, realizable thereon upon a sale by the trustee of all the property and assets of the debtor to wind up his estate.

(2) The value so determined shall within ninety days after the determination thereof or such further time as may be allowed by the court be paid to such creditor or shareholder either in money or in such securities as shall be specified pursuant to such scheme of arrangement and approved by the court and such payment shall be in full satisfaction of his claim or payment upon his shares as the case may be.

(3) For the purpose of assisting the court so to value the claims of any creditors and shares of any shareholders of a corporation debtor who elect not to participate in the scheme, the court may appoint a qualified person to examine into the value thereof as aforesaid and report the same to the court.

(4) In case of request therefor by creditors or shareholders who do not elect to participate in the scheme holding one-fifth in amount of all proved debts, or one-fifth in interest of all the shares of any such corporation debtor, hereinafter referred to as "the minority creditors" or "the minority shareholders" as the case may be, the court shall appoint three persons; one to be nominated by the minority creditors to assist the court in valuing the claims of the minority creditors, one by the minority shareholders to assist the court in valuing the shares of the minority shareholders, and the third by the creditors and shareholders who elect to participate in the scheme.

(5) A majority of the minority creditors or shareholders shall have the right to agree with the creditors and shareholders who elect to participate in the scheme upon one or two persons only being appointed.

(6) Such person or persons shall be entitled to reasonable compensation to be fixed by the court which together with the necessary expenses in connection with the examination into the value of such claims and shares shall be paid from the estate of the debtor.

(7) No secret arrangement shall be made with any creditors or shareholders to induce them to participate in any such scheme."

38. (1) The purpose of this amendment is to make all provisions of the Act apply to proposals. This replaces the former section 22 which read as follows:

"**22.** All parts of this Act shall, so far as the nature of the case and the terms of the composition, extension or scheme admit, apply thereto as if the terms "trustee," "bankruptcy," "bankrupt," "assignment," "authorized assignment," "assignor," "authorized assignor," "order" and "order of adjudication" included respectively a composition, extension or scheme of arrangement, a compounding, extending or arranging debtor and an order approving the composition, extension or scheme."

(2) This subsection is new. Its purpose is evident.

PART IV.

Property of the Bankrupt.

Property of bankrupt.

39. The property of a bankrupt divisible amongst his creditors shall not comprise

(a) property held by the bankrupt in trust for any other person;

(b) any property that as against the bankrupt is exempt from execution or seizure under the laws of the province within which the property is situate and within which the bankrupt resides,

but it shall comprise

(c) all property wherever situate of the bankrupt at the date of his bankruptcy or that may be acquired by or devolve on him before his discharge; and

(d) such powers in or over or in respect of the property as might have been exercised by the bankrupt for his own benefit.

Stay of Proceedings.

Stay of proceedings.

40. (1) Upon the filing of a proposal made by an insolvent person or upon the bankruptcy of any debtor, no creditor with a claim provable in bankruptcy shall have any remedy against the debtor or his property or shall commence or continue any action, execution or other proceedings for the recovery of a claim provable in bankruptcy until the trustee has been discharged or until the proposal has been refused, unless with the leave of the court and on such terms as the court may impose.

Secured creditors.

(2) Subject to the provisions of section forty-eight and sections eighty-six to ninety-three, a secured creditor may realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed, unless the court otherwise orders, but in so ordering the court shall not postpone the right of the secured creditor to realize or otherwise deal with his security, except as follows:

Proviso as to rights of secured creditor.

(a) in the case of a security for a debt due at the date of the bankruptcy or of the approval of the proposal or which becomes due not later than six months thereafter such right shall not be postponed for more than six months from such date;

39. No material change. Formerly section 23.

(c) The words "wherever situate" have been added for purposes of clarification and the word "bankruptcy" substituted for "presentation of any bankruptcy petition or at the date of the execution of an authorized assignment".

(d) This has been simplified.

40. (1) Formerly section 24 (1). The words "On the making of a receiving order or authorized assignment" have been replaced by the words underlined at the beginning of the subsection and the words "until the trustee has been discharged or until the proposal has been refused" have been added at the end to remove different practices following conflicting decisions of the courts as in certain provinces the courts have held that a creditor is not at liberty without leave to proceed against a bankrupt after the trustee has been discharged.

(2) Formerly subsections (2) and (3) which have been combined and amended by including therein a reference to section 48 which is also concerned with secured creditors and which imposes certain restrictions upon them.

In paragraphs *(a)* and *(b)* the word "bankruptcy" has been substituted for the words "receiving order or authorized assignment" and the words "or of the approval of the proposal" have been added to provide for the case of a proposal made before bankruptcy.

(b) in the case of a security for a debt that does not become due until more than six months after the date of the bankruptcy or of the approval of the proposal such right shall not be postponed for more than six months from such date, unless all instalments of interest which are more than six months in arrears are paid and all other defaults of more than six months' standing are cured, and then only so long as no instalment of interest remains in arrears or defaults remain uncured for more than six months, but, in any event, not beyond the date at which the debt secured by such security becomes payable under the instrument or law creating the security, except under paragraph *(a)*.

General Provisions.

Receiving orders and assignments to take precedence of attachments, executions, etc.

41. (1) Every receiving order and every assignment made in pursuance of this Act takes precedence of all judicial or other attachments, garnishments, certificates having the effect of judgments, judgments, certificates of judgment, judgments operating as hypothecs, executions or other process against the property of a bankrupt, except such as have been completely executed by payment to the creditor or his agent, and except also the rights of a secured creditor.

Exceptions.

Costs.

(2) Notwithstanding subsection one, one solicitor's bill of costs, including sheriff's fees and land registration fees, shall be payable to the creditor who has first attached by way of garnishment or lodged with the sheriff an attachment, execution or other process against the property of the bankrupt.

Application of Act to married women.

(3) Every married woman is subject to the provisions of this Act as if she were a *feme sole*, and for all the purposes of this Act

(a) any judgment or order obtained against her, whether or not expressed to be payable out of her separate property, has effect as though she were personally bound to pay the judgment debt or sum ordered to be paid, and

(b) the expressions "judgment", "execution" or "attachment" have operation as if by law the liability of married women thereon and thereunder were personal as well as proprietary.

41. (1) Formerly section 25 (1). The change is to make it clear that the bankruptcy proceedings shall take precedence of all attachments and executions, judicial and otherwise. The words "certificates having the effect of judgments, judgments, certificates of judgment, judgments operating as hypothecs," have been transferred to this section from the former section 29A(2).

Paragraphs *(a)* and *(b)* of the former subsection (1) have been combined. Section 25 (1) *(a)* and *(b)* formerly read as follows:

> "25. (1) Every receiving order and every authorized assignment made in pursuance of this Act shall take precedence over
> *(a)* all attachments of debts by way of garnishments, unless the debt involved has been actually paid over to the garnishing creditor or his agent; and
> *(b)* all other attachments, executions or other process against property except such thereof as have been completely executed by payment to the execution or other creditor; and except also the rights of a secured creditor."

(2) Formerly section 25 (2) slightly amended to broaden its scope by including land registration fees.

(3) This was formerly section 2 *(w)* and section 175 which have been combined and transferred to this section as a more logical place for insertion. The words "who carries on a trade or business, whether separately from her husband or not" have been struck out. The change is intended to equalize the effect of the application of the Act to married women. In one case, in *In re* Stone, 7 C.B.R. 103; 1925, 4 D.L.R. 518; 57, O.L.R. 640, it has been held that while a receiving order could not be made against a

Commencement of bankruptcy.

(4) The bankruptcy shall be deemed to have relation back to and to commence at the time of the filing of the petition on which a receiving order is made or of the filing of an assignment with the official receiver.

Vesting of property in trustee.

(5) On a receiving order being made or an assignment being filed with an official receiver, a bankrupt shall cease to have any capacity to dispose of or otherwise deal with his property which shall, subject to the provisions of this Act and subject to the rights of secured creditors, forthwith pass to and vest in the trustee named in the receiving order or assignment, and in any case of change of trustee the property shall pass from trustee to trustee without any conveyance, assignment or transfer.

Application of other substantive law.

(6) The provisions of this Act shall not be deemed to abrogate or supersede the substantive provisions of any other law or statute relating to property and civil rights which are not in conflict with the provisions of this Act, and the trustee shall be entitled to avail himself of all rights and remedies provided by such law or statute as supplementary to and in addition to the rights and remedies provided by this Act.

No document, etc., made or executed under authority of this Act shall be within operation of provincial law.

(7) No receiving order or assignment or other document made or executed under authority of this Act shall, except as in this Act otherwise provided, be within the operation of any legislative enactment now or at any time in force in any province of Canada relating to deeds, mortgages, judgments, bills of sale, chattel mortgages, property or registration of documents affecting title to or liens or charges upon property, real or personal, immovable or movable.

married woman not a trader, yet in another case, in *In re* Bartram, 11 C.B.R. 149; (1930) 2 D.L.R. 40; 65, O.L.R. 1, it was held that a married woman could make an assignment. It is considered rather an anomaly that a petition could be filed against a husband in certain cases for the debts of his wife, but not against the wife for the same debts not contracted in trade or business. If she has the right to make an assignment it is not unfair that she should be subject to the same civil disability as other persons of having a petition filed against her for any debt incurred by her. Sections 2 *(w)* and 175 formerly read as follows:

"**2.** *(w)* "judgment" or "execution" or "attachment" shall have operation as if by law the liability of married women thereon and thereunder were personal as well as proprietary;"

"**175.** Every married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the provisions of this Act as if she were a *feme sole*, and for all the purposes of this Act any judgment or order obtained against her, whether or not expressed to be payable out of her separate property shall have effect as though she were personally bound to pay the judgment debt or sum ordered to be paid."

(4) This subsection has been taken from former section 4 (11) and amended to eliminate any ambiguity as to when the title of the trustee becomes effective.

(5) This is a revision of former section 6 (1) in which are incorporated the substantive provisions of former section 9 (4) and (6) which read as follows:

"**9.** (4) If the Official Receiver accepts the assignment, he shall file the same, whereupon the property of the debtor shall be deemed to be under the authority of the court and the debtor shall cease to have any capacity to dispose of or otherwise deal with such property."

"(6) Upon the appointment of the trustee by the creditors, the Official Receiver shall complete the authorized assignment by inserting therein as grantee the name of such trustee, and such assignment shall thereupon, subject to the provisions of this Act, and subject to the right of secured creditors vest, as of the date of the acceptance and filing of the said assignment, in the trustee, all the property of the debtor, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever."

(6) This is a new subsection. Much uncertainty exists as to the application of substantive law of the provinces relating to fraudulent preferences when found in statutes dealing with assignments and preferences now declared to be superseded by the *Bankruptcy Act*. It is felt that the courts have not sufficiently differentiated between the effect of the act of making the assignment as such and the substantive law therein dealing with civil rights.

(7) No material change. Formerly section 27.

The former section 41 has been deleted as being unnecessary. It read as follows:

"**41.** Subject to the provisions of this Act, trustee may do all or any of the following things:

(a) Give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;

(b) Prove, rank, claim and draw a dividend in respect of any debt due to the debtor;

(c) Exercise any powers the capacity to exercise which is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act."

Purchaser in good faith at sale protected.

42. (1) An execution levied by seizure and sale of the property of a bankrupt is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the property in good faith under a sale by the sheriff acquires a good title thereto against the trustee.

Sheriff to deliver property of bankrupt to trustee.

(2) Where an assignment or a receiving order has been made, the sheriff or other officer of any court or any other person having seized property of the bankrupt under execution or attachment or any other process shall, upon receiving a copy of the assignment or of the receiving order certified by the trustee as a true copy thereof, forthwith deliver to the trustee all the property of the bankrupt in his hands.

In case of sheriff's sale.

(3) Where the sheriff has sold the property of the bankrupt or any part thereof, he shall deliver to the trustee the money so realized by him less his fees and the costs referred to in subsection two of section forty-one.

Effect of bankruptcy on seizure of property for rent or taxes.

(4) Any property of a bankrupt under seizure for rent or taxes shall on production of a copy of the receiving order or the assignment certified by the trustee as a true copy thereof be delivered forthwith to the trustee but the costs of distress shall be a first charge thereon, and, if such property or any part thereof has been sold, the money realized therefrom less the costs of distress and sale shall be paid to the trustee.

Registration of receiving order or assignment.

43. (1) Every receiving order, or a true copy thereof certified by the registrar or other officer of the court that made it, and every assignment, or a true copy thereof certified by the official receiver, may be registered by or on behalf of the trustee in respect of the whole or any part of any real or immovable property that the bankrupt owns or in which he has any interest or estate in the proper office in every district, county and territory wherein, according to the law of the province in which such real or immovable property is situate, deeds or transfers of title and other documents relating to lands or immovables or any interest therein may be registered.

42. (1) No material change. Formerly section 26(1).

(2) Formerly section 26(2). No material change except to substitute for a copy of an order certified by the court a copy certified by the trustee. There is no need to put a trustee to the additional trouble and expense as no trustee would dare to produce a false copy of an order.

(3) No material change. Formerly section 26(3).

(4) This is a new subsection. It is deemed necessary as supplementary to section 40 (1) and section 95 to clarify the situation in such cases. A similar provision is found in section 88 of the Australian Act barring seizures for rent after bankruptcy.

43. (1) This is a redraft of section 29 (1) and (2) which formerly read as follows:

"**29.** (1) Every receiving order and every authorized assignment (or a true copy certified as to such order by the registrar or other officer of the court which has made it, and as to such assignment certified by the Official Receiver therein named) may be registered or filed by or on behalf of the custodian or trustee in the proper office in every district, county or territory in which the whole or any part of any real or immovable property which the bankrupt or assignor owns or in which he has any interest or estate is situate.

(2) The proper office in this section referred to shall be the land registration office, registry office or other office wherein, according to the law of the province deeds or other documents of title to real or immovable property may or ought to be deposited, registered or filed.

Effect of registration under a Land Titles Act.

(2) Where a bankrupt is the registered owner of any land or charge, the trustee, on registration of the documents referred to in subsection one, is entitled to be registered as owner of the land or charge free of all encumbrances or charges mentioned in subsection one of section forty-one.

Caveat may be filed.

(3) Where a bankrupt owns any land or charge registered under a Land Titles Act, or has or is believed to have any interest or estate therein, and for any reason a copy of the receiving order or assignment has not been registered as provided in subsection one, a caveat or caution may be lodged with the proper master or registrar by the trustee, and any registration thereafter made in respect of such land or charge shall be subject to such caveat or caution unless it has been removed or cancelled under the provisions of the Land Titles Act under which such land or charge or interest is registered.

Duty of officials to register documents.

(4) Every registrar to whom a trustee tenders or causes to be tendered for registration any receiving order or assignment or other document shall register the same according to the ordinary procedure for registering within such office documents relating to real or immovable property.

Law of province to apply in favour of purchaser for value.

44. Notwithstanding anything in this Act, a deed, conveyance, transfer, agreement for sale, mortgage, charge or hypothec made to or in favour of a *bona fide* purchaser or mortgagee for adequate valuable consideration and covering any real or immovable property affected by a receiving order or an assignment under this Act, is valid and effectual according to the tenor thereof and according to the laws of the province in which the said property is situate as fully and effectually and to all intents and purposes as if no receiving order or assignment had been made under this Act, unless the receiving order or assignment, or notice thereof, or caution, has been registered against the property in the proper office prior to the registration of the deed, conveyance, transfer, agreement for sale, mortgage, charge or hypothec in accordance with the laws of the province in which the property is situate.

(2) This is a simplified redraft of sections 29 (3) and 29A (2). These subsections formerly read as follows:

"**29.** (3) From and after such registration or filing or tender thereof in the proper office to the registrar or other proper officer, such order or assignment shall have precedence of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within such office or within the district, county or territory which is served by such office, but subject to a lien for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed in such proper office their judgments, executions or attachments."

"**29A** (2). Whenever the debtor is the owner of any land or charge registered under a Land Titles Act, the trustee shall, on production of evidence that the land or charge is part of the property of the debtor, be entitled to be registered as owner free of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within the office of such master or registrar or within the district, county or territory which is served by his office, but subject to a claim for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed in such office their judgments, executions or attachments."

(3) This is a redraft of section 29A (1) and Rule 13A, which formerly read as follows:

"**29A.** (1) Whenever any land or charge, of which the debtor is owner, is registered under a Land Titles Act, a caution, in the form to be prescribed by General Rules, may be lodged with the proper master or registrar by the custodian or trustee, as the case may be, as soon as practicable after his appointment. No registration shall thereafter be made in respect of such land or charge on behalf of the said registered owner unless such caution be removed. Upon the caution being removed the land or charge shall be dealt with in the same manner as if no caution had been lodged."

"Rule **13A.** Where a caution has been registered pursuant to Section 29A (1) the said Caution may be removed or cancelled by the proper Master (or Registrar) upon receiving a notice of withdrawal in the prescribed form duly executed by the trustee, or upon such notice and in such manner as any Caution or Caveat lodged against any land (or charge) may be removed or cancelled under the provisions of the Land Titles Act under which such land (or charge) is registered."

(4) This subsection was formerly section 29 (4).

The former subsections (5), (6) and (7) are unnecessary and have been deleted. They read:

"**29.** (5) At the time of the tender of such document for such purpose there must be annexed thereto as part thereof an affidavit substantially in form number one of the schedule to this Act.

(6) In cases where the title to real, or immovable, property, or any lien or charge upon or against such property, is affected by any receiving order, or authorized assignment, there shall be added to such affidavit the words set out in form number two of the schedule to this Act, with the incidentally necessary description and information."

(7) Such affidavit may be sworn before such registrar or other officer, or before a notary public or a commissioner authorized to administer oaths for use in any of the courts of the province."

Also superfluous is the former subsection 29A (3) which read as follows:

"**29A.** (3) 'Proper master or registrar' shall mean the master, local master or registrar under a Land Titles Act in whose office the land or charge of the debtor is registered."

44. No material change. Formerly section 32.

Property not to be removed from province in which bankruptcy occurred.

45. No property of a bankrupt shall be removed out of the province where such property was at the date when the receiving order or assignment was made, without the permission of the inspectors or an order of the court in which proceedings under this Act are being carried on or within the jurisdiction of which such property is situate.

Contributory shareholders.

46. (1) Every shareholder or member of a bankrupt corporation is liable to contribute the amount unpaid on his shares of the capital or on his liability to the corporation or to its members or creditors, as the case may be, under the act, charter or instrument of incorporation of the company or otherwise.

Liability of contributory an asset.

(2) The amount that the contributory is liable to contribute shall be deemed an asset of the corporation and a debt payable to the trustee forthwith upon the bankruptcy of the corporation.

Bank must notify trustee.

47. Where a banker has ascertained that a person having an account with him is an undischarged bankrupt, it is his duty forthwith to inform the trustee of the existence of the account, and thereafter he shall not make any payments out of the account, except under an order of the court or in accordance with instructions from the trustee, unless upon the expiration of one month from the date of giving the information no instructions have been received from the trustee.

Inspection of property held in pledge.

48. Where property of a bankrupt is held as a pledge, pawn, or other security, the trustee may give notice in writing of his intention to inspect the property, and the person so notified is not thereafter entitled to realize his security until he has given the trustee a reasonable opportunity of inspecting the property and of exercising his right of redemption.

Protection of trustee from personal liability in certain cases.

49. Where the trustee has seized or disposed of property in the possession or on the premises of a bankrupt without notice of any claim in respect of the property and it is thereafter made to appear that the property was not at the date of the bankruptcy the property of the bankrupt or was subject to an unregistered lien or charge, the trustee is not to be personally liable for any loss or damage arising from the seizure or disposal sustained by any person claiming the property or an interest therein nor for the costs of proceedings taken to establish a claim thereto, unless the court is of opinion that the trustee has been guilty of negligence with respect to the property.

15. This was formerly section 49. No substantial change.

16. (1) This was formerly section 70 (1). No substantial change.

(2) This was formerly section 70 (2). No material change. The former subsections (3) and (4) are unnecessary and have been deleted. They read as follows:

> "**70.** (3) If a shareholder has transferred his shares under circumstances which do not, by law, free him from liability in respect thereof, or if he is by law liable to the corporation or to its members or creditors, as the case may be, to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the corporation for the purposes of this Act and shall be liable to contribute as aforesaid to the extent of his liability to the corporation or its members or creditors independently of this Act.
>
> (4) The amount which he is so liable to contribute shall be deemed an asset and a debt as aforesaid."

17. Formerly section 68. Inserted here as a more logical sequence. No substantial change.

18. This was formerly section 53. No material change.

19. This was formerly section 52. The changes are self-explanatory.

Persons claiming property in possession of bankrupt must file proof of claim to recover.

50. (1) Where a person claims any property, or interest therein, in the possession of the bankrupt at the time of the bankruptcy he shall file with the trustee a proof of claim verified by affidavit giving the grounds on which the claim is based and sufficient particulars to enable the property to be identified.

How claim disposed of.

(2) The trustee with whom a proof of claim is filed under subsection one shall within fifteen days thereafter or within fifteen days after the first meeting of creditors, whichever is the later, either admit the claim and deliver possession of the property to the claimant or give notice in writing to the claimant that the claim is disputed with his reasons therefor, and, unless the claimant appeals therefrom to the court within fifteen days after the mailing of the notice of dispute, he shall be deemed to have abandoned or relinquished all his right to or interest in the property to the trustee who thereupon may sell or dispose of the property free of any lien, right, title or interest of the claimant thereon or therein.

Onus on claimant to establish claim.

(3) The onus of establishing a claim to or in property under this section is on the claimant.

Trustee may require proof of claim.

(4) The trustee may give notice in writing to any person to prove his claim to or in property under this section, and, unless that person files with the trustee a proof of claim in the prescribed form within fifteen days after the mailing of the notice, the trustee may thereupon with the leave of the court sell or dispose of the property free of any lien, right, title or interest of that person thereon or therein.

No other proceeding to be instituted.

(5) No proceedings shall be instituted to establish a claim to, or to recover any right or interest in, any property in the possession of a bankrupt at the time of the bankruptcy, except as provided in this section.

Rights of others not extended.

(6) Nothing in this section shall be construed as extending the rights of any person other than the trustee.

50. (1) This section is a revision of the former section 54 (1). So many applications to the court were made to recover such property thereunder, the costs of which were directed to be paid out of estate funds, that subsequently Rule 139A was added to avoid the necessity of such applications. Rule 139A made it necessary for proof of claim to be filed giving the trustee an opportunity to admit or reject the claim thereby eliminating practically all such applications and saving the estate much costs. It has been deemed desirable accordingly to incorporate the requirement of a proof of claim being filed in lieu of a notice of intention to remove. The subsection formerly read as follows:

> "**54.** (1) Where any goods in the charge or possession of a debtor at the time when a receiving order or an authorized assignment is made are alleged to be in his charge or possession subject to the ownership or a special or general property right, or right of possession in another person, and whether or not such goods are held by the debtor under or subject to the terms of any lien, consignment, agreement, hire receipt, or order, or any agreement providing or implying that the ownership of, property in, or right to possession of such goods, or other or like goods in exchange or substitution, shall vest in or pass to the debtor only upon payment of defined or undefined moneys, or upon performance or abstention from performance of any acts or conditions, the person alleged or claiming to own such goods or such special or general property or right of possession therein or thereof shall not, by himself or his agents or servants, nor shall his agents or servants, remove or attempt to remove such goods or any thereof out of the charge or possession of the debtor, or of the trustee or any actual custodian thereof, until the elapse of fifteen days after delivering notice in writing to the trustee of intention so to remove."

(2) This is a redraft of the former Rule 139A with certain provisions added in regard to the effect of no appeal being made. Rule 139A read as follows:

> "*Rule* **139A.** Where a claimant desires to recover goods referred to in section 54, he shall file with the custodian or trustee, as the case may be, a notice of his claim verified by affidavit, giving the grounds on which the claim is based and sufficient particulars to enable the goods to be identified, and the trustee when appointed shall after investigating the claim either return the said goods or give notice that the right of the claimant thereof is disputed, whereupon the claimant may within ten days thereafter appeal therefrom in the manner provided for in Rule 139. The trustee shall in no case be liable for the costs of such appeal, or any loss occasioned by such dispute made in good faith."

(3) This is a new subsection the purpose of which is to make it clear that the owner of any such property must look after his own interests in such cases.

(4) This is a new subsection the purpose of which is to establish a procedure whereby the trustee may on his own initiative have the disposition of any such property dealt with.

(5) This is a new subsection. Its purpose is to bring within the purview of the Bankruptcy Court the disposition of all such property coming into the hands of the trustee.

(6) This was formerly section 54(2). No substantial change.

Trustee to have right to sell patented articles.

51. (1) Where any property of the bankrupt vesting in a trustee consists of patented articles that were sold to the bankrupt subject to any restrictions or limitations, the trustee is not bound by such restrictions or limitations but may sell and dispose of the patented articles free and clear of such restrictions or limitations.

Right of manufacturer.

(2) Where the manufacturer or vendor of such patented articles objects to the disposition of them by the trustee as provided by this section and gives to the trustee notice in writing of such objection before the sale or disposition thereof such manufacturer or vendor has the right to purchase such patented articles at the invoice prices thereof, subject to any reasonable deduction for depreciation or deterioration.

Copyright.

52. Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee is not entitled to sell, or authorize the sale of, any copies of the work, or to perform or authorize the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor is he, without the consent of the author or of the court, entitled to assign the right or transfer the interest or to grant any interest in the right by licence, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt was liable to pay.

Effect of sales of property by trustee.

53. All sales of property made by the trustee shall vest in the purchaser all the legal and equitable estate of the bankrupt therein.

Partnership Property.

Application to limited partnerships.

54. (1) This Act applies to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general partners of a limited partnership becoming bankrupt, the property of the limited partnership shall vest in the trustee.

Actions by trustee and bankrupt's partner.

(2) Where a member of a partnership becomes bankrupt, the court may authorize the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner, and any release by the partner of the debt or demand to which the action relates is void.

Release to be void.

51. (1) This was formerly section 47 (1). No material change.

(2) This was formerly section 47 (2). The words "before the sale or disposition thereof" have been substituted for the words "within five days after the date of his appointment".

52. This was formerly section 48. No change.

53. This was formerly section 44. No change.

54. (1) This section was formerly section 176. The words "Subject to such modifications as may be made by General Rules" have been deleted from the first line.

(2) No material change. Formerly section 167 (1) and (2).

Notice to partner.

(3) Notice of the application for authority to commence the action shall be given to the bankrupt's partner, and he may show cause against it, and on his application the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and, if he does not claim any benefit therefrom, he shall be indemnified against costs in respect thereof as the court directs.

Sales in Quebec.

Sales in the province of Quebec. Sales of hypothecated immovable property.

55. (1) In the province of Quebec no immovable property whereon exists a hypothec or a privilege shall be sold by the trustee without the permission in writing of the inspectors and the authorization of the judge and after notice has been given to each hypothecary or privileged creditor whose name is entered in the register of addresses that the registrars of the registration divisions are obliged to keep according to the laws of the province.

Method of sale of hypothecated property.

(2) The sale of immovable property under subsection one, unless a written consent to the contrary is obtained from each hypothecary or privileged creditor whose claim has been duly registered, or unless the sale is made subject to hypothec or privilege of any such creditor not so consenting, shall be made at public auction and after advertisement as required for the sale of immovable property by the sheriff in the district or place where such immovable property is situate, but where the property is situate in more than one district or place the court may direct a sale of all such property as an entirety at one place, to be specified in the order, and after such notice as the court may direct.

Effect of sale at public auction.

(3) Any sale at public auction under this section has the same effect as a sheriff's sale in the province of Quebec, and is subject to the contribution to the Public Buildings and Jury Fund provided for in the case of sheriff's sale.

False bidding.

(4) In case of false bidding, the same recourse as in case of sheriff's sale may be exercised against the false bidder in the manner provided by the laws of the province.

Security unaffected.

(5) This section shall not be interpreted as affecting the right of a secured creditor to realize or otherwise deal with his security as provided by this Act.

Duties imposed by Civil Code.

56. Upon making a sale under section fifty-five, the trustee shall fulfil all the duties imposed on the sheriff by articles two thousand one hundred and sixty-one *(d)* to two thousand one hundred and sixty-one *(k)*, inclusive, of the Civil Code of the province of Quebec, and the registrars of the different registration divisions of that province shall also fulfil all the duties imposed upon them by the said

(3) No change. Formerly section 167 (3).

55. (1) This was formerly section 45 (1). No change.

(2) This was formerly section 45 (2). No material change.

(3) This was formerly section 45 (3). No change.

(4) This was formerly section 45 (4). No material change.

(5) This was formerly section 45 (5). No change.

56. This was formerly section 45 (6). No change.

articles and shall be deemed to be officers of the court having jurisdiction in bankruptcy for the carrying out of the provisions of this section.

Resale.

57. (1) Where the purchaser has not paid the whole of the purchase price or given security when he may lawfully do so under the provisions of the Code of Civil Procedure for the province of Quebec, the trustee may obtain from the court an order for the resale of the property.

(2) The purchaser may prevent the resale for false bidding by paying to the trustee, before the resale, the amount of his bid with the interest accrued by reason of his default and all costs incurred thereby.

(3) Where a resale is made and the price obtained is less than the bid of the false bidder, he is liable to the trustee for the difference between the bid and the price obtained, and the court may on application of the trustee make an order against the false bidder for payment of the difference; and where the price obtained is greater than the bid the difference shall be paid to the trustee.

Effect of omission.

58. Failure to comply with any of the provisions of the articles referred to in section fifty-six does not invalidate any proceedings of the sale but the officer in default is responsible for all damages that may result therefrom.

Disposal of property so sold by sheriff.

59. When an immovable property affected by a hypothec or privilege is sold by the sheriff, the moneys realized from the sale shall remain in his hands to be paid by him to the privileged and hypothecary creditors in accordance with the report of distribution made by the prothonotary of the Superior Court and the surplus shall be remitted to the trustee upon an order of the judge for its distribution among the ordinary creditors in accordance with the provisions of this Act.

Settlements and Preferences.

Avoidance of certain settlements.

60. (1) Any settlement of property, if the settlor becomes bankrupt within one year after the date of the settlement, is void against the trustee.

If bankrupt within five years.

(2) Any settlement of property, if the settlor becomes bankrupt within five years after the date of the settlement, is void against the trustee, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement and that the interest of the settlor in the property passed on the execution thereof.

57. These provisions were formerly contained in Rule 129.

58. This was formerly section 45 (7). No change.

59. This was formerly section 45 (8). No change.

60. (1) The changes are self-explanatory.

(2) The changes are self-explanatory.

The former subsection (3) has been deleted. It read as follows:

"**60.** (3) This section shall not extend to any settlement made
(a) before and in consideration of marriage, or
(b) in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or
(c) on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife."

Certain marriage contracts void as against trustee.

61. Any covenant or contract made by any person (hereinafter called "the settlor") in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband or children, or for the future settlement on or for the settlor's wife or husband or children, of property wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, if the settlor becomes bankrupt and the covenant or contract has not been executed at the date of the bankruptcy, is void against the trustee except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy proceedings under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors have been satisfied.

Payments and transfers void, subject to proof of certain facts.

62. (1) Any payment of money, not being payment of premiums on a policy of life insurance in favour of the husband, wife, child or children of the settlor, or any transfer of property made by the settlor in pursuance of a covenant or contract mentioned in section sixty-one, is void against the trustee unless the person to whom the payment or transfer was made prove

(a) that the payment or transfer was made more than six months before the date of the bankruptcy; or

(b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or

(c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor.

If declared void.

(2) Where any payment or transfer mentioned in subsection one is declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the date of the bankruptcy.

Avoidance of general assignment of book debts.

63. (1) Where a person engaged in any trade or business makes an assignment of his existing or future book debts or any class or part thereof and subsequently becomes bankrupt, the assignment of book debts is void against the trustee as regards any book debts that have not been paid at the date of the bankruptcy.

61. The changes are self-explanatory.

62. (1) The changes are self-explanatory.

(2) No material change.

The former subsection (3) is unnecessary and has been deleted. It read as follows:

"**62.** (3) For the purpose of this section and sections sixty and sixty-one "settlement" shall include any conveyance or transfer of property."

63. The section formerly read as follows:

"**63.** (1) Where a person engaged in any trade or business makes an assignment of his existing or future book debts or any class or part thereof, and is subsequently adjudicated bankrupt or makes an authorized assignment, the assignment of book debts shall be void against the trustee in the bankruptcy or under the authorized assignment, as regards any book debts which have not been paid at the date of the presentation of the petition in bankruptcy or of the making of the authorized assignment.

(2) This section shall not apply if, in the province where the assignor has his principal place of business, there is a statute providing for the registration of such assignment, and if the assignment is registered in compliance therewith.

(3) Nothing in this section shall have effect so as to render void any assignment of book debts, due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for value, or in any authorized assignment.

(4) For the purpose of this section "assignment" includes assignment by way of security and other charges on book debts."

(1) The changes are self-explanatory.

Foregoing provisions not to apply in some cases.

(2) This section does not apply to an assignment of book debts which is registered pursuant to any statute of any province providing for the registration thereof if the assignment is valid in accordance with the laws of the province.

Further cases where this section not to void assignments.

(3) Nothing in this section renders void any assignment of book debts due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for adequate valuable consideration.

"Assignment" defined.

(4) For the purposes of this section, "assignment" includes assignment by way of security and other charges on book debts.

Avoidance of preference in certain cases.

64. (1) Every transaction, whether or not entered into voluntarily or under pressure, by an insolvent person who becomes bankrupt within six months thereafter and resulting in any person or any creditor or any person in trust for such creditor or any surety or guarantor for the debt due to such creditor obtaining a preference, advantage or benefit over the creditors or any of them, is void as against the trustee.

Void or voidable transactions.

(2) Every transaction entered into by a person who subsequently becomes bankrupt which would be void or voidable as against a creditor is void or voidable, as the case may be, as against the trustee.

Transactions deemed unlawful.

(3) Any transaction entered into between a bankrupt and any person the result of which is to obtain a benefit or advantage to which the bankrupt or such person would not be entitled is void as against the trustee, and any property or consideration given is recoverable by the trustee.

Transactions re undisclosed property.

(4) Any transaction entered into after the bankruptcy of any person between the bankrupt and any other person relating to any of the property of the bankrupt not disclosed to the trustee at the date of the bankruptcy is void as against the trustee.

(2) This subsection has been redrafted. The change in subsection (2) has been recommended by the Conference of Commissioners on Uniformity of Laws for Canada at its session at Ottawa in August, 1933. It has also been recommended by the Canadian Bankers' Association. It formerly read as follows:

"(2) This section shall not apply if, in the province where the assignor has his principal place of business, there is a statute providing for the registration of such assignment, and if the assignment is registered in compliance therewith."

(3) The changes are self-explanatory.

(4) No change.

64. This is an entirely new redraft of section 64 which formerly read as follows:

"**64.** (1) Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any insolvent person in favour of any creditor or of any person in trust for any creditor with a view of giving such creditor a preference over the other creditors shall, if the person making, incurring, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, incurring, taking, paying or suffering the same, or if he makes an authorized assignment, within three months after the date of the making, incurring, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy or under the authorized assignment.

(2) If any such conveyance, transfer, payment, obligation or judicial proceeding has the effect of giving any creditor a preference over other creditors, or over any one or more of them, it shall be presumed *prima facie* to have been made, incurred, taken, paid or suffered with such view as aforesaid whether or not it was made voluntarily or under pressure and evidence of pressure shall not be receivable or avail to support such transaction.

(3) For the purpose of this section, the expression "creditor" shall include a surety or guarantor for the debt due to such creditor."

(1) Former sections 64 and 65 have been the *cause celebre* of more litigation and uncertainty than any other sections in the Act. Even the courts have not been able to agree on the proper interpretation thereof. For instance the words "with a view of" in the fourth line of section 64 have been the cause of many diverse opinions and inferences regarding the intent of the parties to the transaction. It has given rise to the doctrine of concurrent intent in some provinces which is a product of former decisions of the courts on the interpretation of similar phrases in the *Assignments and Preferences Act* in force therein. In other provinces it has been held to mean only unilateral intent on the part of either a bankrupt or a creditor. The result has been that there has been much confusion of thought and no unanimity not only as to the interpretation of the section but also as to the inter-relating effect with section 65.

(2) The new subsection has a wider application than the former section 64 which limited the types of transactions which could be attacked thereunder.

(3) This is a new subsection inserted to get at a certain type of transaction more usually entered into after the bankruptcy for quite an unlawful purpose.

(4) This subsection is new and is deemed necessary to complete the circle of transactions which are prohibited.

Protected transactions.

65. (1) Except as provided in sections sixty to sixty-four, nothing in this Act shall be construed to invalidate, in the event of bankruptcy, any settlement or transaction made or entered into before bankruptcy in good faith and for adequate valuable consideration between the bankrupt and any other person without notice or knowledge of or reason to suspect the insolvency of the bankrupt or of his having committed an act of bankruptcy.

Law of set-off to apply.

(2) The law of set-off applies to all claims made against the estate and also to all actions instituted by the trustee for the recovery of debts due to the bankrupt in the same manner and to the same extent as if the bankrupt were plaintiff or defendant, as the case may be, except in so far as any claim for set-off is affected by the provisions of this Act respecting frauds or fraudulent preferences.

Recovering proceeds if reconveyed.

66. (1) Where a person has acquired property of the bankrupt under a transaction that is void or under a voidable transaction that is set aside and has sold, disposed of, realized or collected the property or any part thereof, the money or other proceeds, whether further disposed of or not, shall be deemed the property of the trustee.

Trustee may recover.

(2) The trustee may recover the property or the value thereof or the money or proceeds therefrom from the person who acquired it from the bankrupt or from any other person to whom he may have resold, transferred or paid over the proceeds of the property as fully and effectually as the trustee could have recovered the property if it had not been so sold, disposed of, realized or collected.

65. (1) This is a simplified redraft of the former section 65 which read as follows:

"**65.** (1) Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy or of an authorized assignment on an execution, attachment or other process against property, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate, in the case of a receiving order or an authorized assignment,

(a) any payment by the bankrupt or assignor to any of his creditors;

(b) any payment or delivery to the bankrupt or assignor;

(c) any conveyance or transfer by the bankrupt or assignor for adequate valuable consideration;

(d) any contract, dealing, or transaction by or with the bankrupt or assignor for adequate valuable consideration;

Provided that both the following conditions are complied with, namely:—

(i) That the payment, delivery, conveyance, assignment, transfer, contract, dealing, or transaction, as the case may be, is in good faith and takes place before the date of the receiving order or authorized assignment; and

(ii) That the person, other than the debtor, to, by, or with whom the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt or assignor.

(2) The expression "adequate valuable consideration" in paragraph *(c)* of this section means a consideration of fair and reasonable money value with relation to that of the property conveyed, assigned or transferred, and in paragraph *(d)* hereof means a consideration of fair and reasonable money value with relation to the known or reasonably to be anticipated benefits of the contract, dealing or transaction."

(2) Formerly section 58. No change.

66. The phraseology of this section has been slightly changed. Section 66 (1), (2) and (3) read as follows:

"**66.** (1) If a person in whose favour any settlement of property, conveyance or transfer which is void under this Act has been made, shall have sold, disposed of, realized on or collected the property so conveyed or transferred, or any part thereof, the money or other proceeds, whether further disposed of or not, shall be deemed the property of the trustee as such.

(2) The trustee may recover such property or the value thereof from the person in whose favour such settlement of property, conveyance or transfer was made or from any other person, to whom the person in whose favour such settlement of property, conveyance or transfer was made may have resold, redisposed of or paid over the proceeds of such property as fully and effectually as the trustee could have recovered the same if it had not been so sold, disposed of, realized on or collected.

(3) Notwithstanding the provisions of subsection one of this section, where any person to whom such property has been sold or disposed of shall have paid or given therefor in good faith fair and reasonable consideration he shall not be subject to the operation of this section but the trustee's recourse shall be solely against the person in whose favour such settlement was made for recovery of the consideration so paid or given or the value thereof."

Operation of section.

(3) Notwithstanding subsection one, where any person to whom the property has been sold or disposed of has paid or given therefor in good faith adequate valuable consideration he is not subject to the operation of this section but the trustee's recourse shall be solely against the person entering into the transaction with the bankrupt for recovery of the consideration so paid or given or the value thereof.

Trustee subrogated.

(4) Where the consideration payable for or upon any sale or resale of such property or any part thereof remains unsatisfied the trustee is subrogated to the rights of the vendor to compel payment or satisfaction.

Dealings with undischarged bankrupt.

67. (1) All transactions by a bankrupt with any person dealing with him *bona fide* and for value in respect of property acquired by the bankrupt after the bankruptcy, if completed before any intervention by the trustee, are valid against the trustee, and any estate or interest in such property that by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

Receipt of money by banker.

(2) For the purposes of this section, the receipt of any money, security or negotiable instrument from or by the order or direction of a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to or by the order or direction of a bankrupt by his banker shall be deemed to be a transaction by the bankrupt with such a banker dealing with him for value.

(3) The words "entering into such transaction with the bankrupt" have been substituted for the words "in whose favour such settlement was made".

(4) No change.

67. The changes are self-explanatory.

PART V.

Administration of Estates.

Meetings of Creditors.

First meeting of creditors.

68. (1) It shall be the duty of the trustee to inform himself of the names and addresses of the creditors and, within five days from the date of his appointment, to send by registered mail to the bankrupt, to every known creditor and to the Superintendent a notice in the prescribed form of the first meeting of creditors, to be held on a date not later than fifteen days from the mailing thereof at the office of the official receiver in the locality of the bankrupt, but the official receiver may, when he deems it expedient, authorize the meeting to be held at the office of any other official receiver or at such place as the official receiver may fix.

Documents to accompany notice.

(2) The trustee shall include with such notice a list of the creditors with claims amounting to twenty-five dollars or more and the amounts of their claims together with a proof of claim and proxy in the prescribed form but no name shall be inserted in the proxy before it is so sent.

Notice to be gazetted by trustee.

(3) Notice of the bankruptcy and of the first meeting shall, as soon as may be done, be published in the prescribed form by the trustee in the *Canada Gazette*.

Publication in local paper by trustee.

(4) A notice in the prescribed form shall, as soon as possible after the bankruptcy and not later than six days prior to the first meeting, be published in a local newspaper by the trustee.

Purpose of meeting.

(5) The purpose of such meeting shall be to consider the affairs of the bankrupt, to affirm the appointment of the trustee or substitute another in place thereof, to appoint inspectors and to give such directions to the trustee as the creditors may see fit with reference to the administration of the estate.

68. Formerly section 88.

(1) The provisions of subsections (1) and (2) have now been combined in subsection (1), the word "trustee" being substituted for "custodian".

Subsection (1) is the same with new phrases added and subsection (2) which read "Such first meeting shall be called for a date not later than fifteen days after the mailing of such notice" is merely incorporated therein. The concluding part is added to meet a certain type of situation where it may be more desirable that the meeting of creditors be held elsewhere to serve the convenience of all concerned.

(2) Formerly subsection (3).

(3) and (4) These provisions were formerly contained in subsection (1) of section 28. The word "trustee" has been substituted for "custodian". Section 28 (1) read as follows:

> "28. (1) A notice in the prescribed form of the receiving order or assignment and of the first meeting of creditors required to be called pursuant to this Act shall, as soon as possible after the making or executing of such receiving order or assignment, be gazetted by the custodian, and not less than six days prior to said meeting be published in a local newspaper."

(5) This was formerly section 88 (4). The word "administration" has been substituted for "disposal", and the additional clause added to widen the application of the section. It read as follows:

> "88. (4) The purpose of such meeting shall be to consider the affairs of the debtor and to appoint a trustee and inspectors and give directions to the trustee with reference to the disposal of the estate."

Meetings during administration.

69. (1) The trustee may at any time call a meeting of creditors and he shall do so when directed by the court and whenever requested in writing by a majority of the inspectors or by twenty-five per cent in number of the creditors holding twenty-five per cent in value of the proved claims.

Meetings convened by inspectors.

(2) A meeting of the creditors may be convened by a majority of the inspectors at any time when a trustee is not available to call a meeting or has neglected or failed to do so when so directed by the inspectors.

Notice of subsequent meetings.

70. (1) Meetings other than the first shall be called by mailing notice of the time and place thereof not less than four days before the time of such meeting to each creditor at the address given in his proof of claim.

Notice to creditors with proved claims.

(2) After the first meeting notice of any meeting or of any proceeding need not be given to any creditors other than those who have proved their claims.

Procedure at Meetings.

Chairman of first meeting.

71. (1) The official receiver or his nominee shall be the chairman at the first meeting of creditors and shall decide any questions or disputes arising at the meeting and from any such decision any creditor may appeal to the court.

Trustee to be chairman of subsequent meetings.

(2) At all other meetings the trustee shall be the chairman unless by resolution at the meeting some other person is appointed.

Chairman shall have casting vote.

(3) The chairman of any meeting of creditors shall, in the case of a tie, have a second or casting vote.

Minutes of meeting.

(4) The chairman shall cause minutes of the proceedings at the meeting to be drawn up and entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

69. (1) Formerly section 89. It is necessary to provide for meetings to be called when ordered by the court and when required by the inspectors.

(2) This is a new subsection.

70. (1) Formerly section 90 (1). The reason for the additional clause is obvious.

(2) Formerly section 90 (2). The subsection has been revised in view of the provisions of subsection (2) of section 71.

71. (1) Formerly section 91 (1). The changes are self-explanatory. It read as follows:

> "**91.** (1) The Official Receiver or his nominee shall be the chairman at the first meeting of creditors, and shall decide any questions arising in connection with the appointment of the trustee by creditors, and from any such decision any creditor may appeal to the court."

(2) Formerly section 91 (2) which read as follows:

> "(2) At all other meetings the chairman shall be such person as the meeting by resolution appoints."

(3) This subsection is new.

(4) This was formerly section 93. No change.

Non-reception of notice by creditor.

(5) Where a meeting of creditors is called, the proceedings had and resolutions passed at such meeting, unless the court otherwise orders, are valid, notwithstanding that some creditors shall not have received notice.

Quorum.

72. (1) A meeting shall not be competent to act for any purpose except the election of a chairman and the adjournment of the meeting, unless there are present or represented at least three creditors, or all the creditors when their number does not exceed three.

Adjournment if no quorum.

(2) Where, within half an hour after the time appointed for the meeting, a quorum of creditors is not present or represented, the meeting shall be adjourned by the chairman to such time and place as the chairman may appoint, not being less than seven nor more than twenty-one days from the day of the adjourned meeting.

Adjournment with consent of meeting.

(3) The chairman of any meeting may with the consent of the meeting adjourn the meeting from time to time.

How creditors shall vote.

73. Every class of creditors may express its views and wishes separately from every other class and the effect to be given to such views and wishes shall, in case of any dispute and subject to the provisions of the Act, be in the discretion of the court.

(5) This is taken from former Rule 133 (1) which read as follows:

"*Rule* **133.** (1) Where a meeting of creditors is called by notice, the proceedings had and resolutions passed at such meeting shall, unless the Court otherwise orders, be valid, notwithstanding that some creditors shall not have received the notice sent to them and notwithstanding the inadvertent omission to send such notice to one or more creditors."

The former section 71 has been deleted. It read:

"**71.** (1) The trustee may from time to time make demand on any contributory requiring him to pay to the trustee within thirty days from and after the date of the service of such demand, the amount for which such person is so liable to contribute or such portion thereof as the trustee deems necessary or expedient.

(2) Any such demand shall be deemed to have been properly served if delivered personally to the contributory or if a copy of the same is mailed in a registered prepaid letter addressed to the contributory at his last known address or at the address shown in or by the stock register or other books of the corporation.

(3) If the contributory disputes liability, either in whole or in part, he shall within fifteen days from the service of such demand give notice in writing to the trustee stating therein what portion of the demand is disputed and setting out his grounds of defence and he shall not thereafter, unless by leave of the court be permitted to plead in any action or proceeding brought against him by the trustee any grounds of defence of which he has not notified the trustee within said fifteen days.

(4) If at the expiration of thirty days from the date of the service of such demand the contributory has not paid to the trustee the required amount, the trustee may take proceedings against the contributory for the recovery thereof in the manner provided by General Rules.

(5) If the contributory considers the demand excessive or unjust he may apply to the court to reduce or disallow it.

(6) If the court considers the demand to be grossly excessive or unjust it may order the trustee to pay personally the costs of any such application."

72. (1) Formerly section 92 (1). No change.

(2) Formerly section 92 (2). The words "to such time and place" have been substituted for the words "to the same day in the following week at the same time and place, or to such other day."

(3) Formerly section 91 (3). No material change.

The former section 72 has been deleted. It read as follows:

"**72.** (1) The court shall, on the application of any contributory, adjust the rights of the contributories among themselves, and, for the purpose of facilitating such adjustment may direct the trustee to intervene, carry the proceedings, employ legal or other assistance and make such investigations, do such acts and furnish such information as to the court may seem necessary or advisable.

(2) The court shall allow to the trustee and to any solicitor, advocate or counsel or other assistant employed by him under the provisions, of the immediately preceding subsection, as against the contributories or any of them such remuneration, expenses and costs as the court shall deem just, and such remuneration, expenses and costs shall be paid out of such moneys as shall be collected from contributories under the order or direction of the court for the purposes of the adjustment or out of moneys payable to the contributories by the estate of the debtor, as the court shall order, but such remuneration, expenses and costs shall not be payable in any event out of the general estate of the debtor.

(3) The court, before proceeding to adjust the rights of contributories among themselves, as by subsection one of this section provided, may order that the contributory applying shall provide security, in form and amount satisfactory to the court, for the payment of such remuneration, expenses and costs as will be incident to such adjustment, and, in default of such security being provided as and when ordered, the court may refuse to proceed with such adjustment."

73. This was formerly Rule 136 which has been slightly amended.

The former section 73 has been deleted. It was as follows:

"**73.** (1) The provisions of sections seventy, seventy-one and seventy-two shall apply only to corporations which have become bankrupt or authorized assignors under this Act.

(2) The word 'contributory' as used in the three last preceding sections means such shareholder or member of a corporation as is referred to in subsection one of section seventy."

Power of chairman to admit or reject proof.

74. (1) The chairman of the meeting has power to admit or reject a proof of claim for the purpose of voting but his decision is subject to appeal to the court.

Accept proof by telegraph.

(2) Notwithstanding anything in this Act, the chairman may, for the purpose of voting, accept telegraphic or cable communication as proof of the claim of a creditor who is resident out of Canada.

In case of doubt.

(3) Where the chairman is in doubt whether the proof of claim should be admitted or rejected he shall mark the proof as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

Right of creditor to vote.

75. (1) A person is not entitled to vote as a creditor at any meeting of creditors unless he has duly proved a claim provable in bankruptcy and the proof of claim has been duly lodged with the trustee before the time appointed for the meeting.

Voting by proxy.

(2) A creditor may vote either in person or by proxy.

Form of proxy.

(3) A proxy is not invalid merely because it is in the form of a letter, telegram or cable.

Debtor may not be proxy.

(4) A debtor may not be appointed a proxy to vote at any meeting of his creditors.

Corporation.

(5) A corporation may vote by an authorized agent at meetings of creditors.

Claims acquired after bankruptcy.

76. (1) No person is entitled to vote on a claim acquired after the bankruptcy unless the entire claim is acquired.

(2) Subsection one does not apply to persons acquiring notes, bills or other securities upon which they are liable.

74. (1) This was formerly section 100 (1). No material change.

(2) This was formerly section 100 (2) which read as follows:

> "**100.** (2) Notwithstanding anything in this Act, the chairman may, for the same purpose, accept telegraphic or cable communication as proof of the debt of a creditor who carries on business out of Canada and likewise as to the authority of any one claiming to represent and vote on behalf of such creditor."

(3) No material change. This was formerly section 100 (3).

75. (1) This was formerly section 94. No material change.

(2) This was formerly section 101 (1) which read as follows:

> "**101.** (1) A creditor may vote either in person or by proxy deposited with the custodian or trustee at or before the meeting at which it is to be used."

(3) This was formerly section 101(2). No change.

(4) This is a new subsection. Its purpose is obvious.

(5) This was formerly section 99 (1). No material change. Subsection (2) of section 99 has been deleted. It read as follows:

> "**99.** (2) The bondholders, debenture holders, shareholders and members of the corporation and each class thereof may at such meeting express their views or wishes in manner prescribed by General Rules."

76. No material change. Formerly section 97.

Creditor secured by bill or note.

77. A creditor shall not vote in respect of any claim on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and who is not a bankrupt, as a security in his hands and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his claim.

Voting by secured creditor.

78. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and he is entitled to vote only in respect of the balance, if any, due to him, after deducting the value of his security.

Trustee may vote.

79. (1) Where the trustee is a creditor or a proxy for a creditor, he may vote as a creditor at any meeting of creditors.

Trustee may not vote on remuneration.

(2) The vote of the trustee or of his partner, clerk, solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

Persons not entitled to vote.

(3) The following persons are not entitled to vote on the appointment of a trustee or inspectors, namely:

(a) the father, mother, son, daughter, sister, brother, uncle or aunt by blood or marriage, wife or husband of the bankrupt;

(b) where the bankrupt is a corporation, any officer, director or employee thereof.

77. There is no material change. This was formerly section 96 and read as follows:

> "**96.** A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, or by whom an authorized assignment has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof."

78. This was formerly section 95 (1). No change.

Former section 95(2) is a mere repetition of subsection (1). It read as follows:

> "**95.** (2) A secured creditor shall not be entitled to vote at any meeting of creditors until he has proved his claim and valued his security as hereinafter provided."

79. (1) This was formerly section 98(1). The provision giving the trustee a casting vote in the case of a tie has been deleted. Subsection (3) of section 71 gives a casting vote to the *chairman* of the meeting.

Section 98 read as follows:

> "**98.** (1) The trustee, if a creditor or a proxy for a creditor, may vote, as a creditor at any meeting of creditors, and, in addition, in case of a tie, shall have a casting vote, personally, as if he were a creditor holding a proved claim of twenty-five dollars.
>
> (2) The vote of the trustee, or of his partner, clerk solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.
>
> (3) The following persons shall not be entitled to vote on the appointment of a trustee namely:
>
> (i) the father, mother, son, daughter, sister, brother, uncle or aunt by blood or marriage, wife or husband of the bankrupt or authorized assignor;
>
> (ii) if the bankrupt or authorized assignor is an incorporated company, any officer, director or employee thereof."

(2) Formerly section 98(2). The comma is inserted after "clerk" in the first line as in the English Act in the first schedule 28 it apparently has been inadvertently omitted.

(3) Formerly section 98(3). The words "or inspectors" have been added as the choice of the inspectors is as important to the administration of an estate as that of the trustee.

The former section 79 is deemed unnecessary and has been deleted. It read:

> "**79.** Notwithstanding the declaration of a final dividend if any assets reserved for contingent claims, or assets subsequently received, become available for the payment of a further dividend and the necessary expenses of declaring the same, the trustee shall declare and pay such further dividend."

Evidence of proceedings at meetings of creditors.

80. (1) A minute of proceedings at a meeting of creditors under this Act signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed shall be received in evidence without further proof.

Evidence of regularity.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been signed by the chairman shall be deemed to have been duly convened and held and all resolutions passed or proceedings thereat to have been duly passed or had.

Scale of votes.

81. Subject to this Act, all questions at meetings of creditors shall be decided by resolution carried by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:—

For every claim of or over twenty-five dollars and not exceeding two hundred dollars—one vote;

For every claim of over two hundred dollars and not exceeding five hundred dollars—two votes;

For every claim of over five hundred dollars and not exceeding one thousand dollars—three votes;

For every claim of one thousand dollars three votes and one additional vote for each additional one thousand dollars or fraction thereof.

Inspectors.

Appointment of inspectors.

82. (1) At the first or a subsequent meeting, the creditors shall appoint one or more, but not exceeding five, inspectors of the estate of the bankrupt.

Certain persons not eligible.

(2) No person is eligible to be appointed or to act as an inspector who is a party to any contested action or proceedings by or against the estate.

Powers of inspectors.

(3) The powers of the inspectors may be exercised by a majority of them.

Filling vacancy on board.

(4) The creditors or the inspectors at any meeting may fill any vacancy on the board of inspectors.

80. This was formerly section 177 (1) and (2). No material change.

The provisions of the former section 80 are duplicated in section 101 and have therefore been deleted. Section 80 read:

> "**80.** Where one partner of a firm is adjudged bankrupt, or makes an authorized assignment, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt or authorized assignor until all the separate creditors have received the full amount of their respective debts."

81. No material change. Formerly section 102.

82. (1) Formerly section 103(1). No material change.

(2) This was formerly section 103(7). No substantial change.

(3) This was formerly section 103(2). No change.

(4) This is a new subsection. While it is the natural right of the creditors to appoint inspectors as may be necessary yet often it is not practical and in many cases futile to call a meeting for such purpose alone. It is customary on practically all boards of directors for them to have the power to fill any vacancy on the board and so that inspectors can have a full board it is deemed desirable to grant them the power to fill a vacancy. Any such appointments are always subject to removal as provided in the next subsection.

Revocation and replacement.

(5) The creditors may at any meeting and the court may on the application of the trustee or any creditor revoke the appointment of any inspector and appoint another in his stead.

Meetings of inspectors.

(6) The trustee may call a meeting of inspectors when he deems it advisable and he shall do so when requested in writing by a majority of the inspectors.

Trustee votes in case of tie.

(7) In the event of an equal division of opinion at a meeting of inspectors, the opinion of any absent inspector shall be sought in order to resolve the difference, and in the case of a difference that cannot be so resolved it shall be resolved by the trustee, unless it concerns his personal conduct or interest in which case it shall be resolved by the creditors or the court.

If no inspectors appointed.

(8) Where there are no inspectors or where the inspectors fail to exercise the powers conferred on them, the trustee shall call a meeting of the creditors for the purpose of appointing inspectors or substituting other inspectors, taking such action or giving such directions as may be necessary.

Creditors may override directions of inspectors.

(9) Subject to this Act, the trustee shall in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors have regard to any directions that may be given by resolution of the creditors at any general meeting or by the inspectors, and any directions so given by the creditors shall in case of conflict be deemed to override any directions given by the inspectors.

Decisions of inspectors subject to review by court.

(10) The decisions and actions of the inspectors are subject to review by the court at the instance of the trustee or any interested person and the court may revoke or vary any act or decision of the inspectors and it may give such directions, permission or authority as it deems proper in substitution thereof or may refer any matter back to the inspectors for reconsideration.

Inspector may not acquire property.

(11) No inspector is, directly or indirectly, capable of purchasing or acquiring for himself or for another any of the property of the estate for which he is an inspector, unless with the prior approval of the court.

(5) This was formerly section 103(3). It is deemed desirable that the court also have the authority to remove an inspector acting improperly and to avoid the delay and expense of calling a meeting to appoint new inspectors so that the administration may be expedited. The subsection formerly read as follows:

> "(3) The creditors may, at any meeting, revoke the appointment of any inspector and in such event or in case of the death, resignation, or absence from the province of an inspector, may appoint another in his stead."

(6) This is a new subsection.

(7) This was formerly section 103(5). There is no material change except to meet the contingency therein expressed.

(8) This is a new subsection, which has been inserted to provide for the eventualities mentioned therein so that the administration of an estate may not be prejudiced as a result of the absence of inspectors or of their failure to act.

(9) This is a new subsection. The right of the creditors to override the inspectors seemingly has just been assumed by implication, as there does not appear to be any express authority therefor other than a decision of the court to that effect. The English Act, section 79(1), makes express provision therefor.

(10) This is a new subsection. It removes any doubt as to the authority of the court to overrule the decisions of the inspectors.

(11) This was formerly section 103(6). No change.

Acts of inspectors not invalidated by formal defects.

(12) No defect or irregularity in the appointment of an inspector vitiates any act done by him in good faith.

Duty of inspectors.

(13) The inspectors shall from time to time verify the bank balance, audit the trustee's accounts and inquire into the adequacy of the security filed by the trustee and, subject to subsection fourteen, shall approve the trustee's final statement of receipts and disbursements, dividend sheet and disposition of unrealized property.

Approval of trustee's final statement by inspectors.

(14) Before approving the final statement of receipts and disbursements, the inspectors shall satisfy themselves that all the property has been accounted for and that the administration of the estate has been completed as far as can reasonably be done and shall determine whether or not the disbursements and expenses incurred are proper and have been duly authorized, and the fees and remuneration just and reasonable in the circumstances.

Inspectors' fees.

(15) Each inspector may be repaid his actual and necessary travelling expenses incurred in and about the performance of his duties and may also be paid the following fees to be computed on the net receipts as determined by the amount realized by the trustee less payments to secured creditors:—

Estates with net receipts below			$ 10,000.....	a fee of	$3.00	per meeting.
"	"	from	10,000 to 50,000	"	5.00	"
"	"	"	50,000 to 100,000	"	7.50	"
"	"	"	100,000 and over...	"	10.00	"

Special services.

(16) An inspector duly authorized by the creditors or by the other inspectors to perform special services for the estate may be allowed a special fee for such services, subject to approval of the court which may vary such fee as it deems proper having regard to the nature of the services rendered in relation to the fiduciary obligations of the inspector to the estate.

(12) This was formerly section 186(2). It is a more logical place for this provision.

(13) This is a new subsection. While conferring certain powers on the inspectors, the present Act is silent as to the duties of inspectors. The duties referred to herein have in the past been more or less left to the court or to the Superintendent to perform as occasion arose. It is felt that the inspectors, being more familiar with the affairs of the estate, are better qualified to exercise control in such matters. Under the English Act a trustee must submit his cash book and vouchers to the inspectors whenever required, but not less than once every three months and in the case of a trading account not less than once a month, and the inspectors are required at such times to audit and certify the accounts. Similar provisions are contained in the Scottish Act.

(14) This is a new subsection. The present Act does not provide for the inspectors' approval of the trustee's final statement of receipts and disbursements though in actual practice such approval is usually required. The new subsection remedies this omission and specifies more particularly the duty of inspectors in this regard.

(15) This was formerly section 103(4). The words inserted are to state the basis on which the fees are to be computed. See in *In re* John Perkins (15 C.B.R. 192).

(16) Occasions may arise when an inspector may render services to the estate which are beyond those which he might reasonably be expected to perform on behalf of the estate in his fiduciary capacity.

Claims Provable.

Claims provable.

83. (1) All debts and liabilities, present or future, to which the bankrupt is subject at the date of the bankruptcy or to which he may become subject before his discharge by reason of any obligation incurred before the date of the bankruptcy shall be deemed to be claims provable in proceedings under this Act.

Contingent and unliquidated claims.

(2) The court shall, on the application of the trustee, determine whether any contingent claim or any unliquidated claim is a provable claim, and, if a provable claim, it shall value such claim, and such claim shall after, but not before, such valuation be deemed a proved claim to the amount of its valuation.

Debts payable at a future time.

(3) A creditor may prove for a debt not payable at the date of the bankruptcy and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per cent per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

Proposals prior to bankruptcy.

(4) Where a proposal is made before bankruptcy the claims provable shall be determined as of the date of the filing of the proposal.

Claims provable in bankruptcy following proposal.

(5) The claims of creditors under a proposal shall, in the event of the debtor subsequently becoming bankrupt, be provable in the bankruptcy for the full amount of the claims less any dividends paid thereon pursuant to the proposal.

Interest.

(6) Where interest on any debt or sum certain is provable under this Act but the rate of interest has not been agreed upon, the creditor may prove for interest at a rate not exceeding five per cent per annum to the date of the bankruptcy from the time the debt or sum was payable, if evidenced by a written instrument, or, if not so evidenced, from the time notice has been given the debtor of the interest claimed.

83. Formerly section 104 which read as follows:

"**104.** (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust, shall not be provable in bankruptcy or in proceedings under an authorized assignment.

(2) Save as aforesaid, all debts and liabilities, present or future, to which the debtor is subject at the date of the receiving order or the making of the authorized assignment or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order or of the making of the authorized assignment shall be deemed to be debts provable in bankruptcy or in proceedings under an authorized assignment.

(3) The court shall value, at the time and in the summary manner prescribed by General Rules, all contingent claims and all such claims for unliquidated damages as are provable by this section, and after, but not before, such valuation, every such claim shall for all purposes of this Act, be deemed a proved debt to the amount of its valuation."

This section provides that unliquidated claims arising from a contract, promise, or breach of trust are the only unliquidated claims provable under the Act. Unliquidated claims for tort are excluded and this would appear to be most unfair especially where the bankrupt is a corporation and would ordinarily pass out of existence. Moreover, it would seem unfair that a claim would not be provable for the sole reason that a judgment had not been obtained at the date of the bankruptcy. The main purpose of *The Bankruptcy Act* is to relieve a debtor of his liabilities and to re-establish him. It is, therefore, considered that a bankrupt should be discharged from all liabilities except those provided in section 135.

(1) Formerly section 104(2).

(2) This is a revision of former section 104(3) and Rule 141.

(3) This was formerly section 120. The rate of interest has been changed from six per cent to five per cent in accord with the *Interest Act*, R.S.C. 1927, c. 102, section 2.

(4) This is a new subsection and has been added to cover the proposed new procedure respecting proposals prior to bankruptcy.

(5) This is a new subsection. It has been inserted to clarify the position of the creditors where a debtor becomes bankrupt after having previously submitted a proposal which has been duly ratified.

(6) This was formerly section 119 which has been redrafted and simplified. It read as follows:

"**119.** On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order or authorized assignment and provable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum to the date of the receiving order or authorized assignment from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment."

Proof in respect of distinct contracts.

84. Where a bankrupt was, at the date of the bankruptcy, liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof, in respect of the contracts, against the properties respectively liable on the contracts.

Proof of Claims.

Creditors shall prove claims.

85. (1) Every creditor shall prove his claim, and a creditor who does not prove his claim is not entitled to share in any distribution that may be made.

Proof by delivery.

(2) A claim shall be proved by delivering to the trustee a proof of claim in the prescribed form.

Who may make proof of claim.

(3) The proof of claim may be made by the creditor himself or by some person authorized by him on behalf of the creditor, and, if made by a person so authorized, it shall state his authority and means of knowledge.

Shall refer to account.

(4) The proof of claim shall contain or refer to a statement of account showing the particulars of the claim and any counter-claim which the bankrupt may have to the knowledge of the creditor and shall specify the vouchers or other evidence, if any, by which it can be substantiated.

Shall state whether secured or preferred.

(5) The proof of claim shall state whether the creditor is or is not a secured or preferred creditor.

Penalty for filing false claim.

(6) Where a creditor or other person in any proceedings under this Act files with the trustee a proof of claim containing any wilfully false statement or wilful misrepresentation, the court may, in addition to any other penalty provided in this Act, disallow the claim in whole or in part as it in its discretion may see fit.

Who may examine proofs.

(7) Every creditor who has lodged a proof of claim is entitled to see and examine the proofs of other creditors.

Workmen's wage claims.

(8) Proofs of claims for wages of workmen and others employed by the bankrupt may be made in one proof by the bankrupt or someone on his behalf by attaching thereto a schedule setting forth the names and addresses of the workmen and others and the amounts severally due to them, but such proof does not disentitle any workman or other wage-earner to file a separate proof on his own behalf.

84. No material change. Formerly section 114.

85. (1) Formerly section 105 (1). This subsection is slightly changed to comply with the new procedure. The added clause is intended to indicate with certainty the result of failure to file a claim.

(2) Formerly section 105 (2). The words "proof of claim" have been substituted for "affidavit" in this subsection as well as in the following subsections.

(3) No material change. Formerly section 105 (3).

(4) Formerly section 105 (4). The present form of proof of debt does not require a creditor to disclose any mutual credit to which a bankrupt may be entitled. The added clause is inserted to provide therefor. The concluding part has been deleted as unnecessary. It read: "and the trustee may at any time call for the production of invoices, acceptances, bills of lading, receipts, cheques, notes, bank pass-books, or books of accounts, or such further or other evidence as the trustee or inspectors may require in order to deal with the claim."

(5) Formerly section 105 (5). The subsection has been amended to include preferred as well as secured claims.

(6) This is a new subsection. It is deemed desirable that a greater penalty be imposed on a creditor for filing claims with false statements therein than the ordinary result of having the false item struck out. The possibility of having a claim disallowed in its entirety for the insertion of such false items will, it is believed, go far to ensure that proofs of claim are prepared more carefully, accurately and honestly. While the section may seem severe, yet it does not in any way affect an honest creditor.

(7) No substantial change. Formerly section 105 (6).

(8) These provisions were formerly contained in Rule 137, which has been considerably condensed. It read as follows:

> "*Rule* **137.** In any case in which it shall appear from the debtor's statement of affairs that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor, or his foreman, or the bookkeeper of the debtor, or some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the workmen and others, and the amounts severally due to them. Any proof made in compliance with this Rule shall have the same effect as if separate proofs had been made by each of the said workmen and others."

Proof by Secured Creditors.

Proof by secured creditor.

86. (1) Where a secured creditor realizes his security, he may prove for the balance due to him after deducting the net amount realized.

May prove whole claim on surrender.

(2) Where a secured creditor surrenders his security to the trustee for the general benefit of the creditors, he may prove for his whole claim.

Secured creditor to value securities.

87. (1) Where a secured creditor does not either realize or surrender his security he shall within thirty days after demand in writing made upon him by the trustee, or within such further time as may be allowed by the court, file with the trustee an affidavit stating therein full particulars of his security or securities, the date when each security was given and the value at which he assesses each.

Dividend on balance.

(2) A creditor is entitled to receive a dividend in respect only of the balance due to him after deducting the assessed value of his security.

Trustee may redeem security.

(3) The trustee may redeem a security on payment to the secured creditor of the debt or the value of the security as assessed by the secured creditor.

May order security to be sold.

88. (1) Where the trustee is dissatisfied with the value at which a security is assessed, or where a secured creditor who has neither realized nor surrendered his security fails to assess said security within the period mentioned in section eighty-seven, the trustee may require that the property comprised in the security be offered for sale at such time and on such terms and conditions as may be agreed on between the creditor and the trustee or as, in default of such agreement, the court may direct.

Sale by public auction.

(2) Where the sale is by public auction the creditor or the trustee on behalf of the estate may bid or purchase.

Securities in Quebec.

(3) Where the security consists of a hypothec or privilege upon immovable property in the province of Quebec, the sale, when directed by the court, shall be made in accordance with sections fifty-five to fifty-nine, and the sale has the effect mentioned in those sections.

Costs of sale.

(4) The costs and expenses of a sale made under this section are in the discretion of the court.

86. Formerly section 106. No material change.

87. (1) Formerly section 107 (1).

(2) No change. Formerly section 107 (2).

(3) The provisions of former section 107 (3) have been extended to give the trustee the power to redeem any security. It formerly read as follows:

> "**107.** (3) Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value."

The former section 87 is unnecessary and has been deleted. It read as follows:

> "**87.** The trustee shall finally dispose of all books and papers of the estate of the bankrupt or authorized assignor in manner prescribed by general rules."

88. Formerly section 108. No change.

Creditor may require trustee to elect to exercise power.

89. Notwithstanding subsection three of section eighty-seven and section eighty-eight, the creditor may, by notice in writing, require the trustee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the trustee does not, within one month after receiving the notice or such further time or times as the court may allow, signify in writing to the creditor his election to exercise the power, he is not entitled to exercise it; and the equity of redemption or any other interest in the property comprised in the security that is vested in the trustee shall vest in the creditor, and the amount of his claim shall be reduced by the amount at which the security has been valued.

Amended valuation by creditor.

90. Where a creditor after having valued his security subsequently realizes it, or it is realized under the provisions of section eighty-eight, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor and shall be treated in all respects as an amended valuation made by the creditor.

Secured creditor may amend.

91. (1) Where the trustee has not elected to acquire the security as provided in this Act, a creditor may at any time amend the valuation and proof on showing to the satisfaction of the trustee or the court that the valuation and proof were made *bona fide* on a mistaken estimate or that the security has diminished or increased in value since its previous valuation.

Amendment at cost of creditor.

(2) An amendment pursuant to subsection one shall be made at the cost of the creditor and upon such terms as the court orders, unless the trustee allows the amendment without application to the court.

Rights and liabilities of creditor where valuation amended.

(3) Where a valuation has been amended pursuant to this section, the creditor

(a) shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or

(b) is entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend that he may have failed to receive by reason of the amount of the original valuation before that money is made applicable to the payment of any future dividend, but he is not entitled to disturb the distribution of any dividend declared before the amendment is filed with the trustee.

89. Formerly section 109. No material change.

90. No change. Formerly section 110.

91. No material change. Formerly section 111.

Exclusion for non-compliance.

92. Where a secured creditor does not comply with sections eighty-six to ninety-one, he shall be excluded from any dividend.

No creditor to receive more than 100 cents on dollar.

93. Subject to the provisions of section eighty-nine, a creditor shall in no case receive more than one hundred cents in the dollar and interest as provided by this Act.

Admission and Disallowance of Proof of Claims.

Trustee shall examine proof of claim.

94. (1) The trustee shall examine every proof and the grounds of the claim, and may require further evidence in support of it.

(2) Where he considers the claimant is not entitled to rank on the estate, or is not entitled to rank for the full amount of his claim, or if directed by a resolution passed at any meeting of creditors or inspectors, he may disallow the claim in whole or in part, and in such case shall give to the claimant a notice of disallowance, and such notice shall contain the reasons for disallowance.

(3) The notice may be given either by serving the claimant with a copy thereof personally or by mailing the copy in a registered letter, addressed to the claimant at his last-known address, or at the address shown in or by the claimant's proof.

(4) The disallowance is final and conclusive unless, within thirty days after the service or mailing of the notice or such further time as the court may on application made within the same thirty days allow, the claimant appeals to the court in accordance with General Rules from the trustee's decision.

(5) The court may also expunge or reduce a proof upon the application of a creditor or of the debtor, if the trustee declines to interfere in the matter.

92. No change. Formerly section 112.

93. Formerly section 113.

94. Formerly section 127 with no change except as indicated in subsection (2).

Scheme of Distribution.

Priority of claims.

95. (1) Subject to the rights of secured creditors, the proceeds realized from the property of a bankrupt shall be applied in priority of payment as follows:—

(a) in the case of a deceased bankrupt, the reasonable funeral and testamentary expenses incurred by the legal personal representative of the deceased bankrupt;

(b) the costs of administration, in the following order,
(i) the expenses and fees of the trustee;
(ii) legal costs;

(c) the levy payable under section one hundred and six;

(d) wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman for services rendered during three months next preceding the bankruptcy to the extent of five hundred dollars in each case; and for the purposes of this paragraph commissions payable when goods are shipped, delivered or paid for, if shipped, delivered or paid for within the three-month period, shall be deemed to have been earned therein;

95. Formerly section 121. In the present revision consideration has been given to the manner in which priorities take rank under the English, Australian and United States Bankruptcy Acts. It is to be noted that the scheme of distribution provides for all creditors other than secured creditors. Section 121(1) formerly read as follows:

> "**121.** (1) Subject to the provisions of section one hundred and twenty-six as to rent, in the distribution of the property of the bankrupt or authorized assignor, there shall be paid, in the following order of priority:—
>
> First, the costs and expenses of the custodian and the fees and expenses of the trustee;
>
> Secondly, the costs of the garnishing, attaching, execution or judgment creditor (including sheriff's fees and disbursements) coming within the provisions of subsection one of section twenty-five and subsection three of section twenty-nine and subsection two of section 29A.
>
> Thirdly, all indebtedness of the bankrupt or authorized assignor under any Workmen's Compensation Act and all wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman, in respect of services rendered to the bankrupt or assignor during three months before the date of the receiving order or assignment: Provided that any commissions earned more than three months before the date of a receiving order or assignment, but not payable (by the terms of the creditor's agreement) until the shipment, delivery or payment of the goods sold, shall be deemed to have been earned within three months of the date of the receiving order or assignment, when the said goods have been shipped, delivered or paid for within three months of the receiving order or assignment; and provided, moreover, that any advances made on account of such commissions shall be deemed to have been legally paid on account thereof;
>
> Fourthly, claims resulting from injuries to employees of the insolvent debtor to which the provisions of any Workmen's Compensation Act do not apply, but only upon moneys paid or payable to the insolvent estate by persons or companies guaranteeing the insolvent debtor against damages resulting from such injuries."

(a) Funeral and testamentary expenses. This was formerly section 125B, which read as follows:

> "**125B.** In the administration of the property of a deceased insolvent debtor, the trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in or about the estate and such claim shall be preferred and shall notwithstanding anything to the contrary in this Act, be payable out of the debtor's estate in priority to all other debts."

(b) Costs of administration. These are costs incurred in the interests of all classes of creditors. They constitute a first charge on the assets under section 84 of the Australian and section 64 of the United States Bankruptcy Acts.

(c) This provision is inserted here merely to make the entire scheme of distribution complete. See section 106.

(d) The claims of wage-earners for arrears of wages rank in this order under section 84 *(e)* of the Australian Act and section 64 of the United States Act which limits such priority to $600. The effect of the change is to give them priority for three months' arrears over municipal taxes, the landlord and government claims. With this added advantage it is considered not unreasonable that such claims be limited to $500.

(e) municipal taxes assessed or levied against the bankrupt within two years next preceding his bankruptcy and which do not constitute a preferential lien or charge against the real property of the bankrupt but not exceeding the value of the interest of the bankrupt in the property in respect of which the taxes were imposed as declared by the trustee;

(f) the landlord for arrears of rent for a period of three months next preceding the bankruptcy and accelerated rent for a period not exceeding three months following the bankruptcy if entitled thereto under the lease, but the total amount so payable shall not exceed the realization from the property on the premises under lease, and any payment made on account of accelerated rent shall be credited against the amount payable by the trustee for occupation rent;

(g) the fees and costs referred to in subsection two of section forty-one but only to the extent of the realization from the property exigible thereunder;

(h) all indebtedness of the bankrupt under any Workmen's Compensation Act, under any Unemployment Insurance Act, under subsection six of section one hundred and twelve of the *Income Tax Act* or under any of the provisions of the *Income War Tax Act* creating an obligation to pay to His Majesty amounts that have been deducted or withheld, *pari passu;*

(i) claims resulting from injuries to employees of the bankrupt to which the provisions of any Workmen's Compensation Act do not apply, but only to the extent of moneys received from persons or companies guaranteeing the bankrupt against damages resulting from such injuries;

To be discharged as funds available.

(j) claims of the Crown not previously mentioned in this section, in right of Canada or of any province, *pari passu* notwithstanding any statutory preference to the contrary.

(2) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, payment in accordance with subsection one shall be made as soon as funds are available for the purpose.

(e) Under section 33 of the English Act and section 84*(h)* of the Australian Act the priority is limited to one year. This paragraph replaces former section 125, which was as follows:

"**125.** Nothing in the four last preceding sections shall interfere with the collection of any taxes, rates or assessments payable by or levied or imposed upon the debtor or upon any property of the debtor under any law of the Dominion, or of the province wherein such property is situate, or in which the debtor resides, nor prejudice or affect any lien or charge in respect of such property created by any such laws."

(f) This is the rank given to the claim of the landlord under section 33(4) of the English Act. It corresponds with the priority given in some but not all of our own provinces. The important change is that the landlord is restricted to payment out of the realization of the property on the premises. This paragraph is a revision of section 126 which formerly read as follows:

"**126.** When a receiving order or an assignment is made against or by any lessee under this Act, the same consequences shall ensue as to the rights and priorities of his landlord as would have ensued under the laws of the province in which the demised premises are situate if the lessee at the time of such receiving order or assignment had been a person entitled to make and has made an abandonment or a voluntary assignment of his property for the benefit of his creditors pursuant to the laws of the province; and nothing in this Act shall be deemed to suspend, limit or affect the legislative authority of any province to enact any law providing for or regulating the rights and priorities of landlords consequent upon any such abandonment or voluntary assignment; nor shall anything in this Act be deemed to interfere or conflict with the operation of any such provincial law heretofore or hereafter enacted in so far as it provides for or regulates the rights and priorities of landlords in such an event."

(g) The last clause is added to get over the decision in *In re* Ferguson (16 C.B.R. 261) where it was held that such preference was payable whether or not any property was exigible thereunder.

(h) Under the Australian system, claims of Workmen's Compensation Boards rank before municipal taxes and the landlord. Claims under the *Unemployment Insurance Act* are a new development in Canada. Tax deductions at the source have been placed in this priority group because they are in the nature of trust funds and if they have not been so dealt with by the bankrupt they are at least entitled to this priority.

(i) This was formerly section 121 (fourthly). No material change.

(j) All government claims not previously mentioned, federal and provincial. take equal rank immediately before trade and other unsecured creditors.

(2) The changes are self-explanatory. Formerly section 121(2) which read as follows:

"**121** (2). Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them."

Balance of claim.

(3) A creditor whose rights are restricted by this section is entitled to rank as an unsecured creditor for any balance of claim due him.

Postponement of claims of wife and husband.

96. The wife or husband, as the case may be, of a bankrupt is not entitled to claim a dividend as a creditor in respect of any property lent or entrusted by the wife to the husband or by the husband to the wife for the purposes of the trade or business of the bankrupt, or in respect of wages, salary, commission or compensation for work done or services rendered in connection with the trade or business until all claims of the other creditors of the bankrupt have been satisfied.

Postponement of wage claims of relatives.

97. A father, son, daughter, mother, brother, sister, uncle or aunt by blood or marriage of a bankrupt is not entitled to have his claim preferred as provided by section ninety-five, in respect of wages, salary, commission or compensation for work done or services rendered to the bankrupt.

(3) This is a new subsection. It speaks for itself.

96. Formerly sections 115 and 116 which have been combined to eliminate unnecessary phraseology. They formerly read as follows:

"**115.** Where a married woman has been adjudged bankrupt or has made an authorized assignment, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business, or claim any wages, salary or compensation for work done or services rendered after that date in connection with her trade or business, until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied."

"**116.** Where a married man has been adjudged bankrupt or has made an authorized assignment his wife shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by her to her husband for the purpose of his trade or business, or claim any wages, salary or compensation for work done or services rendered in connection with his trade or business, until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied."

97. Formerly section 117 which read as follows:

"**117.** Where any person or firm has been adjudged bankrupt or has made an authorized assignment, a father, son, daughter, mother, brother, sister, uncle or aunt by blood or marriage of any such person or of any member of the said firm shall not be entitled to have his claim preferred as provided by section 121 of this Act, in respect of any wages, salary or compensation for work done or services rendered to the said person or firm."

Postponement of claims of silent partners.

98. Where a lender advances money to a borrower engaged or about to engage in trade or business under a contract with the borrower that the lender shall receive a rate of interest varying with the profits or shall receive a share of the profits arising from carrying on the trade or business, and the borrower subsequently becomes bankrupt, the lender of the money is not entitled to recover anything in respect of the loan until the claims of all other creditors of the borrower have been satisfied.

Postponement of wage claims of officers and directors of corporations.

99. Where a corporation becomes bankrupt, no officer or director thereof is entitled to have his claim preferred as provided by section ninety-five in respect of wages, salary, commission or compensation for work done or services rendered to the corporation in any capacity.

Claims generally payable *pari passu*.

100. Subject to this Act, all claims proved in the bankruptcy shall be paid *pari passu*.

98. This is a new section. It is based upon The Partnership Act of the statutes of New Brunswick.

99. No substantial change. Formerly section 118.

100. No material change. Formerly section 123.

Partners and separate properties.

101. (1) In the case of partners the joint property shall be applicable in the first instance in payment of their joint debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts.

Surplus of separate properties.

(2) Where there is a surplus of the separate properties it shall be dealt with as part of the joint property.

Surplus of joint properties.

(3) Where there is a surplus of the joint property, it shall be dealt with as part of the respective separate properties in proportion to the right and interest of each partner in the joint property.

Different properties.

(4) Where a bankrupt owes or owed debts both individually and as a member of one or more partnerships, the claims shall rank first upon the property of the individual or partnership by which the debts they represent were contracted and shall only rank upon the other estate or estates after all the creditors of such other estate or estates have been paid in full.

Costs out o joint and separate properties.

(5) Where the joint property of any bankrupt partnership is insufficient to defray any costs properly incurred, the trustee may pay such costs as cannot be paid out of the joint property out of the separate property of the bankrupts or one or more of them in such proportion as he may determine, with the consent of the inspectors of the estates out of which the payment is intended to be made, or, if such inspectors withhold or refuse their consent, with the approval of the court.

Interest from date of bankruptcy.

102. Where there is a surplus after payment of the claims as provided in sections ninety-five to one hundred and one, it shall be applied in payment of interest from the date of the bankruptcy at the rate of five per cent per annum on all claims proved in the bankruptcy and according to their priority.

Right of bankrupt to surplus.

103. The bankrupt or the legal personal representative of a deceased bankrupt is entitled to any surplus remaining after payment in full of his creditors with interest as by this Act provided and of the costs, charges and expenses of the bankruptcy proceedings.

101. (1) No material change. Formerly section 122(1).

(2) No material change. Formerly section 122(2).

(3) No material change. Formerly section 122(3).

(4) This was formerly section 59. It was much out of place in its former location. No material change.

(5) This was formerly Rule 60. No material change.

102. The changes are self-explanatory. Formerly section 124.

103. Formerly section 83. The changes are self-explanatory.

Proceeds of liability insurance policy on motor vehicles applied to claims against bankrupt.

104. Nothing contained in this Act affects the right afforded by provincial statute of any person who has a claim against the bankrupt for damages on account of injury to or death of any person, or injury to property, occasioned by a motor vehicle, or on account of injury to property being carried in or upon a motor vehicle, to have the proceeds of any liability insurance policy applied in or towards the satisfaction of such claim.

Application of provincial law to landlords' rights.

105. Except as to priority of ranking as provided by section ninety-five, and subject to the provisions of subsection four of section forty-two, the rights of landlords shall be determined according to the laws of the province in which the leased premises are situate.

Levy payable out of dividends for supervision by Superintendent.

106. For the purpose of defraying the expenses of the supervision by the Superintendent, there shall be payable to the Superintendent for deposit with the Receiver General a levy on all payments excepting the costs referred to in subsection two of section forty-one made by the trustee by way of dividend or otherwise on account of the claims of creditors, whether unsecured, preferred or secured creditors, and including His Majesty in right of Canada or a province claiming in respect of taxes or otherwise; the levy shall be at a rate to be fixed by the Governor in Council from time to time and shall be charged proportionately against all payments and deducted therefrom by the trustee before payment is made.

Dividends.

Trustee to pay dividends as required.

107. (1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the trustee shall, from time to time as required by the inspectors, declare and distribute dividends amongst the unsecured creditors entitled thereto.

Disputed claims.

(2) Where the validity of any claim has not been determined the trustee shall retain sufficient funds to provide for payment thereof in the event that the claim is admitted.

No action for dividend.

(3) No action for a dividend lies against the trustee, but, if the trustee refuses or fails to pay any dividend after having been directed to do so by the inspectors, the court may, on the application of any creditor, order him to pay it, and also to pay personally interest thereon for the time that it is withheld and the costs of the application.

104. This was formerly section 125A. No material change.

105. This replaces the former section 126 which has been inserted as revised in section 95 (1) *(f)*. In other respects, except as to priority of ranking, and subject to section 42(4), the law of the province where the premises are situate shall apply.

106. This was formerly section 126A. No material change is made except to delete unnecessary verbiage. Section 126A read as follows:

"126A. Notwithstanding anything contained in sections one hundred and twenty-one to one hundred and twenty-six, both inclusive, there shall be payable to the Receiver General for the purpose of defraying the expenses of the supervision by the Superintendent, a levy on all payments made by the trustee, excepting the costs and expenses of the custodian or interim receiver, and the fees and expenses of the trustee, and the costs of the garnishing, attaching, execution or judgment creditor mentioned in section one hundred and twenty-one, and excepting payments made on account of liabilities incurred after the receiving order or assignment. The payments subject to the said levy shall include all payments made by way of dividend or otherwise," etc.

107. Formerly section 74. The provisions of this section have been revised to bring it abreast of current practice and requirements. The section formerly read as follows:

"74. (1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) Such dividend as can be paid shall be so paid within six months from the date of the receiving order or assignment, and earlier, if required by the inspectors.

(3) A further dividend shall be paid whenever the trustee has sufficient moneys on hand to pay to the creditors ten per cent, and more frequently if required by the inspectors, until the estate is wound up and disposed of.

(4) No action for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend, the court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld and the costs of the application."

The former subsection (3) has been deleted as unnecessary.

Notice that if claim not proved within 30 days final dividend will be made.

108. (1) The trustee may, after the first meeting of the creditors, give notice by registered mail to every person with a claim of which the trustee has notice or knowledge but whose claim has not been proved that if such person does not prove his claim within a period of thirty days after the mailing of the notice the trustee will proceed to declare a dividend or final dividend without regard to such person's claim.

Court may extend time.

(2) Where a person notified under subsection one does not prove his claim within the time limit or within such further time as the court, upon proof of merits and satisfactory explanation of the delay in making proof, may allow, the claim of such person shall, notwithstanding anything in this Act, be excluded from all share in any dividend; but a taxing authority may notify the trustee within the thirty days referred to in subsection one that it proposes to file a claim as soon as the amount has been ascertained, and the time for filing the claim shall thereupon be extended to ninety days or such further time as the court may allow.

Dominion Income Tax claims.

(3) Notwithstanding subsection two, a claim may be filed for an amount payable under the *Income War Tax Act* or the *Income Tax Act* within the time limited by subsection two or within ninety days from the time the return of income or other evidence of the facts upon which the claim is based is filed or comes to the attention of the Minister of National Revenue.

The same.

(4) Unless the trustee retains sufficient funds to provide for payment of any claims that may be filed under the *Income War Tax Act* or the *Income Tax Act*, no dividend shall be declared until the expiration of ninety days after the trustee has filed all returns which he is required to file.

Right of creditor who has not proved claim before declaration of dividend.

109. A creditor who has not proved his claim before the declaration of any dividend is entitled upon proof of his claim to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive, before that money is applied to the payment of any future dividend, but he is not entitled to disturb the distribution of any dividend declared before his claim was proved by reason that he has not participated therein, except on such terms and conditions as may be ordered by the court.

108. Formerly section 75. Subsections (3) and (4) have been added to afford the Department of National Revenue a reasonable time, after receipt of the necessary information, to file a claim.

109. Formerly section 76. The exception which has been added provides for the case which occasionally arises where a creditor has had no factual notice of the bankruptcy and allows him to participate in the dividend on payment of the additional costs thus incurred by the trustee. This gives statutory acknowledgment to the practice followed in such cases.

Final dividend and division of estate.

110. When the trustee has realized all the property of the bankrupt or all thereof that can, in the joint opinion of himself and of the inspectors, be realized without needlessly protracting the administration, and settled or determined or caused to be settled or determined the claims of all creditors to rank against the estate of the bankrupt, he shall prepare a final statement of receipts and disbursements and dividend sheet and, subject to the provisions of this Act, divide the property of the bankrupt among the creditors who have proved their claims.

Statement of receipts and disbursements.

111. (1) The trustee's final statement of receipts and disbursements shall contain a complete account of all moneys received by the trustee out of the property of the bankrupt or otherwise, the amount of interest received by the trustee, all moneys disbursed and expenses incurred and the remuneration claimed by the trustee, together with full particulars, description and value of all property of the bankrupt that has not been sold or realized, setting out the reason why such property has not been sold or realized and the disposition made thereof.

Prescribed form.

(2) The statement shall be prepared in the prescribed form or as near thereto as the circumstances of the case will permit and together with the dividend sheet shall be submitted to the inspectors for their approval.

Copy to be sent to Superintendent.

(3) The trustee shall then forward a copy of the statement and of the dividend sheet to the Superintendent after they have been approved by the inspectors.

Superintendent may comment.

(4) The Superintendent may comment as he sees fit and his comments shall be placed by the trustee before the taxing officer for his consideration on the taxation of the trustee's accounts.

Notice of final dividend, etc.

(5) After the Superintendent has commented or advised the trustee that he has no comments to make and the trustee's accounts have been taxed, the trustee shall forward by registered mail to every creditor whose claim has been proved, to the registrar, to the Superintendent and to the bankrupt

(a) a copy of the final statement of receipts and disbursements,

(b) a copy of the dividend sheet, and

(c) a notice in the prescribed form of his intention to pay a final dividend after the expiration of fifteen days from the mailing of the notice, statement and dividend sheet and to apply to the court for his discharge on a subsequent date not less than thirty days after the payment of the dividend.

Objections.

(6) No interested person is entitled to object to the final statement and the dividend sheet unless, prior to the expiration of the fifteen days referred to in paragraph *(c)* of subsection five, he files notice of his objection with the registrar setting out his reasons therefor and serves a copy of the notice on the trustee.

110. Formerly section 77. No material change. Section 77 read as follows:

"**77.** When sections twenty-eight and eighty-eight have been complied with as to gazetting, publishing and mailing notices to creditors, the trustee, having realized all the property of the bankrupt or authorized assignor or all thereof that can, in the joint opinion of himself and of the inspectors, be realized without needlessly protracting the trusteeship, and settled or determined or caused to be settled or determined the claims of all creditors to rank against the estate of the debtor, shall make a final dividend and be at liberty subject to the various provisions of this Act, to divide the property of the debtor among the creditors who have proved their debts without regard to the claims of any other claimants."

111. This is a new section. Although many of its provisions had previously been followed in actual practice they have now been inserted to establish a uniform procedure for completing the administration of estates.

(1) This is taken from the former Rule 124 which read as follows:

"Rule **124.** The application of a trustee for grant of discharge (whether full or partial) shall be made in the prescribed form to the Registrar and shall be verified by the affidavit of such trustee. Such application shall contain or have attached thereto a complete and itemized statement showing all moneys realized by such trustee from and out of the property of the bankrupt or assignor and of all moneys disbursed and expenses incurred and the remuneration claimed by such trustee; and full particulars, description and value of all property belonging to the estate which has not been sold or realized upon, setting out the reasons why such property has not been sold or realized upon; and full particulars and information with regard to any unsettled disputes, actions or proceedings between such trustee and either the debtor or any creditor or creditors or any other person connected with the estate."

(2) A specimen form has been in use for some time. For uniformity and ease of reference it is recommended that such form as shall hereafter be prescribed be used in so far as possible.

(3) and (4). The inspectors are the representatives of the creditors and it is for this reason that the duty has been imposed upon them of verifying the trustee's statement of receipts and disbursements. The intention is that the Superintendent shall then have the opportunity of reviewing the trustee's administration and commenting on his final statement before the statement is taxed by the taxing officer and before it is mailed to the creditors.

(5) Formerly section 78 which read as follows:

"**78.** (1) So soon as a final dividend sheet is prepared, the trustee shall send by registered mail to every creditor, to the Registrar and to the Superintendent

(a) a notice of the fact,

(b) an abstract of his receipts and expenditures as trustee which abstract shall indicate what amount of interest has been received by the trustee for moneys in his hands, and

(c) a copy of the dividend sheet with notice thereon

(i) of the claims objected to and

(ii) whether any reservation has been made therefor and

(d) notice that he will apply to the court on a day named therein for his discharge.

(2) After the expiry of fifteen days from the date of the mailing of the last of said notices, abstracts and dividend sheets, dividends on all debts not objected to up to the time of the payment shall be paid."

(6) It is deemed advisable that all objections be disposed of before the final dividend is paid.

Dividends on joint and separate properties.

112. Where joint and separate properties are being administered, the dividends may be declared together, and the expenses thereof shall be apportioned by the trustee.

Unclaimed dividends and undistributed funds.

113. (1) Before proceeding to his discharge, the trustee shall forward to the Superintendent for deposit with the Receiver General of Canada all unclaimed dividends and undistributed funds remaining in his hands and shall provide a list of the names and the post office addresses so far as known of the creditors entitled to the unclaimed dividends, showing the amount payable to each creditor.

Receiver General to pay claims.

(2) The Receiver General shall thereafter, upon application, pay to any creditor his proper dividend as shown on this list, and such payment shall have effect as if made by the trustee.

Summary Administration.

Summary administration.

114. The following provisions apply to the summary administration of estates under this Act, namely,

(a) all proceedings under this section shall be entitled "Summary Administration";

(b) the security to be deposited by a trustee under section eight shall not be required;

(c) the trustee shall apply to the court to fix a date for the hearing of the application for the discharge of the bankrupt and shall include notice thereof in the notice of the first meeting;

(d) notice of the bankruptcy shall be published in the *Canada Gazette* in the prescribed form but shall not be published in a local newspaper unless deemed expedient by the trustee or ordered by the court;

(e) all notices, statements and other documents shall be sent by ordinary mail and, other than notices of the first meeting, shall be sent to such creditors only who have proved claims amounting to twenty-five dollars or more;

(f) the bankrupt may submit a proposal at the first meeting of the creditors;

112. No material change. Formerly section 81.

113. This was formerly section 82.
(1) The changes are self-explanatory.

(2) No material change.

114. Sections 114 to 116 are new. The purpose is to provide a method by which a person with few assets, other than a corporation, may obtain the benefits of this Act. Summary administration of estates is provided for in England and Australia, and somewhat similar provisions are contained in the United States Bankruptcy Act.

The only section of this Act directing summary administration of estates is subsection (6) of section 26.

(g) there shall be no inspectors but the trustee in the absence of directions from the creditors may do all things that may ordinarily be done by the trustee with the permission of inspectors;

(h) the examination of the bankrupt referred to in section one hundred and seventeen shall be held at the first meeting and any of the creditors or their representatives or solicitors may take part therein;

(i) the bankrupt shall prepare and execute a statement of affairs in the prescribed form;.

(j) when the trustee has recovered all that reasonably can be realized out of the property of the bankrupt, he shall, after approval of his final statement by the court, send a notice in the prescribed form to each creditor who has proved his claim, with the dividend to which he is entitled, if any, and proceed to his discharge; and

(k) the creditors at the first meeting may authorize the trustee to apply for his discharge without further notice if the bankrupt has not made a proposal and if his examination discloses that there are no assets.

Fees and disbursements of trustee.

115. The trustee shall receive such fees and disbursements as may be prescribed and, if the fees and disbursements are not paid, he may, after giving the bankrupt seven days' notice of his intention, apply to the court to cancel the assignment.

All other provisions of Act to apply.

116. Except as provided in section one hundred and fourteen, all the provisions of the Act, in so far as they are applicable, apply *mutatis mutandis* to summary administration.

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PART VI.

BANKRUPTS.

Duties of Bankrupts.

117. The bankrupt shall

Discovery and delivery of property.

(a) make discovery of and deliver all his property that is under his possession or control to the trustee or to any person authorized by the trustee to take possession of it or any part thereof;

Delivery of books, records, etc.

(b) deliver to the trustee all books, records, documents, title deeds, writings, papers or insurance policies relating to his property or affairs;

Attend official receiver for examination.

(c) at such time and place as may be fixed by the official receiver attend before the official receiver or before any other official receiver delegated by the official receiver for examination under oath as to his conduct, the causes of his bankruptcy and the disposition of his property;

Statement of affairs.

(d) within seven days following his bankruptcy, unless the time is extended by the official receiver, prepare and submit to the trustee in quadruplicate a statement of his affairs in the prescribed form verified by affidavit and showing the particulars of his assets and liabilities, the names and addresses of his creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be required, but where the affairs of the bankrupt are so involved or complicated that he cannot himself reasonably prepare a proper statement of his affairs, the official receiver may, as an expense of the administration, authorize the employment of some qualified person to assist in the preparation of the statement;

Aid in making inventory.

(e) make or give all the assistance within his power to the trustee in making an inventory of his assets;

Disposition of property within previous year.

(f) make disclosure to the trustee of all property disposed of within one year preceding his bankruptcy, or for such further antecedent period as the court may direct, and how and to whom and for what consideration any part thereof was disposed of except such part as had been disposed of in the ordinary manner of trade or used for reasonable personal expenses;

117. This section is a revision of former sections 128 to 131, inclusive, to indicate the duties of the bankrupt more explicitly. These sections are quoted below.

(a) This is a new paragraph.

(b) This is a new paragraph.

(c) This paragraph is a revision of former section 128 (1).

(d) This was formerly section 129 (1) and (2). The added part has been taken from section 16 (2) of the Australian Act which reads as follows:

> "When the bankrupt cannot himself prepare a proper statement of affairs, the official receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some qualified person to assist in the preparation of the statement."

A similar provision is contained in section 74 of the English Act.

(e) This was formerly part of section 131 (2) which is quoted below.

(f) This is a new paragraph. The Act at present does not impose upon the bankrupt the duty of disclosing past alienations of property which in many cases have a direct relation to the bankruptcy. Unless the trustee or a creditor, from outside information, has some inkling thereof, such transactions may well be concealed altogether.

Gifts and settlements.

(g) make disclosure to the trustee of all property disposed of by gift or settlement without adequate valuable consideration within five years preceding his bankruptcy or since any of his present debts were incurred;

Attend first meeting of creditors.

(h) attend the first meeting of his creditors unless prevented by sickness or other sufficient cause and submit thereat to examination;

Attend other meetings.

(i) when required, attend other meetings of his creditors or of the inspectors, or attend upon the trustee;

Submit to other examinations.

(j) submit to such other examinations under oath with respect to his property or affairs as required;

Aid in administration.

(k) aid to the utmost of his power in the realization of his property and the distribution of the proceeds among his creditors;

Execute documents.

(l) execute such powers of attorney, conveyances, deeds and instruments as may be required;

Examine proofs of claims.

(m) examine the correctness of all proofs of claims filed, if required by the trustee;

Advise trustee of false claims.

(n) in case any person has to his knowledge filed a false claim, disclose the fact immediately to the trustee;

Duties generally.

(o) generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as may be reasonably required by the trustee, or may be prescribed by General Rules, or may be directed by the court by any special order made with reference to any particular case or made on the occasion of any special application by the trustee, or any creditor or person interested; and

Keep trustee advised of address.

(p) until his application for discharge has been disposed of and the administration of the estate completed, keep the trustee advised at all times of his place of residence or address.

(g) This paragraph is new and in line with the preceding paragraph. It has the same purpose.

(h) This was formerly part of section 131 (1).

(i) This was formerly part of section 131 (2).

(j) This paragraph is new.

(k) This was formerly section 131 (3). No change.

(l) This was formerly a part of section 131(2).

(m) This paragraph is taken from section 7 (3) of the Bankruptcy Act of the United States as being deemed desirable. The phraseology is the same as in the United States Act.

(n) This provision is taken from section 7 (7) of the Bankruptcy Act of the United States as being deemed desirable. The wording is adopted exactly as in the United States Act.

(o) This was formerly part of section 131 (2).

(p) This is a new paragraph. It is deemed necessary to have some statutory sanction imposed on a bankrupt to make himself available to the trustee when required.

Sections 128, 129, 130 and 131 read as follows:

"**128.** (1) Where a receiving order or an authorized assignment is made, the bankrupt or assignor shall present himself before the Official Receiver who shall examine him as to the causes of his insolvency and the disposition of his assets, and shall put to him the questions provided by the General Rules or questions to the like effect.

(2) The Official Receiver shall make notes of such examination and shall communicate them to the creditors at their first meeting.

(3) If the bankrupt or assignor fails to present himself for such examination within three days from the making of the receiving order or the filing of the assignment, the court may by warrant cause him to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for a term not exceeding twelve months."

"**129.** (1) The bankrupt or assignor shall make out and submit to the Official Receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit and showing the particulars of the debtor's assets, and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed by the court.

(2) Such statement shall be submitted within seven days from the date of the receiving order or assignment, but the court may for special reasons extend the time."

"**130.** (1) It shall be the duty of the custodian to verify the debtor's statement of affairs and to make an inventory of his assets.

(2) Any person stating himself in writing to be a creditor of the bankrupt or assignor, may personally or by agent inspect the statement at all reasonable times and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee."

"**131.** (1) Every debtor against whom a receiving order is made and every assignor who makes an authorized assignment shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

(2) The debtor shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and, generally, do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by General Rules, or may be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the trustee, or any creditor or person interested.

(3) The debtor shall aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors."

Where bankrupt is a corporation.

118. Where the bankrupt is a corporation, the officer executing the assignment, or such other officer or officers as the official receiver may direct, shall attend before the official receiver for examination and shall perform all the duties imposed upon a bankrupt by section one hundred and seventeen, and, in case of failure to do so, such officer or officers are punishable as if he or they were the bankrupt.

Performance of duties by imprisoned bankrupt.

119. Where a bankrupt is undergoing imprisonment, the court may, in order to enable the bankrupt to attend in court in bankruptcy proceedings at which his personal presence is required or to attend the first meeting of creditors or to perform the duties required of him under this Act, direct that the bankrupt be produced in the protective custody of a sheriff or other duly authorized officer at such time and place as may be designated, or it may make such other order as it deems proper and requisite in the circumstances.

Examination of Bankrupts and Others.

Examination of bankrupt by official receiver.

120. (1) The official receiver shall on the attendance of the bankrupt examine the bankrupt under oath as to his conduct, the causes of his bankruptcy and the disposition of his property and shall put to him the prescribed questions or questions to the like effect and such other questions as he may see fit; the official receiver shall make notes of the examination and a report of any facts or circumstances that in his opinion require special consideration or further explanation or investigation and shall forward a copy of his notes and the report to the Superintendent, to the trustee and to the court for deposit therein, and shall communicate the contents thereof to the creditors at their first meeting.

Examination before another official receiver.

(2) When the official receiver deems it expedient he may authorize an examination to be held before any other official receiver who shall remit his notes of the examination and a report thereon to the official receiver in charge of the proceedings.

118. Formerly section 133 which read as follows:

"133. Whenever the bankrupt or authorized assignor is a corporation, the officer executing the assignment or such other officer or officers as the Official Receiver shall direct, shall present himself before the Official Receiver for examination under section one hundred and twenty-eight, and, in case of failure to perform such duty, such officer shall be punishable as if he were the debtor."

119. This section is new. It has been taken substantively from Order XXX of the general order promulgated under the United States Act. No clear procedure for this purpose has heretofore existed and other than to produce a prisoner in court as a witness or for an examination under ordinary civil process the Act is silent on provisions in regard to the performance of a bankrupt's duties. In many instances, the lack of some provision has proven a very great handicap.

120. This section is a redraft of the relevant part of section 128(1) and (2), as previously quoted, but has been amended by requiring the official receiver to make a report of his observations on the examination.

Official receiver to report failure to attend.

(3) Where a bankrupt fails to present himself for examination by the official receiver, the official receiver shall so report to the first meeting.

Examination of bankrupt and others by trustee.

121. (1) The trustee, upon ordinary resolution passed by the creditors or upon the written request or resolution of a majority of the inspectors, may, without an order, examine under oath before the registrar of the court or other authorized person, the bankrupt, any person reasonably thought to have knowledge of the affairs of the bankrupt or any person who is or has been an agent, clerk, servant, officer, director or employee of the bankrupt, respecting the bankrupt, his dealings or property.

Examination of bankrupt, trustee and others by a creditor.

(2) Upon the application of any creditor or other interested person to the court, and upon sufficient cause being shown, an order may be made for the examination under oath, before the registrar or other authorized person, of the trustee, the bankrupt, an inspector or a creditor, or any other person named in the order, for the purpose of investigating the administration of the estate of any bankrupt, and the court may further order any person liable to be so examined to produce any books, documents, correspondence or papers in his possession or power relating in all or in part to the bankrupt, the trustee or any creditor, the costs of such examination and investigation to be in the discretion of the court.

Examination to be filed.

(3) The evidence of any person examined under this section shall, if transcribed, be filed in the court and may be read in any proceedings before the court under this Act to which the person examined is a party.

121. (1) Formerly section 134 (1). The words at the beginning "Where a receiving order or an authorized assignment has been made" have been deleted.

(2) This was formerly section 134 (2). No material change other than the insertion of a provision whereby an interested person may also apply to the court.

(3) This is a new subsection and is partly taken from the first line of the former section 141 (5) which read as follows: "If the bankrupt or assignor has been examined the trustee shall file such examination," etc. The object of the new subsection is to widen the use that may be made of all examinations.

Trustee may require books and property of bankrupt to be produced.

122. (1) Where a person has, or is believed or suspected to have, in his possession or power any of the property of the bankrupt, or any book, document or paper of any kind relating in whole or in part to the bankrupt, his dealings or property, or showing that he is indebted to the bankrupt, he may be required by the trustee to produce the book, document or paper for the information of the trustee, or to deliver to him any property of the bankrupt in his possession.

Examination on failure to produce.

(2) Where a person fails to produce a book, document or other paper or to deliver property as required by this section within four days of his being required so to do, the trustee may, without an order, examine the person before the registrar of the court or other authorized person touching any such property, book, document or other paper that he is supposed to have in his possession.

Compelling attendance.

(3) Any person referred to in subsection one may be compelled to attend and testify, and to produce upon his examination any book, document or paper that under this section he is liable to produce, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as would apply to a bankrupt.

Admission of debt.

123. (1) Where a person on examination admits that he is indebted to the bankrupt, the court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as to the court seems expedient, the amount admitted or any part thereof either in full discharge of the whole amount in question or not, as the court thinks fit, with or without costs of the examination.

Admission of having bankrupt's property.

(2) Where any person on such examination admits that he has in his possession any property belonging to the bankrupt, the court may, on the application of the trustee, order him to deliver to the trustee such property or any part thereof, at such time, and in such manner, and on such terms, as to the court may seem just.

Penalty for failure to attend for examination.

124. Where the bankrupt fails to present himself for examination before the official receiver as required by paragraph *(c)* of section one hundred and seventeen or where he or any other person is served with an appointment or summons to attend for examination and is paid or tendered the proper conduct money and witness fees as fixed by General Rules but refuses or neglects to attend as required by such appointment or summons, the court may, on the application of the trustee, by warrant cause the bankrupt or other person so in default to be apprehended and brought up for examination.

122. (1) This was formerly section 136 (1). The words "upon ordinary resolution passed by the creditors present or represented at a regularly called meeting, exclusive of such person if he is a creditor, or upon the written request or resolution of the majority of the inspectors of the estate" have been deleted.

(2) No substantial change. Formerly section 136 (2).

(3) Formerly section 136 (3). The words "as would apply to a bankrupt" have been substituted for the words "as is provided by section one hundred and thirty-five".

123. This was formerly section 137. No material change other than the deletion from subsection (1) of the words "provided for in section one hundred and thirty-four".

124. The former sections 128 (3) and 135 have been combined and redrafted for greater precision. Section 135 at present is illogical as, for instance, where a bankrupt being examined refuses to answer, the penal clause states that he may be apprehended and brought up for examination. The words "as fixed by General Rules" take the place of the former section 135 (2). Sections 128 (3) and 135 read as follows:

"**128.** (3) If the bankrupt or assignor fails to present himself for such examination within three days from the making of the receiving order or the filing of the assignment, the court may by warrant cause him to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for a term not exceeding twelve months."

"**135.** (1) If the debtor, or any person liable to be examined as provided by the preceding section, is served with an appointment or summons to attend for examination and is paid or tendered the proper conduct money and witness fees, but refuses or neglects to attend as required by such appointment or summons, or, if attending, refuses to make satisfactory answers to any questions asked him or refuses to produce any book, document or other paper, having no lawful impediment made known to the examiner at the time of his sitting for such examination and allowed by him, the court may, by warrant, cause the debtor or other person so in default to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for any term not exceeding twelve months.

(2) The amount of conduct money and witness fee shall be fixed by General Rules."

Questions must be answered.

125. Any person being examined is bound to answer all questions relating to the business or property of the bankrupt, to the causes of his bankruptcy and the disposition of his property.

Arrest of Bankrupts.

Arrest of bankrupts under certain circumstances.

126. (1) The court may by warrant cause a bankrupt to be arrested, and any books, papers and property in his possession to be seized, and him and them to be safely kept as directed until such time as the court may order, under the following circumstances:—

(a) if, after the filing of a bankruptcy petition against him, it appears to the court that there are gounds for believing that he has absconded or is about to abscond from Canada with a view of avoiding payment of the debt in respect of which the bankruptcy petition was filed, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him;

(b) if, after making an assignment, it appears to the court that there are grounds for believing that he has absconded or is about to abscond from Canada with a view of avoiding payment of his debts or of avoiding examination in respect of his affairs;

(c) if, after the filing of a bankruptcy petition or of an assignment, it appears to the court that there is probable cause for believing that he is about to remove his property with a view of preventing or delaying possession being taken thereof by the trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings that might be of use to the trustee or to his creditors in the course of the bankruptcy proceedings;

(d) if he removes any property in his possession above the value of twenty-five dollars without leave of the court after service of a bankruptcy petition, or without leave of the trustee after an assignment has been made; or

(e) if, after the commencement of proceedings under this Act, he has failed to obey an order of the court.

Payments after arrest.

(2) No payment or proposal made or security given after arrest made under this section is exempt from the provisions of this Act relating to fraudulent preferences.

125. Formerly section 138 which read as follows:

"**138.** Any person liable to be examined under the provisions of the ten last preceding sections shall be bound to answer all questions relating to the business or property of the debtor, and as to the causes of his insolvency and the disposition of his assets, and shall not be excused from answering any question on the ground that the answer may tend to criminate the person so examined or to establish his liability in any civil action, and all or any of the questions and answers upon any examination under the four next preceding sections may be given in evidence against the person so examined on any charge of an offence against this Act and in any civil action or proceeding brought by, or on behalf of, the trustee or of any creditor or creditors entitled to take such action or proceedings."

126. (1) *(a)* and *(b)*. Formerly section 139 (1) *(a)* whose provisions have been extended to cover the case of an assignment.

(c) This was formerly section 139 (1) *(b)*. No material change.

(d) Formerly section 139 (1) *(c)*. The changes are self-explanatory.

(e) This is a new paragraph. It speaks for itself.

(2) No material change. Formerly section 139 (2).

Discharge of Bankrupts.

Bankruptcy to operate as application for discharge.

127. (1) The making of a receiving order against, or an assignment by, any person except a corporation operates as an application for discharge, unless the bankrupt, by notice in writing, files in the court and serves upon the trustee a waiver of application before being served by the trustee with a notice of his intention to apply to the court for an appointment for the hearing of the application as provided in this section.

Appointment to be obtained by trustee.

(2) The trustee, before proceeding to his discharge and in any case not earlier than three months and not later than twelve months following the bankruptcy of any person who has not served a notice of waiver upon him, shall on four days' notice to the bankrupt apply to the court for an appointment for a hearing of the application on a date not more than thirty days after the date of the appointment or at such other time as may be fixed by the court at the request of the bankrupt or the trustee.

Application by corporation.

(3) A corporation and any bankrupt who has given a notice of waiver as provided in subsection one may at any time at his own expense apply for a discharge by obtaining from the court an appointment for a hearing which shall be served on the trustee not less than twenty days before the date fixed for the hearing of the application, and the trustee on being served therewith shall proceed as provided in this section.

Fees and disbursements of trustee.

(4) The court may, before issuing an appointment, if requested by the trustee, require such funds to be deposited with, or such guarantee to be given to, the trustee, as it deems proper, for the payment of his fees and disbursements incurred in respect of the application.

Notice to creditors.

(5) The trustee, on obtaining or being served with an appointment, shall, not less than fourteen days before the day appointed for the hearing of the application, send out a notice thereof in the prescribed form to the Superintendent, the bankrupt and every creditor who has proved his claim, at his last known address.

Procedure when trustee not available.

(6) Where the trustee is not available to perform the duties required of a trustee on the application of a bankrupt for a discharge, the court may authorize any other person to perform such duties and may give such directions as it deems necessary to enable the application of the bankrupt to be brought before the court.

127. (1) This subsection is new. It establishes a new principle in regard to the discharge of a bankrupt. The operation of the Act has indicated that only a few bankrupts apply for a discharge, largely for two reasons, firstly, that many bankrupts are not aware of their legal status and believe that their debts are determined by the bankruptcy, and secondly, because of the financial inability of many others to meet the expense of an application. From the beginning of bankruptcy legislation there has been a gradual evolution in the attitude of the public towards bankrupts until at the present time creditors are held more or less equally responsible with bankrupts for their debts. If the *Bankruptcy Act* is to serve its intended purpose to give bankrupts an opportunity to rehabilitate themselves as useful citizens, more responsibility must be accepted to create that opportunity for the bankrupt by providing an automatic procedure for his discharge. This procedure has been incorporated in the Bankruptcy Act of the United States—Section 14 of the Amendment to the Bankruptcy Act of the United States as approved on the 22nd of June, 1938. The said section reads as follows:

> "Sec. 14. U.S. Act as amended 22 June, 1938. Discharges, When Granted.—a. The adjudication of any person, except a corporation, shall operate as an application for a discharge: Provided, That the bankrupt may, before the hearing on such application, waive by writing, filed with the court, his right to a discharge. A corporation may, within six months after its adjudication, file an application for a discharge in the court in which the proceedings are pending."

(2) This is the procedural subsection by which the trustee is impounded with the duty of initiating the bankrupt's application for discharge.

(3) This subsection permits a corporation and a bankrupt who previously waived his right for a discharge to apply at its or his own expense. Ordinarily corporations do not apply for discharges, but a provision is inserted for the rare case that may arise.

(4) This subsection has been inserted for the protection of the trustee in view of previous experience.

(5) This is merely the procedural subsection to provide for notice of the application.

(6) This subsection is to meet the contingency which so often arises and for which there is no provision whatsoever in the Act. The availability of a trustee should not affect the legal right of a bankrupt to have his application brought before the court and heard. The courts have attempted to deal with this problem merely on the basis of removing an injustice which might be inflicted on a bankrupt, but there has always been some doubt as to whether or not the court had such authority.

Trustee to prepare report.

128. (1) The trustee shall prepare a report in the prescribed form as to the affairs of the bankrupt, the causes of his bankruptcy, the manner in which the bankrupt has performed the duties imposed on him under this Act or obeyed the orders of the court, and as to his conduct both before and after the bankruptcy, and whether he has been convicted of any offence under this Act, together with any other fact, matter or circumstance that would justify the court in refusing an unconditional order of discharge, and the report shall be accompanied by a resolution of the inspectors declaring whether or not they approve or disapprove of the report, and in the latter case the reasons of such disapproval shall be given.

Filing and service of report.

(2) When an application is pending, the trustee shall file the report in the court not less than three days, and forward a copy thereof to the Superintendent not less than ten days, before the day appointed for hearing the application, and in all other cases the trustee, before proceeding to his discharge, shall file the report in the court and forward a copy to the Superintendent.

Superintendent may file report.

(3) The Superintendent may make such further or other report to the court as he deems expedient or as in his opinion ought to be before the court on the application.

Representation by counsel.

(4) The trustee or any creditor may attend and be heard in person or by counsel.

Evidence at hearing.

(5) For the purposes of the application the report of the trustee shall be *prima facie* evidence of the statements therein contained.

This new section 127 replaces former section 141 (1), (2) and (3) which read as follows:

"**141.** (1) Any debtor may, at any time after being adjudged bankrupt or making an authorized assignment, apply to the court for an order of discharge, to become effective not sooner than three months next after the date of his being adjudged bankrupt or of his making such assignment, and the court shall appoint a day for hearing the application.

(2) A bankrupt or authorized assignor intending to apply for his discharge shall produce to the registrar of the court a certificate from the trustee specifying the names and addresses of his creditors of whom the trustee has notice (whether they have proved or not) and it shall be the duty of the trustee to furnish such certificate upon request therefor by the bankrupt or authorized assignor.

(3) The registrar shall, not less than twenty-eight days before the day appointed for hearing the application, give to the trustee notice of the application and of the time and place of hearing of it, and the trustee shall not less than fourteen days before the day appointed for hearing the application give to the Superintendent and to each creditor who has proved his debt like notice."

128. (1) This is a revision of former section 141 (4) and (5) incorporating in one subsection what is to be included in the report. Section 141 (4) and (5) read as follows:

"(4) The trustee shall file with the registrar, at least three days before the day appointed for hearing the application, his report as to the conduct and affairs of the bankrupt or assignor (including a report as to the conduct of the bankrupt or assignor during the proceedings under his bankruptcy or assignment). In cases where the final dividend has not been paid, this report shall be accompanied by a resolution of inspectors declaring whether they approve or disapprove the said report, and in the latter case the reasons of this disapproval must be given.

(5) If the bankrupt or assignor has been examined, the trustee shall also file such examination, and shall report to the court any fact, matter or circumstance which would, under this Act, justify the court in refusing an unconditional order of discharge."

(2) This subsection is partly taken from subsection (4). In addition it is deemed necessary that the report should be in the hands of the Superintendent in sufficient time to enable him to make any supplementary report which he may desire.

(3) This subsection is new. Its purpose is to try to ensure that all of the relevant facts are before the court at the hearing.

(4) This was formerly section 141 (7). No change except that the words "the debtor" have been struck out.

(5) This is former section 141 (8) slightly revised. It read as follows:

"**141.** (8) For the purposes of this and the next five succeeding sections the report of the trustee shall be *prima facie* evidence of the statements therein contained."

The former subsections (6) and (9) have been deleted. Subsection (6) is unnecessary. The revised procedure on the application of a bankrupt for his discharge, and particularly section 128 (2), renders subsection (9) obsolete. Subsections (6) and (9) read as follows:

"**141.** (6) At the hearing of the application, the court may read the examination of the bankrupt or assignor, and may put such further questions to him and receive such evidence as it may think fit."

"(9) The duties imposed upon the trustee under this section shall be carried out by him notwithstanding that he may have been discharged as trustee by the court."

Right of bankrupt to oppose statements in report.

(6) When a bankrupt intends to dispute any statement contained in the trustee's report he shall at or before the time appointed for hearing the application for discharge give notice in writing to the trustee specifying the statements in the report which he proposes at the hearing to dispute.

Right of creditors to oppose.

(7) A creditor who intends to oppose the discharge of a bankrupt on grounds other than those mentioned in the trustee's report shall give notice of the intended opposition, stating the grounds thereof, to the trustee and to the bankrupt at or before the time appointed for the hearing of the application.

Court may grant or refuse discharge.

129. (1) On the hearing of the application, the court may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any terms or conditions with respect to any earnings or income that may afterwards become due to the bankrupt or with respect to his after-acquired property.

Powers of court to refuse or suspend discharge or grant conditional discharge.

(2) The court shall on proof of any of the facts mentioned in section one hundred and thirty

(a) refuse the discharge;

(b) suspend the discharge for such period as the court thinks proper; or

(c) require the bankrupt, as a condition of his discharge, to perform such acts, pay such moneys, consent to such judgments, or comply with such other terms, as the court may direct.

(6) and (7) Formerly Rule 159. No substantial change. It is deemed more logical to have these provisions inserted in the Act as part of the scheme of rights and procedure therein set up.

129. (1) Formerly section 142 (1). The material that may be heard on the hearing has been referred to in the preceding section.

Section 142 (1) and (2) formerly read as follows:

"**142.** (1) On the hearing of the application, the court shall take into consideration the report of the trustee, and the resolution of the inspectors, and may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt or authorized assignor, or with respect to his after-acquired property.

(2) The court shall refuse the discharge in all cases where the bankrupt or authorized assignor has committed any offence under this Act or any offence connected with his bankruptcy or assignment or the proceedings thereunder, and shall on proof of any of the facts mentioned in the next succeeding section, either

(a) refuse the discharge; or

(b) suspend the discharge for a period of not less than two years: provided that the period may be less than two years if the only fact proved of those hereinafter mentioned is that his assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities; or

(c) suspend the discharge until a dividend of not less than fifty cents in the dollar has been paid to the creditors; or

(d) require the bankrupt or assignor, as a condition of his discharge, to consent to judgment being entered against him by the trustee for any balance or part of any balance of the debts provable under the bankruptcy or assignment which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt or assignor in such manner and subject to such conditions as the court may direct; but execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt or assignor has, since his discharge, acquired property or income available towards payment of his debts."

(2) Formerly section 142 (2). The words deleted are considered altogether too drastic, being an absolute prohibition of a discharge being obtained by a bankrupt under any such circumstances, and it is felt that the matter should be left to the discretion of the court by transferring the restrictions therein imposed to subsection (1) of section 130.

(b) It is deemed advisable that the period of suspension be left to the discretion of the court.

(c) Similarly, former paragraphs *(c)* and *(d)* have been redrafted and combined in one paragraph which has been greatly simplified.

Court may modify after year.

(3) Where at any time after the expiration of one year from the date of any order made under this section the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of the order the court may modify the terms of the order or of any substituted order, in such manner and upon such conditions as it may think fit.

Power to suspend.

(4) The powers of suspending and of attaching conditions to the discharge of a bankrupt may be exercised concurrently.

Facts for which discharge may be refused, suspended or granted conditionally.

130. (1) The facts referred to in section one hundred and twenty-nine are

(a) the assets of the bankrupt are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;

(b) the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy;

(c) the bankrupt has continued to trade after knowing himself to be insolvent;

(d) the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;

(e) the bankrupt has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling or by culpable neglect of his business affairs;

(f) the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;

(g) the bankrupt has, within the three months preceding the date of his bankruptcy, incurred unjustifiable expense by bringing a frivolous or vexatious action;

(h) the bankrupt has, within the three months preceding the date of his bankruptcy, when unable to pay his debts as they became due, given an undue preference to any of his creditors;

(i) the bankrupt has, within the three months preceding the date of his bankruptcy, incurred liabilities with a view of making his assets equal to fifty cents in the dollar on the amount of his unsecured liabilities;

(3) No material change. Formerly section 142 (3).

(4) No material change. Formerly section 142 (4).

130. (1) *(a)* to *(k)*. No change materially. Formerly section 143 (1) *(a)* to *(k)*.

(j) the bankrupt has on any previous occasion been bankrupt or made a proposal to his creditors;

(k) the bankrupt has been guilty of any fraud or fraudulent breach of trust;

(l) the bankrupt has committed any offence under this Act or any other statute in connection with his property, his bankruptcy or the proceedings thereunder;

(m) the bankrupt has failed to perform the duties imposed on him under this Act or to comply with any order of the court.

Application of farmers.

(2) Paragraphs *(b)* and *(c)* of subsection one do not apply in the case of an application for discharge by a bankrupt who at the time of his bankruptcy was engaged solely in farming or the tillage of the soil.

Assets of bankrupt when deemed equal to fifty cents in dollar.

131. For the purposes of section one hundred and thirty the assets of a bankrupt shall be deemed of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt has realized or is likely to realize or, with due care in realization, might have realized an amount equal to fifty cents in the dollar on his unsecured liabilities.

Court may grant certificate.

132. (1) A statutory disqualification on account of bankruptcy ceases when the bankrupt obtains from the court his discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part.

Appeal.

(2) The court may, if it thinks fit, grant a certificate mentioned in subsection one, and a refusal to grant such a certificate is subject to appeal.

Duty of bankrupt on conditional discharge.

133. (1) Where an order is granted on terms or conditions or on the bankrupt consenting to judgment, the bankrupt shall, until such terms, conditions or judgment are satisfied, give the trustee such information as he may require with respect to his earnings and after-acquired property and income and, not less than once a year, file in the court and with the trustee a statement verified under oath showing the particulars of any property or income he may have acquired subsequent to the order for his discharge, and the trustee or any creditor may require the bankrupt to attend for examination under oath with reference to the facts contained in the statement, or as to his earnings, income, after-acquired property or dealings.

(l) This is a new paragraph containing substantively the prohibition deleted from former section 142(2) giving the court discretion in dealing therewith. A similar discretion is exercised in section 26(2) of the English Act which is as follows:

"Provided that where the bankrupt has committed any misdemeanour under this Act, or any enactment repealed by this Act, or any misdemeanour connected with his bankruptcy, or any felony connected with his bankruptcy, or where in any case any of the facts hereinafter mentioned are proved, the court shall either:—

(i)
(ii)
(iii)
(iv)
} Exactly the same as Section 142 *(a)*, *(b)*, *(c)* and *(d)*.

(m) This is a new paragraph. Its purpose is obvious.

(2) No material change. Formerly section 143 (2).

131. Formerly section 144 (1). No material change. The former section 144 (2) has been deleted as it is merely a reassertion of former section 141 (8) and is not required. It read as follows:

"**144.** (2) A report by the trustee shall be *prima facie* evidence of the amount of such liabilities."

132. (1) No material change. Formerly section 145 (1).

(2) No change. Formerly section 145 (2).

133. (1) This is a new subsection and is a redraft of former Rules 161, 164 and 165. While partly procedural in nature it is more substantive in effect in setting up further duties imposed on the bankrupt in the event of an order of discharge being granted on terms or conditions or subject to consent to judgment as a condition precedent to a discharge. Rules 161, 164 and 165 formerly read as follows:

"*Rule* **161.** (1) While the Court grants an order of discharge conditionally upon the debtor consenting to judgment being entered against him by the trustee for the balance or any part of the balance of the debts provable under the bankruptcy or authorized assignment which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed or delivered out until the debtor has given the required consent. The judgment shall be entered in the Court having jurisdiction in bankruptcy in the district or division in which the order of discharge is granted.

(2) If the debtor does not give the required consent within ten days of the making of the conditional order the Court may, on the application of the trustee, revoke the order or make such other order as the Court may think fit."

"**164.** Where a debtor is discharged subject to the condition that judgment shall be entered against him, or subject to any other condition as to his future earnings or after-acquired property, it shall be his duty until such judgment or condition is satisfied, from time to time, to give the trustee such information as he may require with respect to his earnings and after-acquired property and income, and not less than once a year to file in the Court and with the trustee a statement showing the particulars of any property or income he may have acquired subsequent to his discharge."

"**165.** Any statement of after-acquired property or income filed by a debtor whose discharge has been granted subject to conditions, shall be verified by affidavit, and the trustee may require the debtor to attend before an examiner to be examined on oath with reference to the statements contained in such affidavit, or as to his earnings, income, after-acquired property, or dealings. Where a debtor neglects to file such affidavit or to attend for examination when required so to do, or properly to answer all such questions as the Court may decide to be proper, the Court may, on the application of the trustee, rescind the order of discharge."

Penalty for failure to comply.

(2) Where the bankrupt fails to give information or to file a statement as required by subsection one, or to attend for examination when required so to do, or to answer all questions fully and accurately with respect to his earnings, income, after-acquired property or dealings, the court may on the application of the trustee or of any creditor revoke the order of discharge.

Trustee to distribute funds payable under conditional discharge.

(3) Where a conditional order of discharge of a bankrupt is made providing for payment of a further dividend or sum of money by the bankrupt all payments on account thereof shall be made to the trustee for distribution to the creditors.

Fraudulent settlements.

134. In either of the following cases, that is to say:—

(a) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or

(b) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any property wherein he had not at the date of his marriage any estate or interest, not being property of or in right of his wife;

if the settlor becomes bankrupt, and it appears to the court that such settlement, covenant or contract was made in order to defeat or delay his creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the court may refuse or suspend an order of discharge or grant an order subject to conditions in like manner as in cases where the bankrupt has been guilty of fraud.

Debts not released by order of discharge.

135. (1) An order of discharge does not release the bankrupt from

(a) any fine or penalty imposed by a court or any debt arising out of a recognizance or bail bond;

(b) any debt or liability for alimony;

(c) any debt or liability for maintenance and support of his wife and children;

(d) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity;

(e) any debt or liability for obtaining property by false pretences or fraudulent misrepresentation; or

(2) This is merely a penalty clause in case of failure of the bankrupt to perform the special obligations imposed on him in this section. It is taken from former Rule 165 but extended to bring it into line with the penalty clauses in section 124 for similar offences.

(3) This is a new subsection. In many instances, where an order is made conditional on the payment of further dividends, the bankrupt will proceed to pay the creditors direct and, by bargaining, will not make payments on an equal basis.

134. Formerly section 146. The words deleted are unnecessary.

135. (1) The corresponding provisions of the Bankruptcy Act of the United States have been adopted in part. This was formerly section 147 (1) and read as follows:

> "**147.** (1) An order of discharge shall not release the bankrupt or authorized assignor
>
> *(a)* from any debt on a recognizance nor from any debt with which the bankrupt or assignor may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence and he shall not be discharged in respect of any such excepted debts unless an order in council proceeding from the Crown in the proper right is filed in court consenting to his being discharged therefrom; or
>
> *(b)* from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or
>
> *(c)* from any liability under a judgment against him in an action for seduction, or under an affiliation order, or for alimony or under a judgment against him as a co-respondent in a matrimonial case, except to such an extent and under such conditions as the court expressly orders in respect of such liability; or
>
> *(d)* from any debt or liability for necessaries of life, and the court may make such order for payment thereof as it deems just or expedient."

(f) liability for the dividend that a creditor would have been entitled to receive on any provable claim not disclosed to the trustee, unless such creditor had notice or knowledge of the bankruptcy and failed to take reasonable action to prove his claim.

Claims released.

(2) An order of discharge releases the bankrupt from all other claims provable in bankruptcy.

Partner or co-trustee not released.

136. An order of discharge does not release a person who at the date of the bankruptcy was a partner or co-trustee with the bankrupt or was jointly bound or had made a joint contract with him, or a person who was surety or in the nature of a surety for him.

Court may annul discharge.

137. (1) Where a bankrupt after his discharge fails to perform the duties imposed on him by the Act, the court may, on application, annul his discharge.

Annulment of discharge obtained by fraud.

(2) Where it appears to the court that the discharge of the bankrupt was obtained by fraud, the court may, on application, annul his discharge.

Effect of annulment of discharge.

(3) An order revoking or annulling the discharge of a bankrupt does not prejudice the validity of a sale, disposition of property, payment made or thing duly done before revocation or annulment.

Power of court to annul bankruptcy.

138. (1) Where, in the opinion of the court, a receiving order ought not to have been made or an assignment ought not to have been filed, the court may by order annul the bankruptcy.

Effect of annulment of bankruptcy.

(2) Where an order is made under subsection one, all sales, dispositions of property, payments duly made and acts done theretofore by the trustee or other person acting under his authority, or by the court, are valid, but the property of the bankrupt shall vest in such person as the court may appoint, or, in default of any appointment, revert to the bankrupt for all the estate or interest of the trustee therein on such terms and subject to such conditions, if any, as the court may order.

(2) No material change. Formerly section 147 (2).

136. No material change. Formerly section 148.

137. (1) This replaces the former section 132. The duties referred to therein are now included in section 117. The former section 132 read as follows:

> "**132.** If a debtor wilfully fails to perform the duties imposed on him by the four last preceding sections, or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act and which is for the time being in his possession or under his control, to the trustee, or to any person, authorized by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly."

(2) This is a new subsection similar to section 144 of the Scottish Act. A like provision was formerly contained in *The Canadian Insolvent Act* of 1864 and *The Insolvent Act* of 1875.

(3) This is a new subsection. Its purpose is evident.

138. (1) This was previously section 151 (1). It has been changed to provide for annulment in the case of assignments as well as receiving orders. The fact was overlooked formerly that the same reasons might apply for the annulment of an assignment as applied to a receiving order. The amended phraseology provides for such a contingency. There has also been deleted the clause "or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full."

(2) Formerly section 151 (2). No material change except the words "order is made" have been substituted for "adjudication is annulled" in the first line.

The former section 151 (4) has been deleted in view of the revised wording of subsection (1). It read:

> "**151.** (4) For the purposes of this section any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceedings for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court."

Stay on issue of order.

139. (1) The order of discharge or annulment shall be dated on the day on which it is made, but it shall not be issued or be delivered out until the expiration of the time allowed for an appeal, and, if an appeal be entered, not until the appeal has been finally disposed of.

Effective date of order.

(2) Notice of an order of discharge or annulment shall be published in the *Canada Gazette* by the bankrupt, but the order, when it has been issued or delivered out, shall be effective as from the date it bears.

PART VII.

COURTS AND PROCEDURE.

Jurisdiction of Courts.

Courts vested with jurisdiction.

140. (1) The following named courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:—

(a) in the province of Alberta, the Trial Division of the Supreme Court of the province;

(b) in the provinces of British Columbia, Nova Scotia and Newfoundland, the Supreme Court of the province;

(c) in the province of Prince Edward Island, the Supreme Court of Judicature of the province;

(d) in the provinces of Manitoba and Saskatchewan, the Court of King's Bench of the province;

(e) in the province of Ontario, the High Court of Justice for the province;

(f) in the province of New Brunswick, the King's Bench Division of the Supreme Court of the province;

(g) in the province of Quebec, the Superior Court of the province;

(h) in the Yukon Territory, the Territorial Court of the Yukon Territory; and

(i) in the Northwest Territories, a stipendiary magistrate.

Courts of appeal.

(2) The several courts of appeal throughout Canada, within their respective jurisdictions, are invested with power and jurisdiction at law and in equity, according to their ordinary procedures, except as varied by this Act or General Rules, to hear and determine appeals from the courts vested with original jurisdiction under this Act.

Supreme Court of Canada.

(3) The Supreme Court of Canada likewise has jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs.

139. This is a new section. It completes the procedure on the application for an order of discharge or annulment. Subsection (2) combines the former sections 150 and 151 (3) which read as follows:

"**150.** Notice of the order of discharge of a bankrupt, or authorized assignor, shall be forthwith gazetted."

"**151.** (3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in the local paper."

140. (1) Formerly section 152 (1) which read as follows:

"**152.** (1) The following named courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers,—

(a) In the provinces of Alberta, British Columbia, Nova Scotia, Ontario and Prince Edward Island, the Supreme Court of the province;

(b) In the provinces of Manitoba and Saskatchewan, the Court of King's Bench of the province;

(c) In the province of New Brunswick, the King's Bench Division of the Supreme Court of the province;

(d) In the province of Quebec, the Superior Court of the province; and

(e) In the Yukon Territory, the Territorial Court of the Yukon Territory."

(2) This was formerly section 152(3) and (4), which read as follows:

"**152.** (3) The courts in the next subsection named are subject to the provisions of this Act with respect to appeals, invested with power and jurisdiction to make or render on appeal asserted, heard and decided according to their ordinary procedure, except as varied by General Rules, the order or decision which ought to have been made or rendered by the court appealed from.

(4) All appeals asserted under authority of this Act shall be made,

(a) in the provinces of Nova Scotia and Prince Edward Island, to the Supreme Court *en banc* of the province;

(b) in the provinces of British Columbia, Manitoba and Saskatchewan, to the Court of Appeal of the province;

(c) in the provinces of Ontario and Alberta, to the Appellate Division of the Supreme Court of the province;

(d) in the province of New Brunswick, to the Appeal Division of the Supreme Court of the province;

(e) in the province of Quebec, to the Appeal side of the Court of King's Bench;

(f) in the Yukon Territory, to the Court of Appeal of the province of British Columbia."

This has been revised and simplified to avoid unnecessary verbiage.

(3) This subsection was formerly section 174(3). No change.

Appointment of registrars, clerks, etc.

141. Each of the following persons, namely,

(a) the Chief Justice of the court;

(b) in the province of Quebec, the Chief Justice or the Associate Chief Justice in the district to which he was appointed;

(c) in the Yukon Territory, the Commissioner of the Yukon Territory; and

(d) in the Northwest Territories, the Commissioner of the Northwest Territories;

shall from time to time appoint and assign such registrars, clerks and other officers in bankruptcy as he deems necessary or expedient for the transaction or disposal of matters in respect of which power or jurisdiction is given by this Act and may specify or limit the territorial jurisdiction of any such registrar, clerk or other officer.

Assignment of judges to bankruptcy work by Chief Justice.

142. (1) The Chief Justice of the court, and in the province of Quebec the Chief Justice or the Associate Chief Justice in the district to which he was appointed, may, if in his opinion it be advisable or necessary for the good administration of this Act, nominate or assign one or more of the judges of the court to exercise the judicial powers and jurisdiction conferred by this Act that may be exercised by a single judge, and the judgment, decision or order of a judge so nominated or assigned shall be deemed to be the judgment, decision or order of the court, and a reference in this Act to the court applies to any judge so exercising the powers and jurisdiction of the court.

(2) Nothing in this section diminishes or affects the powers or jurisdiction of the court or of any of the judges thereof not so specially nominated or assigned.

Exercise of power by judges of other courts on appointment by Minister.

143. The Minister may, if in his opinion it is advisable or necessary for the proper administration of this Act, authorize any district, county or other judge to exercise any or all of the powers and jurisdiction of the court or of a judge or registrar thereof, subject to any limitation or condition, and any judge so authorized shall be deemed a judge or registrar as the case may be of the court having jurisdiction in bankruptcy, and references to the court or to the judge of the court or to the registrar apply to such district, county or other judge according to the terms of his authority.

Authority of the Courts.

Seal of court.

144. (1) Every court shall have a seal describing the court, and judicial notice shall be taken of the seal and of the signature of the judge or registrar of any such court in all legal proceedings.

141. Formerly section 157 (1). The changes are self-explanatory.

142. Formerly section 156. This section has been slightly amended. It formerly read in part as follows:

> "**156.** The Chief Justice of the court, and in the province of Ontario the Chief Justice of Ontario, and in the province of Quebec, the Chief Justice or the Acting Chief Justice in the district of appeal in which he has been appointed," etc.

143. This was formerly section 158. No change.

144. (1) This was formerly section 182. No change.

Court not subject to be restrained.

(2) The courts are not subject to be restrained in the execution of their powers under this Act by the order of any other court.

Power of judge in chambers.

(3) Subject to this Act and to General Rules, the judge of a court may exercise in chambers the whole or any part of his jurisdiction.

Periodical sittings.

(4) Periodical sittings for the transaction of the business of courts shall be held at such times and places and at such intervals as the court directs.

Court may review, etc.

(5) Every court may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

Enforcement of orders.

(6) Every order of a court may be enforced as if it were a judgment of the court.

Transfer of proceedings to another division.

(7) The court, upon satisfactory proof that the affairs of the bankrupt can be more economically administered within another bankruptcy district or division, or for other sufficient cause, may by order transfer any proceedings under this Act that are pending before it to another bankruptcy district or division.

Trial of issue, etc.

(8) The court may direct any issue to be tried or inquiry to be made by any judge or officer of any of the courts of the province, and the decision of such judge or officer is subject to appeal to a judge in bankruptcy, unless the judge is a judge of a superior court when the appeal shall, subject to section one hundred and fifty, be to the court of appeal.

Formal defect not to invalidate proceedings.

(9) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of that court.

Proceedings taken in wrong court.

(10) Nothing in this section invalidates any proceedings by reason of their having been commenced, taken or carried on in the wrong court, but the court may at any time transfer to the proper court the petition, application or proceedings, as the case may be.

Court may extend time.

(11) Where by this Act the time for doing any act or thing is limited, the court may extend the time either before or after the expiration thereof upon such terms if any as it thinks fit to impose.

And may dispense with certain requirements as to notices.

(12) Where in the opinion of the court the cost of preparing statements, lists of creditors or other material required by this Act to be mailed with notices to creditors or the cost of mailing such notices or material by registered post is unjustified in the circumstances, the court may give leave to omit such material or any part thereof or to mail the notices or material by ordinary post.

(2) This was formerly section 154. No change.

(3) This was formerly section 152 (2). No material change.

(4) This was formerly section 155. No material change.

(5) This was formerly section 164. No change.

(6) This was formerly Rule 53. No change.

(7) This was formerly section 6 (2). It read in part as follows:

> "6. (2) The court, upon the application of the trustee or of a creditor proceeding under authority of any ordinary resolution carried by the votes of a majority in number of the known creditors, and upon satisfactory proof that the affairs of the debtor can be more economically administered," etc.

(8) This was formerly section 171. No material change. The words "Subject to section one hundred and fifty, be to the court of appeal" have been substituted for the words "under section one hundred and seventy-four."

(9) This was formerly section 186 (1). No material change.

(10) This was formerly section 4 (12). No change.

(11) Formerly section 163(5).

(12) This subsection is new and is designed to avoid unjustified expenses relating to notices and enclosures.

Enforcement of orders of other courts.

145. (1) An order made by a court under this Act and an order made by a court having jurisdiction in bankruptcy in a British country that has reciprocal legislation providing for the enforcement by the courts of such country of orders in bankruptcy matters made under any law of Canada may be enforced in any court having jurisdiction in bankruptcy in Canada in the same manner in all respects as if the order had been made by that court in Canada.

Courts to be auxiliary to each other.

(2) All courts and the officers of all courts respectively shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of one court seeking aid, with a request to another court, shall be deemed sufficient to enable the latter court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court that made the request or the court to which the request is made could exercise in regard to similar matters within its respective jurisdiction.

Enforcement of warrants.

(3) Any warrant of a court may be enforced in any part of Canada in the same manner and subject to the same privileges as a warrant issued by a justice of the peace under or in pursuance of the *Criminal Code* may be executed against a person charged with an indictable offence.

Search warrants.

146. (1) The court may by warrant direct the seizure or search on behalf of the trustee or interim receiver of or for any part of the property of the bankrupt, whether in possession of the bankrupt or of any other person, and for that purpose may order the breaking open of any building or place where the bankrupt or any part of his property is believed to be.

Commitment to prison.

(2) Where the court commits any person to prison, the commitment may be to such convenient prison as the court thinks expedient.

Evidence of proceedings in bankruptcy.

147. (1) Any document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act shall, if it appears to be sealed with the seal of any court having jurisdiction in bankruptcy, or purports to be signed by any judge thereof, or is certified as a true copy by any registrar thereof, be receivable in evidence in all legal proceedings.

Documentary evidence as proof.

(2) The production of an original document relating to any bankruptcy proceeding or a copy certified by the person making it as a true copy thereof or by a successor in office of such person as a true copy of a document found among the records in his control or possession shall be *prima facie* evidence of the contents of such documents.

145. (1) Formerly section 170 (1) which read as follows:

"**170.** (1) Any order made by a court exercising jurisdiction in bankruptcy under this Act shall be enforced in the courts having jurisdiction in bankruptcy elsewhere in Canada in the same manner in all respects as if the order had been made by the court hereby required to enforce it."

(2) This was formerly section 170 (2). No material change.

(3) This was formerly section 170 (3). No material change.

146. (1) This was formerly section 172. The reference to the custodian has been deleted.

(2) This was formerly section 173. The concluding clause has been deleted. It read as follows: "and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a fine not exceeding five hundred dollars."

147. (1) Formerly section 180. The changes therein will be self-explanatory. It read in part:

"**180.** Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate, made by any court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings," etc.

(2) This is a new subsection. Its purpose is to simplify the method of proving documents in bankruptcy proceedings.

Death of bankrupt or witness.

148. In case of the death of the bankrupt or the wife or husband of a bankrupt or of a witness, whose evidence has been received by any court in any proceedings under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Powers of Registrar.

Powers of registrar.

149. (1) The registrars of the courts have power and jurisdiction, without limiting the powers otherwise conferred by this Act or General Rules,

(a) to hear bankruptcy petitions and to make receiving orders where they are not opposed;

(b) to hold examinations of bankrupts or other persons;

(c) to grant orders of discharge where the applications are not opposed;

(d) to approve proposals where they are not opposed;

(e) to make interim orders in cases of urgency;

(f) to hear and determine any unopposed or *ex parte* application;

(g) to summon and examine the bankrupt or any person known or suspected to have in his possession property of the bankrupt, or to be indebted to him, or capable of giving information respecting the bankrupt, his dealings or property;

(h) to hear and determine matters relating to proofs of claims whether or not opposed;

(i) to tax or fix costs and to pass accounts;

(j) to hear and determine any matter with the consent of all parties;

(k) to hear and determine any matter relating to practice and procedure in the courts;

(l) to settle and sign all orders and judgments of the courts not settled or signed by a judge and to issue all orders, judgments, warrants or other processes of the courts;

(m) to perform all necessary administrative duties relating to the practice and procedure in the courts; and

(n) to hear and determine appeals from the decision of a trustee allowing or disallowing a claim.

148. This was formerly section 183. It read as follows:

"**183.** In case of the death of the debtor or his wife, or of a witness whose evidence has been received by any court in any proceedings under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to."

149. (1) Formerly section 159 (1). Certain additional powers have been added to the powers already conferred upon the registrars in bankruptcy matters. The limitation of the last line has been deleted as it is neither logical nor consistent to have an express intention of Parliament limited or restricted by a rule. Section 159 (1) read as follows:

"**159.** (1) The Registrars of the several courts exercising bankruptcy jurisdiction under this Act shall have power and jurisdiction subject to General Rules, limiting the powers conferred by this section."

(f) This was formerly paragraph *(g)*. No change. The former *(f)* is unnecessary and has been deleted. It read:

"*(f)* to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers."

(g) Formerly *(h)*. No material change.

(h) This is new.

(i) Ordinarily the power to tax costs and pass accounts is exercised by registrars in any event so that there would appear to be no special reason why this authority should not be conferred upon the registrar as well. Heretofore it has been necessary for the Chief Justice to appoint the registrar to be a taxing officer practically in every case.

(j) This paragraph is new and is inserted to expedite the determination of proceedings before the court. The privilege of appeal to a judge removes any possibility of injustice.

(k) This is a new paragraph and is included to set out more clearly the authority to be exercised by the registrar in hearing and determining matters relating to the practice and procedure in the courts. Heretofore only paragraph *(f)* might be inferred as dealing therewith but no rule had been promulgated explicitly setting up any authority in this respect.

(l) This is a new paragraph added to complete the mechanics by which orders and judgments of the court are made effective.

(m) This is a new paragraph and vests the registrar with authority to perform the necessary administrative duties in connection with the operation of the courts. No express provision had been in effect heretofore and such authority was assumed only by inference.

(n) Formerly section 159*(i)* which read as follows:

"*(i)* to hear and determine appeals from the decision of a trustee allowing or disallowing a creditor's claim where such claim does not exceed five hundred dollars."

May be exercised by judge.

(2) The powers and jurisdiction by this section or otherwise conferred upon a registrar may at any time be exercised by a judge.

Registrar may not commit.

(3) A registrar has no power to commit for contempt of court.

Appeal from registrar.

(4) A person dissatisfied with an order or decision of the registrar may appeal therefrom to a judge.

Order of registrar deemed order of court.

(5) An order made or act done by a registrar in the exercise of his powers and jurisdiction shall be deemed the order or act of the court.

Reference to judge.

(6) A registrar may refer any matter ordinarily within his jurisdiction to a judge for disposition.

Judge may hear.

(7) A judge may direct that any matter before a registrar be brought before the judge for hearing and determination.

Registrars to act for each other.

(8) Any registrar in bankruptcy may act for any other registrar.

Appeals.

Court of Appeal.

150. Unless otherwise expressly provided, an appeal lies to the Court of Appeal from any order or decision of a judge of the court in the following cases:

(a) if the point at issue involves future rights;

(b) if the order or decision is likely to affect other cases of a similar nature in the bankruptcy proceedings;

(c) if the property involved in the appeal exceeds in value five hundred dollars;

(d) from the grant of or refusal to grant a discharge if the aggregate unpaid claims of creditors exceed five hundred dollars;

(e) in any other case by leave of a judge of the Court of Appeal.

Supreme Court of Canada.

151. The decision of the Court of Appeal upon any appeal is final and conclusive unless special leave to appeal therefrom to the Supreme Court of Canada is obtained from a judge of that court.

Stay of proceedings on filing of appeal.

152. Where a judge has granted leave to appeal, all proceedings under the order or judgment appealed from shall be stayed until the appeal is disposed of, but the Court of Appeal or a judge thereof may cancel and determine the stay if it appears that the appeal is not being prosecuted diligently, or for such other reason as it may deem proper.

(2) This is intended to remove any doubt as to the authority of a judge to perform the judicial functions of a registrar. The provisions of the Act formerly giving the registrar certain specific jurisdiction might well have been interpreted to exclude a judge from exercising such jurisdiction.

(3) No change. Formerly section 159 (2).

(4) No material change. Formerly section 159 (3).

(5) No change. Formerly section 159 (4).

(6) This is a new subsection. Heretofore it has been assumed that the registrar had authority to refer the matter to a judge. Some doubt on the point has often been expressed. This subsection is intended to remove the doubt.

(7) This is a new subsection. The same comments apply. It has always been more or less inferred that such authority did exist, but the subsection specifically removes that doubt.

(8) This was formerly Rule 64. No change.

The former section 149 has been deleted. It read as follows:

> "**149.** An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge."

150. This was formerly section 174 (1) and read as follows:

> "**174.** (1) Any person dissatisfied with an order or decision of the court or a judge in any proceedings under this Act may appeal to the Appeal Court if the
> *(a)* question to be raised on the appeal involves future rights; or
> *(b)* order or decision is likely to affect other cases of a similar nature in the bankruptcy or authorized assignment proceedings; or
> *(c)* amount involved in the appeal exceeds five hundred dollars; or
> *(d)* appeal is from the grant or refusal to grant a discharge and the aggregate of the unpaid claims of creditors exceeds five hundred dollars."

There is no material change except the addition of *(e)*.

151. This was formerly section 174 (2). No change.

152. This is a new section. The discretion granted to the Court of Appeal or a judge thereof to cancel or determine a stay of proceedings while an appeal is pending is considered necessary and advisable to prevent abuses of the right of appeal.

No stay of proceedings unless ordered.

153. An appeal to the Supreme Court of Canada shall not operate as a stay of proceedings, unless the judge who grants leave to appeal so orders.

Decision final.

154. The decision of the Supreme Court of Canada is final and conclusive.

Legal Costs.

Costs in discretion of court.

155. (1) Subject to this Act and to General Rules, the costs of and incidental to any proceedings in court under this Act are in the discretion of the court.

How costs awarded.

(2) The court in awarding costs may direct that the costs shall be taxed and paid as between party and party or as between solicitor and client, or the court may fix a sum to be paid in lieu of taxation or of taxed costs, but in the absence of any express direction costs shall follow the event and shall be taxed as between party and party.

Personal liability of trustee for costs.

(3) Where an action or proceeding is brought by or against a trustee, or where a trustee is made a party to any action or proceeding on his application or on the application of any other party thereto, he is not personally liable for costs unless the court otherwise directs.

When costs payable.

(4) No costs shall be paid out of the estate of the bankrupt, excepting the costs of persons whose services have been authorized by the trustee in writing and such costs as have been awarded against the trustee or the estate of the bankrupt by the court.

Application of tariff.

(5) Legal costs shall be paid according to the tariff provided by General Rules or according to the item in the tariff most nearly analogous or comparable to the services rendered, or, where no provision may be found therein applicable to the particular services rendered or disbursements made, according to the tariff in effect in other civil matters.

153. This was formerly section 174 (4). It read as follows:

"**174.** (4) No such appeal to the Supreme Court of Canada shall operate as a stay of proceedings unless the judge who permits such appeal shall so order, and to the extent to which he shall order, and the appellant shall not be required to provide any security for costs, but unless he provides security for costs, in an amount to be fixed by the judge permitting the appeal, he shall not be awarded costs in the event of his success upon such appeal."

The former section 153 has been deleted. It read as follows:

"**153.** (1) Where the debtor is a corporation, as defined by this Act, the Winding-up Act shall not, except by leave of the court, extend or apply to it notwithstanding anything in that Act contained, but all proceedings instituted under that Act before this Act comes into force or afterwards, by leave of the court, may and shall be as lawfully and effectually continued under that Act as if the provisions of this section had not been made.

(2) An order of the court, granting leave to extend or apply to any such corporation the Winding-up Act shall not be invalid or subject to any objection by reason only that the corporation had previously made an assignment under the provisions of this Act, or that proceedings in bankruptcy under this Act were at the time pending against the corporation, and in any such case the provisions of the Winding-up Act shall apply and prevail, and the bankruptcy proceedings shall abate subject to such disposition of the costs thereof to be made in the winding-up proceedings as the justice of the case may require."

154. This was formerly section 174 (5).

155. (1) This was formerly section 163 (2). No change.

(2) This is a redraft of former Rules 54 (1) and 54 (2) which have been combined for simplification. This is included as being more in the nature of establishing substantive rights. Rule 54 (1) and (2) formerly read as follows:

"*Rule* **54.** (1) The Court in awarding costs may direct that the same shall be taxed and paid as between party and party or as between solicitor and client, or the Court may fix a sum to be paid in lieu of taxed costs.

(2) In the absence of any express direction costs of an opposed motion shall follow the event, and shall be taxed as between party and party."

(3) This was formerly Rule 54 (3) and it has been transferred for the same reason. It has been slightly redrafted for simplification and formerly read as follows:

"*Rule* **54.** (3) Where an action is brought by or against a custodian or trustee as representing the estate of the debtor, or where a custodian or trustee is made a party to a cause or matter, on his application or on the application of any other party thereto, he shall not be personally liable for costs unless the judge before whom the action, cause or matter is tried for some special reason otherwise directs."

(4) This was formerly Rule 61 and has been transferred for the same reason. It has been redrafted and combined with former section 162 (2) which has also been rephrased to give it a more logical sequence. Rule 61 formerly read as follows:

"*Rule* **61.** Subject to the provisions of the Act, no costs shall be paid out of the estate or assets of the debtor, excepting the costs of the solicitor or solicitors employed by the trustee and such costs as have been awarded against the trustee or the estate of the debtor by order of the Court in any action or proceeding under the Act or these Rules."

(5) This is an adaptation of former Rule 57 (1) transferred for the same reason as indicated above. It also is intended to provide for taxation of bills of costs for such services as are not covered by the bankruptcy tariff, such as conveyancing costs, which have been held as not being included in the limitations of the present tariff. Rule 57(1) formerly read as follows:

"*Rule* **57.** (1) The tariff of costs set forth in the Appendix and the regulations contained in such tariff, shall, subject to these Rules, apply to the taxation and allowance of costs and charges in all proceedings."

Priority of payment of legal costs.

(6) Legal costs shall be payable according to the following priorities:

(a) commissions on collections, which shall be a first charge on any sums collected;

(b) when duly authorized by the court or approved by the creditors or the inspectors, costs incurred by the trustee after the bankruptcy and prior to the first meeting of creditors;

(c) the costs on an assignment or costs incurred by a petitioning creditor up to the issue of a receiving order;

(d) costs awarded against the trustee or the estate of the bankrupt;

(e) costs for legal services otherwise rendered to the trustee or the estate.

Limitation of costs.

(7) Notwithstanding anything in this section, the total legal costs exclusive of disbursements for all legal services specified in paragraph *(e)* of subsection six shall not exceed ten per cent of the gross receipts less amounts paid to secured creditors, except with the approval of the inspectors and the court, and, where the amount thereby available or authorized for payment of such legal fees is insufficient, the fees shall be abated proportionately.

Limitation of costs in smaller estates.

(8) Where the gross receipts, less amounts paid to secured creditors, are certified by the trustee to be not more than one thousand dollars, or more than one thousand dollars but not more than two thousand dollars, the legal costs payable, other than disbursements, shall be reduced by one-half and one-third respectively.

(6) This is a completely new subsection for the purpose of clarifying the priority of payment of legal costs.

(a) This is merely in line with ordinary legal practice.

(b) On his appointment, certain duties are imposed on a trustee to take possession of and to conserve the assets. He should be protected as to any costs thus necessarily incurred.

(c) Costs of an assignment have previously been recognized only as a matter of equitable practice by the courts although there was no express provision therefor in the Act or Rules. This paragraph gives a legal sanction for payment.

(d) Costs awarded against the trustee or the estate must necessarily take precedence of other legal costs of the trustee.

(e) This paragraph provides for all other costs payable by a trustee.

(7) This is a revision of the former section 162(3) and (4) on which there have been conflicting decisions of the courts as to the interpretation thereof. It is also felt that the previous limitations were hardly equitable, and the limitations herein provided for would be more in line with other civil costs.

Section 162(3) and (4) formerly read as follows:

"**162.** (3) Notwithstanding anything contained herein, in estates whereof the gross proceeds do not exceed five thousand dollars, the costs or fees payable may, by unanimous vote of the inspectors, be increased to any amount not to exceed ten per centum of the gross proceeds of such estate.

(4) Except as herein otherwise provided, the aggregate amount of such costs and fees so payable out of the assets of estates whereof the gross proceeds exceed five thousand dollars shall not exceed five per centum of such gross proceeds except with the approval of the court."

(8) This was formerly Rule 57 (2). It has been revised and changed to reduce legal costs in similar estates more in line with other civil costs. Rule 57 (2) formerly read as follows:

"*Rule* **57.** (2) Where the value of the assets of the debtor estimated or realized as the case may be is according to the certificate of the trustee less than fifteen hundred dollars, the scale of fees, other than disbursements, payable in all proceedings under the Act shall be reduced by one-third."

Subsections (1), (5) and (6) of the former section 162 have been deleted. They read as follows:

"**162.** (1) All attorneys, solicitors and counsel acting for the trustee or for the estate of a debtor in respect of proceedings under this Act, shall be paid out of the assets of such estate their reasonable costs and fees as fixed in a tariff provided by General Rules."

"(5) The tariff hereinbefore mentioned shall also fix the fees to be paid to the officers of the court and shall direct by whom and in what manner such costs and fees are to be collected and accounted for and to what account they shall be paid."

"(6) The fees payable to the officers of the court shall belong to the Crown in the right of the province, but the Lieutenant-Governor in Council may allow the same in whole or in part to such officers."

PART VIII.

Bankruptcy Offences.

Bankruptcy offences.

156. Any bankrupt who

(a) fails, refuses or neglects to do any of the things required of him under section one hundred and seventeen;

(b) makes any fraudulent disposition of his property before or after bankruptcy;

(c) refuses or neglects to answer fully and truthfully all proper questions put to him at any examination held pursuant to this Act;

(d) makes a false entry or a material omission in a statement or accounting;

(e) after or within six months next preceding his bankruptcy conceals, destroys, mutilates, falsifies, makes an omission in or disposes of or is privy to the concealment, destruction, mutilation, falsification, omission from or disposition of a book or document affecting or relating to his property or affairs unless he proves that he had no intent to conceal the state of his affairs;

(f) after or within six months next preceding his bankruptcy obtains any credit or any property by false representations made by him or made by some other person to his knowledge;

(g) has within the two years preceding his bankruptcy materially contributed to or increased the extent of his insolvency by gambling or by rash or hazardous speculations not connected with his trade or business, in determining which the financial position of the bankrupt at the time when such events occurred shall be taken into consideration;

(h) after or within six months next preceding his bankruptcy fraudulently conceals or removes any property of a value of fifty dollars or more or any debt due to or from him; or

(i) after or within six months next preceding his bankruptcy pawns, pledges or disposes of any property which he has obtained on credit and has not paid for, unless in the case of a trader such pawning, pledging or disposing is in the ordinary way of trade and unless in any case he proves that he had no intent to defraud;

is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding one year or on conviction under indictment to imprisonment for a term not exceeding three years.

156. Formerly section 191, which has been greatly condensed and simplified. Section 191 read as follows:

"**191.** Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made, or who has made an authorized assignment under this Act, shall in each of the cases following be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both such fine and such imprisonment:—

(a) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee, custodian or interim receiver, all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud;

(b) If he does not deliver up to the trustee, custodian or interim receiver, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud;

(c) If he does not deliver up to the trustee, custodian or interim receiver, or as he directs, all books, documents, papers and writings in his custody, or under his control, relating to his property or affairs, unless he proves that he had no intent to defraud;

(d) If after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he conceals any part of his property to the value of fifty dollars or upwards or conceals any debt due to or from him, unless he proves that he had no intent to defraud;

(e) If after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he fraudulently removes any part of his property to the value of fifty dollars or upwards;

(f) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud;

(g) If, knowing or believing that a false debt has been proved by any person under the bankruptcy or authorized assignment, he fails for the period of a month to inform the trustee thereof;

(h) If, after the presentation of a bankruptcy petition against him or after he makes an authorized assignment, he prevents the production of any book, document, paper or writing, affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(i) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(j) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(k) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after the making of an authorized assignment by him or within six months next before the date of making thereof, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs;

(l) If, after the presentation of a bankruptcy petition against him or after the making of an authorized assignment by him or at any meeting of his creditors within six months next before such presentation or assignment, he attempts to account for any part of his property by fictitious losses or expenses;

(m) If, within six months next before the presentation of a bankruptcy petition against him or next before the date of the making of an authorized assignment by him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same;

(n) If, within six months next before the presentation of a bankruptcy petition against him or next before the date of the making of an authorized assignment by him he obtains, under the false pretence of carrying on business and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud;

(o) If, within six months next before the presentation of a bankruptcy petition against him, or next before the date of the making of an authorized assignment by him or after the presentation of a bankruptcy petition against him or the making of an authorized assignment by him he pawns, pledges or disposes of any property which he has obtained on credit and has not paid for, unless in the case of a trader such pawning, pledging or disposing is in the ordinary way of his trade and unless in any case he proves that he had no intent to defraud;

(p) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy;

(q) If he knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested, or for whom or for which he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan, or credit, the extension of a credit, the discount of any account receivable, or the making, acceptance, discount or endorsement of a bill of exchange, cheque, draft or promissory note, either for the benefit of himself or such person, firm or corporation;

(r) If he, knowing that a false statement in writing has been made respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested or for whom or for which he is acting, procures upon the faith thereof, either for the benefit of himself or such person, firm or corporation, any of the benefits mentioned in the preceding paragraph."

(g) This is a new paragraph partly taken from section 157(1) of the English Act which had not been carried into the Canadian Act and which reads as follows:

"**157.** (1) Any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, shall be guilty of a misdemeanour, if, having been engaged in any trade or business, and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business,—

(a) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business; or

(b) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or

(c) on being required by the Official Receiver at any time, or in the course of his public examination by the court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition, or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred;

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration."

Failure to disclose fact of being undischarged.

157. Where an undischarged bankrupt

(a) engages in any trade or business without disclosing to all persons with whom he enters into any business transaction that he is an undischarged bankrupt; or

(b) obtains credit for a purpose other than the supply of necessaries for himself and family to the extent of five hundred dollars or more from any person without informing that person that he is an undischarged bankrupt;

he is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding one year.

Bankrupt failing to keep proper books o faccount.

158. (1) Any person becoming bankrupt or making a proposal who has on any previous occasion been bankrupt or made a proposal to his creditors is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars and to one year's imprisonment if

(a) being engaged in any trade or business, he has not kept proper books of account during the two years immediately preceding his bankruptcy;

(b) he has not preserved all such books of account if still so engaged at the date of his bankruptcy; or

(c) after or within the two year period mentioned in paragraph *(a)* he conceals, destroys, mutilates, falsifies or disposes of, or is privy to the concealment, destruction, mutilation, falsification or disposition of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs.

Proper books of account defined.

(2) For the purposes of this section, a debtor shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual and other stock-takings.

157. Formerly section 192. The courts have held that the section does not apply to necessaries of life for the bankrupt and his family and is intended to cover only trading transactions. Section 192 formerly read as follows:

"**192.** Where an undischarged bankrupt or an undischarged authorized assignor,

(a) either alone or jointly with any other person, obtains credit to the extent of five hundred dollars or upwards from any person without informing that person that he is an undischarged bankrupt or an undischarged authorized assignor; or

(b) engages in any trade or business under a name other than that under which he was adjudicated bankrupt or made such authorized assignment without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt or made such authorized assignment;

he shall be guilty of an indictable offence and liable to a fine not exceeding five hundred dollars, or to a term not exceeding one year's imprisonment, or to both such fine and such imprisonment."

158. Formerly section 193. The exception previously contained in (2) has not been retained. Subsection (4) has been deleted as such and a redraft thereof embodied in subsection (1) as revised. Section 193 read as follows:

"**193.** (1) If any person, who has on any previous occasion been adjudged bankrupt or made an authorized assignment or extension or arrangement with his creditors, is adjudged bankrupt, makes an authorized assignment or secures or asks for a composition, extension or arrangement with his creditors, he shall be guilty of an indictable offence and liable to a fine of one thousand dollars and to one year's imprisonment if having, during the whole or any part of the two years immediately preceding the date of the presentation of the bankruptcy petition or of the making of the authorized assignment or of the securing or asking for the composition, extension or arrangement, been engaged in any trade or business, he has not kept proper books of account throughout those two years or such part thereof, as aforesaid, and if so engaged at the date of presentation of the petition or the making of the assignment or the securing or asking for the composition, extension or arrangement, thereafter, whilst so engaged, up to the date of the receiving order, or the making of the assignment or the securing or asking for the composition, extension or arrangement, or has not preserved all books of account so kept.

(2) A person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section if his unsecured liabilities at the date of the making of the receiving order, or the assignment or of the securing or asking for the composition, extension or arrangement did not exceed five hundred dollars or if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

(3) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual and other stock-takings.

(4) Paragraphs *(i)*, *(j)* and *(k)* of section one hundred and ninety-one of this Act shall, in their application to the books mentioned therein, as aforesaid, have effect as if 'two years next before the presentation of the bankruptcy petition' and 'two years next before the date of the making of an authorized assignment' were substituted for the time mentioned in those paragraphs as the time prior to such presentation or making within which the acts or omissions specified in those paragraphs constitute an offence."

False claim, etc.

159. (1) Where a creditor, or a person claiming to be a creditor, in any proceedings under this Act, wilfully and with intent to defraud, makes any false claim or any proof, declaration or statement of account, that is untrue in any material particular, he is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

Inspectors accepting unlawful fee.

(2) Where an inspector accepts from the bankrupt or from any person, firm or corporation on his behalf or from the trustee, any fee, commission or emolument of any kind other than or in addition to the regular fees provided for by this Act, he is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

Unlawful transactions.

(3) Where the bankrupt enters into any transaction with any person for the purpose of obtaining a benefit or advantage to which either of them would not be entitled, he is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding one year.

160. A person who,

Pretending to be trustee.

(a) not being a licensed trustee, does any act as, or represents himself to be, a licensed trustee;

Trustee acting without bond.

(b) being a trustee, either before providing the bond required by subsection one of section eight or after providing the bond but at any time while the bond is not in force, acts as or exercises any of the powers of trustee;

Failing to follow orders of court.

(c) having been appointed a trustee, with intent to defraud, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform any act or duty that he may be ordered to do, observe or perform by the court pursuant to this Act;

Failing to observe provisions of Act.

(d) having been appointed a trustee, without reasonable excuse, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform any act or duty that he may be ordered to do, observe or perform by the court pursuant to this Act;

Failure to perform duties when authority expired.

(e) having been appointed a trustee to any estate and another trustee having been appointed in his stead, does not deliver to the substituted trustee on demand all unadministered property of the estate, together with the books, records and documents of the estate and of his administration;

159. (1) and (2) Formerly section 194. (1) and (2) which read as follows:

"**194.** (1) If any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, or in any proceedings pursuant to the provisions of Part II of this Act for obtaining a composition, extension or arrangement of a debtor's debts or of his affairs, or in any proceedings under an authorized assignment, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account, which is untrue in any material particular, shall be guilty of an indictable offence, and shall on conviction on indictment be liable to imprisonment with or without hard labour for a term not exceeding one year.

(2) If any inspector accepts from the bankrupt or authorized assignor or from any person, firm, or corporation on his behalf or from the trustee, any fee, commission or emolument of any kind other than, or in addition to the regular fees provided for by this Act, he shall be guilty of an indictable offence and shall on conviction be liable to a fine, not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both said fine and imprisonment."

(3) This subsection is new. It is intended to curb dishonest attempts to obtain an unlawful advantage such as an offer by a bankrupt to pay a creditor's claim in full or in part to obtain his approval to a proposal or a discharge, or to have him refrain from filing objections to a proposal or a discharge. While this practice is perhaps less common in recent years yet it was notorious years ago and may again be indulged in with a recurrence of more bankruptcies in the future.

160. *(a)* to *(d)* No change. Formerly section 199 *(a)* to *(d)*.

(e) This is a new paragraph imposing a penalty to enforce compliance with the requirements of section 14 (1). Heretofore the lack of an express penalty permitted trustees to ignore their duties almost with impunity and made it much more difficult for a substituted trustee to take over the administration of an estate.

Soliciting assignment.

(f) being a trustee, solicits or canvasses a person to make an assignment under this Act; or

Soliciting proxies.

(g) being a trustee, solicits proxies to vote at a meeting of creditors;

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

Penalty for removal of bankrupt's property without notice.

161. A person, except the trustee, who, within thirty days after delivery to the trustee of the proof of claim mentioned in section fifty, or who, in case no such proof has been delivered, removes or attempts to remove the property or any part thereof mentioned in such section out of the charge or possession of the bankrupt, the trustee or other custodian of such property, unless with the written permission of the trustee, is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding two years, or to both fine and imprisonment.

Penal liability of officer, director or agent of corporation.

162. Where an offence against this Act has been committed by a corporation, every officer, director or agent of the corporation who directed, authorized, condoned or participated in the commission of the offence is liable to the like penalties as the corporation and as if he had committed the like offence personally.

Report on offences to be made by trustee.

163. (1) Whenever an official receiver or trustee has grounds for believing that an offence under this Act or under any other statute, whether of Canada or a province, has been committed with respect to any bankrupt estate in connection with which he has been acting under this Act, or that for some special reason an investigation should be had in connection with such estate, it shall be the duty of such official receiver or trustee to report such matter to the court, including in such report a statement of all the facts or circumstances of the case within his knowledge and the names of the witnesses who should in his opinion be examined and a statement as to the offence or offences believed to have been committed, and to forward a copy of such report forthwith to the Superintendent.

(f) Formerly section 199 *(e)*.

(g) This is a new paragraph. Its purpose is evident.

The concluding portion of former section 199 read as follows: "shall be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both such fine and such imprisonment".

161. Formerly section 200 which read as follows:

"**200.** Any person, except the trustee hereinafter mentioned, who, before the elapse of fifteen days after delivery to the trustee of the notice in writing mentioned in section fifty-four of this Act, or in case no such notice has been delivered, shall remove or attempt to remove the goods or any thereof mentioned in such section out of the charge or possession of the debtor or of the trustee or other actual custodian of such goods, unless with the written permission of the trustee, shall be guilty of an indictable offence and liable to a fine not exceeding five thousand dollars, or to a term not exceeding two years' imprisonment, or to both such fine and such imprisonment".

162. Formerly section 201. The final clause has been deleted. It read "and he shall be so liable cumulatively with the company and with such officers, directors or agents of the company as may likewise be liable hereunder."

163. (1) This was formerly section 195(2). The reference to the custodian has been deleted.

The former section 163 read as follows:

"**163.** (1) All proceedings in bankruptcy or under authorized assignments subsequent to the presentation of a bankruptcy petition or the making of an authorized assignment shall be entitled 'In the matter of the Bankruptcy' of the debtor, or 'In the matter of the Authorized Assignment' of the debtor, as the case may be.

(2) Subject to the provisions of this Act and to General Rules, the costs of and incidental to any proceedings in court under this Act shall be in the discretion of the court.

(3) The court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(4) The court may at any time amend any written process or proceedings under this Act upon such terms, if any, as it may think fit to impose.

(5) Where by this Act, or by General Rules, the time for doing any act or thing is limited, the court may extend the time either before or after the expiration thereof, upon such terms, if any, as the court may think fit to impose.

(6) Subject to General Rules, the court may in any matter take the whole or any part of the evidence either *viva voce*, or by interrogatories, or upon affidavit, or, out of the Dominion of Canada, by commission.

(7) Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the court may consolidate the proceedings, or any of them on such terms as the court thinks fit.

(8) Where the petitioner does not proceed with due diligence on his bankruptcy petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor, or may dismiss the petition.

(9) If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the court otherwise orders, be continued as if he were alive.

(10) The court may at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just."

Subsection (1) has been deleted. Subsection (2) is now section 155 (1). Subsections (3), (4) and (6) have been deleted. Subsection (5) is section 144 (11). Subsections (7), (8), (9) and (10) are respectively subsections (4), (13), (17) and (11) of section 21.

Report by inspectors and others.

(2) The Superintendent or a creditor, inspector or other interested person who has reasonable grounds for believing that a person is guilty of an offence under this Act or under any other statute, whether of Canada or a province, in connection with a bankrupt, his property or his transactions, may file a report with the court of the facts on which such beliefs are based, or he may make such further representations supplementary to the report of the official receiver or trustee as he may deem proper.

Court may authorize criminal proceedings.

(3) Whenever the court is satisfied, upon the representation of the Superintendent or any one on his behalf, or of the official receiver or the trustee, or of any creditor, inspector, or other interested person, that there is ground to believe that any person is guilty of an offence under this Act or under any other statute, whether of Canada or a province, in connection with the bankrupt, his property or transactions, the court may authorize the trustee to initiate proceedings for the prosecution of such person for such offence.

Initiation of criminal proceedings by the trustee.

(4) Where a trustee is authorized or directed by the creditors, the inspectors or the court to initiate proceedings against any person believed to have committed an offence, the trustee shall send or cause to be sent a copy of the resolution or order, duly certified as a true copy thereof, together with a copy of all reports or statements of the facts on which such order or resolution was based, to the Crown Attorney or the agent of the Crown duly authorized to represent the Crown in the prosecution of criminal offences in the district where the alleged offence was committed.

Substance of offence charged in indictment.

164. In an information, complaint or indictment for an offence under this Act it is sufficient to set forth the substance of the offence charged in the words of this Act, specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant or document of, any court acting under this Act.

(2) This is a new subsection to make provision for the report of a trustee being supplemented by any other facts known to the Superintendent or the creditors.

(3) This was formerly section 195(1) and has been changed to permit the court to authorize the trustee to initiate criminal proceedings instead of having the court make an order for the prosecution of an offender.

(4) This is a new subsection and sets up the procedure to initiate criminal proceedings.

164. This was formerly section 198(3). No change.

Former subsections (1) and (2) have been deleted. They were taken from section 163 of the English Act of 1914, which section was repealed in England by section 9 of the Act of 1926. So far as is known no prosecution has ever taken place under this section and it would appear that its usefulness is therefore questionable. Subsection (4) has also been deleted. Section 198(1), (2) and (4) read as follows:

"**198.** (1) Where there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of an offence under this Act, the court may commit the bankrupt or such other person for trial."

"(2) For the purpose of committing the bankrupt or such other person for trial, the court shall have power to take depositions, bind over witnesses to appear, admit the accused to bail, or otherwise."

"(4) Where any person is prosecuted for an offence under this Act no other prosecution shall be instituted against him for the same offence under any other Act."

Time within which prosecutions to be commenced.

165. A prosecution by indictment under this Act shall be commenced within five years from the time of the commission of the offence and in the case of an offence punishable on summary conviction the complaint shall be made or the information laid within three years from the time when the matter of the complaint or information arose.

PART IX.

Miscellaneous Provisions.

General Rules.

166. (1) The Governor in Council may make, alter or revoke, and may delegate to the judges of the several courts exercising bankruptcy jurisdiction under this Act the power to make, alter or revoke, General Rules not inconsistent with the terms of this Act for carrying into effect the object thereof.

Rules to be tabled.

(2) All General Rules, as from time to time made, shall be laid before Parliament within three weeks after being made or, if Parliament is not then sitting, within three weeks after the beginning of the next session.

To include forms.

(3) General Rules include forms.

To be judicially noticed.

(4) General Rules shall be judicially noticed.

Canada Gazette to be kept on file by registrars and official receivers.

Index book.

167. (1) The registrars of the courts and official receivers shall keep on file for public reference a copy of each issue of the *Canada Gazette* that contains a notice referring to bankrupts, and shall also keep an index book wherein they shall enter alphabetically the name of each bankrupt in respect of whose estate a notice may at any time appear in the *Canada Gazette*.

Creditor may make search.

(2) Any person is entitled to make a search of the *Canada Gazette* and the index book, and, when required, the registrar or official receiver shall issue a certificate of any facts contained therein relating to bankruptcy matters, on payment of the prescribed fee.

Canada Gazette to be supplied.

(3) The King's Printer, upon request of any person who is by this Act required to keep on file for public reference a copy of the *Canada Gazette*, shall regularly supply to such person, free of charge, two copies of every issue of the *Canada Gazette*.

165. This is a new section limiting the time within which prosecutions under this Act may be commenced.

166. (1) No change. Formerly section 161 (1).

(2) Formerly section 161 (3) part of which has been made into a new subsection (4). The concluding words "and shall have effect as if enacted by this Act" have been deleted. The former subsection (2) has been deleted. It read as follows:

> "**161.** (2) Such rules shall not extend the jurisdiction of the court, save and except that, for the purpose of enabling the provision of rules having application to corporations, but for such purpose only, the Winding-up Act shall be deemed part of this Act."

(3) This subsection has been included to give validity to the prescribed forms. This was formerly section 2 *(s)*. No change.

(4) Formerly part of section 161 (3).

167. Formerly section 28. The former section 28 (1) has been deleted. It read as follows:

> "**28.** (1) A notice in the prescribed form of the receiving order or assignment and of the first meeting of creditors required to be called pursuant to this Act shall, as soon as possible after the making or executing of such receiving order or assignment, be gazetted by the custodian, and not less than six days prior to said meeting be published in a local newspaper."

The provision *re* publication in a local newspaper has been transferred to section 68 (4). Section 68 (3) deals with publication in the *Canada Gazette*.

(1) Subsection (1) was formerly subsection (2) and subsection (3) of section 28.

(2) These provisions appear to have been inadvertently omitted from the Act when it was passed.

(3) No change. Formerly subsection (5).

Evidence of facts in notice.

168. A copy of the *Canada Gazette* containing any notice inserted therein in pursuance of this Act shall be *prima facie* evidence in any court or elsewhere of the facts stated in the notice.

No action against Superintendent, etc., without leave of court.

169. Except by leave of the court no action shall lie against the Superintendent, an official receiver or a trustee with respect to any report made under, or any action taken pursuant to, the provisions of this Act.

Provisions bind Crown.

170. The provisions of this Act bind the Crown in right of Canada or a province.

Repeal.

171. The enactments mentioned in the Schedule to this Act are repealed.

Coming into force.

172. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

SCHEDULE.

ENACTMENTS REPEALED.

Title	Session	Chapter
The Bankruptcy Act.....	R.S., 1927	11
An Act to amend The Bankruptcy Act...	1931	17
An Act to amend The Bankruptcy Act...	1931	18
An Act to amend The Bankruptcy Act...	1932	39

168. Formerly section 178. The changes are self-explanatory. .

The former section 168 has been deleted. It read as follows:

"**168.** Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm, but in such case the court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath or otherwise, as the court may direct."

169. Formerly section 195 (3).

The former section 169 has been deleted. It read as follows:

"**169.** Where a bankrupt or authorized assignor is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt or authorized assignor."

170. Formerly section 188. This section has been simplified. It formerly read as follows:

"**188.** Save as provided in this Act, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge, shall bind the Crown."

171. This section is self-explanatory.

172. The purpose of providing for the Act to come into force on proclamation is to afford time for the adjustments required by the changed provisions.

The former section 179 has been deleted as it is substantially contained in section 168. Section 179 read as follows:

"**179.** The production of a copy of the *Canada Gazette* containing any notice of a receiving order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date."

Former sections 181, 184, 185 and 187 are unnecessary and have been deleted. They read as follows:

"**181.** Subject to General Rules, any affidavit to be used in a court exercising jurisdiction in bankruptcy under this Act may be sworn before any person authorized to administer oaths in the court having jurisdiction or before any registrar of the court or before any officer of a court having jurisdiction in bankruptcy authorized in writing in that behalf by the court, or before a justice of the peace for the province, county or place where it is sworn, or, in the case of a person who is out of Canada, before a notary public, a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides, he being certified to be a magistrate or justice of the peace or qualified as aforesaid by a British consul or vice-consul or by a notary public."

"**184.** (1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a Sunday or a statutory holiday throughout the province where the act or proceeding is to be done or taken on a day on which the court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified.

(2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which shall not be one of the days in this section specified."

"**185.** All notices and other documents for the service of which no special mode is directed may be sent by registered and prepaid post to the last known address of the person to be served therewith."

"**187.** For all or any of the purposes of this Act, an incorporated company may act by any of its officers or employees authorized in that behalf, a firm may act by any of its members, and a lunatic may act by his committee or curator or by the guardian or curator of his property."

The former sections 189, 190, 196 (1) and 197 have also been deleted. They were as follows:

"**189.** Nothing in the provisions of this Act shall interfere with, or restrict the rights and privileges conferred on banks and banking corporations by the *Bank Act*."

"**190.** Where by this Act any body of persons is given power or authority to permit, consent or approve, and the court is given like power or authority alternatively, or otherwise than on appeal, and such body of persons has been constituted or convened, the court shall not act except upon satisfactory proof of prior application to such body of persons and its refusal of such application or its omission to announce its conclusion thereon within what the Court shall deem, according to the circumstances, a reasonable time."

"**196.** (1) Where a debtor has been guilty of any criminal offence, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition, extension or scheme of arrangement has been accepted or approved."

"**197.** Any registrar or other officer, who upon tender of any receiving order or assignment or a copy thereof, certified as aforesaid, with the proper fees, and with the request that such document be registered or filed as aforesaid, shall refuse or omit to forthwith register or file the same in manner hereinbefore indicated or who shall omit or refuse to comply with the provisions of subsection two of section twenty-eight in so far as they are applicable to him, shall be guilty of an indictable offence punishable upon indictment or summary conviction by a fine not exceeding one thousand dollars or by imprisonment for a term not exceeding one year or to both such fine and such imprisonment."

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 174 V4.

An Act to amend the Pension Fund Societies Act.

Read a first time, Monday, 31st October, 1949.

Honourable Senator Robertson.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

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1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL V4.

An Act to amend the Pension Fund Societies Act.

R.S., c. 155.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The *Pension Fund Societies Act*, chapter one hundred and fifty-five of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after section sixteen thereof, the following section:

Subsidiary corporations.

"**17.** (1) A pension fund society established under this Act may at the request of the parent corporation evidenced by a resolution of its directors admit to membership in the society upon such terms and conditions as the society may determine any officers or employees of a subsidiary corporation of the parent corporation and may

(a) provide for the support and payment of pensions to such officers and employees incapacitated by age or infirmity, and

(b) upon the death of such officers or employees, pay annuities or gratuities to their widows and minor children or other surviving relatives in such manner as by the by-laws of the society may be specified.

Application.

(2) All the provisions of this Act applicable to officers and employees of the parent corporation who are members of the society apply *mutatis mutandis* to officers and employees admitted to membership pursuant to this section.

Power to contribute and vote.

(3) A subsidiary corporation any of the officers or employees of which have been admitted to membership in a pension fund society under this section may and is hereby authorized to contribute annually or otherwise to the funds of the society, by a vote of either its directors or its shareholders, and as such contributory shall have such right to vote at general meetings of the society, on such occasions, subject to such restrictions and on such conditions as are determined by the by-laws of the society.

Explanatory Note.

The Pension Fund Societies Act provides facilities whereby officers and employees "of any Corporation legally transacting business in Canada, under any Act of the Parliament of Canada" may join a Pension Fund Society established in accordance with the Act and enjoy the prescribed benefits therefrom. It has been found that many Canadian Corporations operate or control subsidiary Corporations, officers and employees of which are precluded from participating in the benefits of Pension Fund Societies established by the parent Corporations.

The purpose of the Bill is to afford facility for the establishment of Pension Fund Societies open to officers and employees of such subsidiary Corporations.

"subsidiary corporation".

(4) In this Act, "subsidiary corporation" means a corporation legally transacting business in Canada, under any Act of the Parliament of Canada, the majority of the shares of which that have under all circumstances full voting rights is owned or controlled directly or indirectly by or for the parent corporation."

175.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 175.

An Act to amend the Excise Tax Act.

First reading, November 10, 1949.

THE MINISTER OF FINANCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
44420 1949

R.S., c. 179; 1928, c. 50; 1929, c. 57; 1930, c. 43; 1931, c. 54; 1932, c. 54; 1932-33, c. 50; 1934, c. 42; 1935, c. 33; 1936, c. 45; 1937, c. 41; 1938, c. 52; 1939, c. 52; 1939 (2nd Sess.), c. 8; 1940, c. 41; 1940-41, cc. 1, 27; 1942-43, c. 32; 1943-44, c. 11; 1944-45, c. 48; 1945 (2nd Sess.), c. 30; 1946, c. 65; 1947, c. 60; 1947-48, cc. 8., 50.

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 175.

An Act to amend the Excise Tax Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Repeal.

1. Parts IV and V of the *Excise Tax Act*, chapter one hundred and seventy-nine of the Revised Statutes of Canada, 1927, are repealed.

Stamp tax on cheques, etc.

2. Subsection one of section forty-four of the said Act is amended by striking out the words "excise stamp" where they appear therein and substituting therefor the words "excise or postage stamp".

Repeal.

3. Sections seventy-six and seventy-seven of the said Act are repealed.

4. Section seventy-seven A of the said Act is amended by adding thereto the following subsection:—

Offence.

"(7) Every person who without holding a licence under this Act for the purposes of this Part disposes of, sells, offers for sale, purchases or has in his possession, cigarette papers or cigarette paper tubes to which stamps have not been affixed as required by subsection one or two is guilty of an offence and liable on summary conviction to a penalty

Penalty.

of not less than fifty dollars and not more than two hundred dollars and in default of payment of the penalty to imprisonment for a term of not less than thirty days and not more than three months."

5. Section eighty of the said Act is amended by re-numbering subsection seven thereof as subsection five, by repealing subsection nine thereof and by adding thereto the following subsection:—

Explanatory Notes.

1. To give effect to the Budget Resolution. Part IV imposes the tax on cable, telegraph and telephone messages, and on telephone extensions. Part V imposes the tax on transportation tickets or rights of transportation and on seats, berths, and other sleeping accommodation.

2. Consequential on the permission to use adhesive postage stamps for payment of the tax as well as adhesive excise stamps. Only excise stamp meters may now be used and the amendment is to permit postage stamp meters also to be used.

3. To give effect to the Budget Resolution. Sections 76 and 77 impose the graduated tax on matches. The tax of 10% to be substituted is imposed by including matches in Schedule I to the Act. (See clause 12 of the Schedule to this Act.)

4. New. To prevent trafficking in unstamped cigarette papers and cigarette paper tubes.

5. To give effect to the Budget Resolution. The excise tax to be imposed on the manufacture or production of these articles necessitates the definitions.

Subsection nine imposes the tax of one cent per bottle on soft drinks and is repealed to give effect to the Budget Resolution. The new subsection six is to give effect to the Budget Resolution. The excise tax to be imposed on the manufacture or production of these articles necessitates the definitions. Subsections five, six and eight had previously been repealed and this is the reason for the new subsection being numbered six.

When person deemed to have manufactured, or produced watch, etc.

"(6) Where a person has, in Canada,

(a) put a clock or watch movement into a clock or watch case,

(b) put a clock or watch movement into a clock or watch case and added a strap, bracelet, brooch, or other accessory thereto, or

(c) set or mounted one or more diamonds or other precious or semi-precious stones, real or imitation, in a ring, brooch or other article of jewellery,

he shall, for the purposes of this Part, be deemed to have manufactured or produced the watch, clock, ring, brooch or other article of jewellery in Canada."

6. Subsection one of section eighty-three of the said Act is repealed and the following substituted therefor:—

Excise tax on wines.

"**83.** (1) There shall be imposed, levied and collected the following excise taxes:—

(a) a tax of twenty-five cents per gallon on wines of all kinds containing not more than seven per cent of proof spirit;

(b) a tax of fifty cents per gallon on wines of all kinds, except sparkling wines, containing more than seven per cent but not more than forty per cent of proof spirit;

(c) a tax of two dollars and fifty cents per gallon on champagne and all other sparkling wines."

7. Section eighty-five of the said Act is amended by adding thereto the following subsection:—

Person deemed manufacturer or producer.

"(2) Where a person has, in Canada,

(a) put a clock or watch movement into a clock or watch case,

(b) put a clock or watch movement into a clock or watch case and added a strap, bracelet, brooch, or other accessory thereto, or

(c) set or mounted one or more diamonds or other precious or semi-precious stones, real or imitation, in a ring, brooch or other article of jewellery,

he shall, for the purposes of this Part, be deemed to have manufactured or produced the watch, clock, ring, brooch or other article of jewellery in Canada."

8. Section one hundred and eight of the said Act is amended by adding thereto the following subsections:—

Evidence of determinations, assessments, etc., by Minister.

"(8) Where any question arises in a proceeding under this Act as to whether the Minister has formed a judgment or opinion or made an assessment or determination, a document signed by the Minister stating that he has formed the judgment or opinion or made the determination or assessment is evidence that he has formed the judgment or

6. With a view to providing a wider market for apples, attempts are being made to market a fermented cider with comparatively low alcoholic content and the proposed new rate of excise tax is to assist this industry.

7. The purpose is to apply the sales tax in the same manner as the excise tax so that the application of the two taxes is the same.

8. The amendment is necessitated by a recent judgment of the Supreme Court of British Columbia, in which it was held that an original document signed by the Minister and setting out that he had formed an opinion and made an assessment under section 113(8) could not, under the *British Columbia Evidence Act*, be received in evidence, in the absence of some statutory authority.

opinion or made the determination or assessment and of the judgment, opinion, determination or assessment.

Certificate of Deputy Minister.

(9) In any proceedings under this Act a certificate purporting to be signed by the Deputy Minister that a document annexed thereto is a document or a true copy of a document signed by the Minister shall be received as evidence of the document and of the contents thereof."

Repeal.

9. Part XVII of the said Act is repealed.

New Schedule I.

10. Schedule I to the said Act is repealed and Schedule I to this Act is substituted therefor.

Repeal.

11. Sections four and five of Schedule II to the said Act are repealed.

Schedule III. amended.

12. (1) Schedule III to the said Act is amended by adding thereto the following words under the heading of "Foodstuffs":—

"Lactose;

Malt syrup, except when sold for beverage purposes;"

Idem.

(2) Schedule III to the said Act is further amended by adding thereto immediately after the words "motor vehicles" under the heading "Machinery and Apparatus to be used in Manufacture or Production", the following:

"except diesel powered self-propelled trucks, mounted on rubber tired wheels, for off-highway use exclusively at mines or quarries, and complete parts thereof;"

Idem.

(3) Schedule III to the said Act is further amended

(a) by striking out under the heading "Processing Materials" the words "or fuel oils", and

(b) by striking out under the heading "Miscellaneous" the words "Fuel other than in liquid form" and substituting therefor "Fuel for lighting or heating, but not including fuel when for use in internal combustion engines; crude oil to be used in the production of fuel."

Repeal.

13. Schedule VI to the said Act is repealed.

Coming into force.

14. (1) This Act, except sections two, four, five, six, seven and eight, and subsection three of section twelve, shall be deemed to have come into force on the twenty-third day of March, nineteen hundred and forty-nine.

Idem.

(2) Sections five and seven shall be deemed to have come into force on the second day of May, nineteen hundred and forty-nine.

Idem.

(3) Section six and subsection three of section twelve shall be deemed to have come into force on the twenty-first day of October, nineteen hundred and forty-nine.

Coming into force of Secs. 2, 4, 8.

(4) Sections two, four and eight shall come into force on the day of assent to this Act.

9. To give effect to the Budget Resolution. Part XVII imposes the retail purchase tax.

10. To give effect to the Budget Resolution.

The changes in the Schedule are lined and may be summarized as follows:—

The repeal of the excise tax on motor buses; soft drinks; chocolate, candy, and confectionery; chewing gum;

The reduction of the excise tax from twenty-five per cent to ten per cent on toilet articles; devices commonly or commercially known as lighters; disc or token operated slot machines and vending machines;

The reduction of the excise tax from thirty-five per cent to ten per cent on trunks, suitcases, bags and luggage of all kinds; ash trays; tobacco pipes, and smokers' accessories; fountain pens, propelling pencils, and desk accessories;

Provision is made for substitution of a ten per cent ad valorem tax on matches instead of the graduated tax;

Provision is also made for changing the specific tax of five cents per pound on tires and tubes to an ad valorem tax of ten per cent;

Provision is also made for applying a manufacturer's excise tax of ten per cent to the articles formerly subject to the retail purchase tax.

11. To give effect to the Budget Resolution. To repeal the specific tax on tires and tubes and on carbonic acid gas.

12. To give effect to the Budget Resolution with respect to the articles mentioned.

13. To give effect to the Budget Resolution. Schedule VI listed the articles that were subject to the retail purchase tax which is being repealed.

SCHEDULE I.

1. Automobiles adapted or adaptable for passenger use, with seating capacity for not more than ten persons each ..... ten per cent;

Provided that the tax on automobiles shall apply on the total price charged for such automobiles, which price shall include all charges for accessories, optional equipment, advertising, financing, servicing, warranty, or any other charges contracted for at the time of sale, whether charged for separately or not;

Provided, further, that the tax shall not apply to automobiles imported under Customs Tariff items 702, 704, 705a, 706, 707, and 708.

2. Articles, materials or preparations of whatever composition or in whatever form, commonly or commercially known as toilet articles, preparations or cosmetics, which are intended for use or application for toilet purposes, or for use in connection with the care of the human body, including the hair, nails, eyes, teeth, or any other part or parts thereof, whether for cleansing, deodorizing, beautifying, preserving or restoring, and to include shaving soaps and shaving creams, antiseptics, bleaches, depilatories, perfumes, scents and similar preparations ..... ten per cent.

3. Toilet soaps, not to include shaving soaps or shaving creams ..... five per cent.

4. Devices, commonly or commercially known as lighters, which produce sparks, flame or heat, whether or not in combination with other articles, on the separate or combined value, as the case may be ..... ten per cent;

Provided that in any case the tax hereby imposed shall not be less than ten cents in respect of each such device.

5. Cameras and unexposed photographic films and plates, except those sold for industrial or professional photographers' use; projectors for pictures except those sold for commercial, religious, or educational purposes ..... ten per cent.

6. Phonographs, record playing devices, radio broadcast or telecast receiving sets and tubes therefor ..... ten per cent.

7. Coin, disc or token operated slot machines and vending machines; coin, disc or token operated games or amusement devices of all kinds ..... ten per cent:

SCHEDULE I

Schedule I at present reads:—

"1. *(a)* Automobiles adapted or adaptable for passenger use, with seating capacity for not more than ten persons each.....ten per cent;.

(b) Automobiles adapted or adaptable for passenger use, with seating capacity for more than ten persons.....five per cent.;

Provided that the tax on automobiles shall apply on the total price charged for such automobiles, which price shall include all charges for accessories, optional equipment, advertising, financing, servicing, warranty, or any other charges contracted for at the time of sale, whether charged for separately or not;

Provided, further, that the tax shall not apply to automobiles imported under Customs Tariff items 702, 704, 705a, 706, 707 and 708.

2. Articles, materials or preparations of whatever composition or in whatever form, commonly or commercially known as toilet articles, preparations or cosmetics, which are intended for use or application for toilet purposes, or for use in connection with the care of the human body, including the hair, nails, eyes, teeth, or any other part or parts thereof, whether for cleansing, deodorizing, beautifying, preserving or restoring and to include shaving soaps and shaving creams, antiseptics, bleaches, depilatories, perfumes, scents and similar preparations.....twenty-five per cent.

3. Toilet soaps, not to include shaving soaps or shaving creams.....five per cent.;

4. Devices, commonly or commercially known as lighters, which produce sparks, flame or heat, whether or not in combination with other articles, on the separate or combined value, as the case may be.....twenty-five per cent.;

Provided that in any case the tax hereby imposed shall not be less than ten cents in respect of each such device.

5. Cameras, photographic films and plates, projectors for slides, films or pictures, except those designed exclusively for industrial or professional photographers' use..ten per cent.;

Provided that the tax is not applicable to sixteen millimetre projectors.

6. Phonographs, record playing devices, radio broadcast receiving sets and tubes therefor.....ten per cent.

7. Coin, disc or token operated slot machines and vending machines; coin, disc or token operated games or amusement devices of all kinds.....twenty-five per cent.;

Provided that the tax hereby imposed shall not apply to coin collectors used on pay telephones, turnstiles for collecting tolls or charges, coin operated locking devices, nor gas, electric or parking meters.

8. Unfermented fruit juice beverages (not including beverages at least ninety-five per cent. of which consists of pure juice of the fruit) and imitations thereof, carbonated beverages or aerated waters and all other compounded or mixed soft drinks, put up in bottles for sale.....twenty-five per cent.

9. Chocolate, candy and confectionery which may be classed as candy or a substitute for candy.....thirty per cent.;

Provided, however, that in respect of the goods mentioned in this section the tax shall be:—

One cent on each article or unit selling regularly at a retail price of five cents;

Two cents on each article or unit selling regularly at a retail price of ten cents;

Three cents on each article or unit selling regularly at a retail price of fifteen cents;

and the Minister of National Revenue shall be the sole judge of the classification of the said goods, and the value, and the unit of the sale thereof for purposes of this tax.

10. Chewing gum.....thirty per cent.

11. Trunks; suitcases; bags and luggage of all kinds; purses; wallets; billfolds; key and card cases; handbags; jewel cases; dressing and toilet cases; shopping bags, except paper bags; golf and other sports bags; all the foregoing whether fitted or not.thirty-five per cent.;

Provided that the tax hereby imposed shall not apply to the goods mentioned herein when manufactured expressly for a customer for his use in the operation of his business or profession.

12. Ash trays; tobacco pipes; cigar and cigarette holders; cigarette rolling devices and other smokers' accessories, not to include lighters, matches or tobacco...thirty-five per cent.

13. Fountain pens; propelling pencils; desk sets and all other desk accessories .....thirty-five per cent.

14. Cigars.....twenty-five per cent.

Provided that the sale price of cigars manufactured in Canada shall include the amount of excise duty payable thereon under the *Excise Act*."

Provided that the tax hereby imposed shall not apply to coin collectors used on pay telephones, turnstiles for collecting toll or charges, coin operated locking devices, nor gas, electric or parking meters.

8. Trunks; suitcases; bags and luggage of all kinds; purses; wallets; billfolds; key and card cases; handbags; jewel cases; dressing and toilet cases; shopping bags, except paper bags; golf and other sports bags; all the foregoing whether fitted or not.....ten per cent;

Provided that the tax hereby imposed shall not apply to the goods mentioned herein when manufactured expressly for a customer for his use in the operation of his business or profession.

9. Ash trays; tobacco pipes; cigar and cigarette holders; cigarette rolling devices and other smokers' accessories, not to include lighters, matches or tobacco.....ten per cent.

10. Fountain pens; ball-point pens; ink pencils; propelling pencils; desk sets and all other desk accessories....ten per cent.

11. Cigars.....twenty-five per cent;

Provided that the sale price of cigars manufactured in Canada shall include the amount of excise duty payable thereon under the *Excise Act*.

12. Matches.....ten per cent.

13. Tires and tubes:—

(a) Tires in whole or in part of rubber for automotive vehicles of all kinds, including trailers or other wheeled attachments used in connection with any of the said vehicles.....ten per cent;

(b) Inner tubes for use in any such tires.....ten per cent;

Provided that the tax hereby imposed shall not apply to the goods mentioned herein when used exclusively for the original equipment of such automotive vehicles.

14. *(a)* Clocks and watches adapted to household or personal use, except railway men's watches, and those specially designed for the use of the blind, and alarm clocks where the sale price by the Canadian manufacturer or the duty paid value of those imported does not exceed ten dollars.....ten per cent;

(b) Articles of all kinds made in whole or in part of ivory, jet, amber, coral, mother of pearl, natural shells, tortoise shell, jade, onyx, lapis lazuli, or other semi-precious stones.....ten per cent;

Provided that the tax on the articles enumerated in subsections (*a*) and (*b*) of this section shall not apply to the goods mentioned where the sale price by the Canadian manufacturer, or the duty paid value of the goods imported, does not exceed one dollar.

(c) Articles commonly or commercially known as jewellery, whether real or imitation, including diamonds and other precious or semi-precious stones for personal use or for adornment of the person; goldsmiths' and silversmiths' products except plated table knives, forks and spoons; pewter ware;

Articles of cut glassware, crystal glassware, cut or not, etched glassware, or metal decorated glassware;

Articles of china, porcelain, earthenware, marble, stoneware or other pottery ware, except articles for use in the preparation or serving of food or drink.....ten per cent;

Provided that the tax on the articles enumerated in subsection *(c)* of this section shall not apply to the goods mentioned where the sale price by the Canadian manufacturer, or the duty paid value of the goods imported, does not exceed fifty cents.

First Session, Twenty-First Parliament, 13-14 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 176.

An Act to amend The Income Tax Act and the Income War Tax Act.

First reading, November 10, 1949.

THE MINISTER OF FINANCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
38113 1949

R.S., c. 97; 1928, cc. 12, 30 1930, c. 24; 1931, c. 35; 1932, cc. 43, 44; 1932-33, cc. 14, 15, 41; 1934, cc. 19. 55; 1935, cc. 22, 40; 1936, cc. 6, 38; 1938, c. 48; 1939 (1st Sess.), c. 46; 1939 (2nd Sess.), c. 6; 1940, c. 34; 1940-41, c. 18; 1942-43, c. 28; 1943-44, c. 14; 1944-45, c. 43; 1945, c. 23; 1946, c. 55; 1947, c. 63; 1947-48, c. 53. 1947-48, c. 52.

1st Session, 21st Parliament, 13-14 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 176.

An Act to amend The Income Tax Act and the Income War Tax Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Income from office or employment.

1. (1) Paragraph *(b)* of section five of *The Income Tax Act*, chapter fifty-two of the statutes of 1947-48, is amended by deleting the word "or" at the end of subparagraph (ii) thereof and by adding the following subparagraphs thereto:

"(iv) reasonable allowances for travelling expenses received by an employee from his employer in respect of a period when he was employed in connection with the selling of property or negotiating of contracts for his employer, or

(v) reasonable allowances received by a minister or clergyman in charge of or ministering to a diocese, parish or congregation for expenses for transportation incident to the discharge of the duties of his office or employment."

Idem.

(2) All that portion of the said section five after paragraph *(b)* thereof is repealed and the following substituted therefor:

"minus the deductions permitted by paragraphs *(g)*, *(j)* and *(o)* of subsection (1) of section 11 and by subsections (5), (6) and (7) of section 11 but without any other deductions whatsoever."

Application of section.

(3) This section is applicable to 1949 and subsequent taxation years.

Loan to shareholder.

2. (1) Paragraph *(c)* of subsection two of section eight of *The Income Tax Act* is repealed and the following substituted therefor:

"*(c)* to an officer or servant of the corporation to enable or assist him to purchase from the corporation fully paid shares of the corporation to be held by him for his own benefit."

Explanatory Notes.

Clause 1. (1) New. The rule, subject to specified exceptions, is that all allowances must be included in income from an office or employment. This clause makes further exceptions to the rule for commercial travellers and clergymen.

(2) This amendment is consequential upon the amendments to section 11 contained in clause 4.

Section 5 provides for income from offices or employments and these are the deductions allowed. The present provision reads:

> "minus the deductions permitted by paragraphs *(g)* and *(j)* of subsection (1) of section 11 and by subsections (7) and (8) of section 11 but without any other deductions whatsoever."

Clause 2. This amendment is to make it clear that this exception from the rule that loans to a shareholder are taxable is limited to loans for the purchase of shares from the corporation.

The present provision reads:—

> "*(c)* to an officer or servant of the corporation to enable or assist him to purchase fully paid shares of the corporation to be held by him for his own benefit."

(2) The paragraph *(c)* enacted by subsection one is applicable only to loans made on or after the seventh day of November, 1949, and the paragraph *(c)* repealed by subsection one is applicable to loans made before that day.

3. (1) Section nine of *The Income Tax Act* is amended by adding the following subsection thereto:

n. "(10) Notwithstanding subsection (9), subsections (1), (2) and (3) are not applicable where the corporation is a non-resident corporation

(a) the shares of which are listed on a recognized stock exchange, and

(b) more than 50% of the share capital of which (having full voting rights under all circumstances) belongs to non-residents."

(2) This section is applicable to the 1949 and subsequent taxation years.

4. (1) Subsection one of section eleven of *The Income Tax Act* is amended by repealing all that portion thereof before paragraph *(a)* thereof and substituting the following therefor:

Deductions allowed. "Notwithstanding paragraphs *(a)*, *(b)* and *(h)* of subsection (1) of section 12, the following amounts may be deducted in computing the income of a taxpayer for a taxation year:"

(2) Subsection one of the said section eleven is further amended by deleting the word "and" at the end of paragraph *(m)* thereof, by adding the word "and" at the end of paragraph *(n)* thereof and by adding the following paragraph thereto:

Clergymen's residences. "*(o)* where a taxpayer is a member of the clergy or a religious order or is a regular minister of a religious denomination, an amount equal to

(i) the value of the residence or other living accommodation occupied by him in the course of or by virtue of his office or employment as a member of the clergy or a religious order or as a regular minister of a religious denomination, to the extent that such value is included in computing his income by virtue of section 5, or

(ii) rent paid by him for a residence or other living accommodation rented and occupied by him, or the fair rental value of a residence or other living accommodation owned and occupied by him, during the year but not, in either case, exceeding his remuneration from his office or employment as a member of the clergy or a religious order or as a regular minister of a religious denomination."

Clause 3. New. This amendment relieves residents of Canada from tax liability which would otherwise arise through the action of foreign corporations in winding-up or on the redemption or conversion of common shares or capitalization of surplus.

Clause 4. (1) This amendment is a technical correction in the introductory words to section 11 (1) of the Act. The words repealed read as follows:

"Notwithstanding any other provision in this Division, the following amounts may, subject to subsections (2) and (3) of section 12, be deducted in computing the income of a taxpayer for a taxation year".

(2) New. This amendment is to carry out the terms of paragraph 7 of the Income Tax Resolution, which reads as follows:

"7. That, for the purpose of computing income of the 1948 and subsequent taxation years of a member of the clergy or of a religious order or a regular minister of a religious denomination there may be deducted the value of the residence or other living accommodation enjoyed by him as such member or minister to the extent that it would otherwise be included in his income or the rent paid by him for or the fair rental value of such a residence or living accommodation."

(3) Subsections three to eight, inclusive, of the said section eleven are repealed and the following substituted therefor:

Lessee's share of certain allowances.

"(3) Where a deduction is allowed under paragraph *(b)* of subsection (1) in respect of an oil or gas well, mine or timber limit operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions."

Banks.

"(4) Notwithstanding paragraphs *(a)* and *(b)* of subsection (1) of section 12, there may be deducted, in computing the income for a taxation year of a blank to which *The Bank Act* or the *Quebec Savings Bank Act* applies, such amount as is set aside or reserved for the year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister of Finance, having regard to all the circumstances, not in excess of the reasonable requirements of the bank.

1934, c. 34. R.S., c. 14.

Relieving telegrapher's and station agent's expenses.

"(5) Notwithstanding paragraphs *(a)* and *(h)* of subsection (1) of section 12, a taxpayer may deduct in computing his income for a taxation year amounts disbursed by him for meals and lodging while employed by a railway company away from his ordinary place of residence as a relieving telegrapher or station agent or on maintenance and repair work to the extent that he has not been reimbursed and is not entitled to be reimbursed in respect thereof.

Salesmen.

"(6) Where a person in a taxation year was employed in connection with the selling of property or negotiating of contracts for his employer, and

(a) under the contract of employment was required to pay his own expenses,

(b) was ordinarily required to carry on the duties of his employment away from his employer's place of business,

(c) was remunerated in whole or part by commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated, and

(d) was not in receipt of an allowance for travelling expenses in respect of the taxation year that was, by virtue of subparagraph (iv) of paragraph *(b)* of section 5, not included in computing his income,

(3) Subsections 3, 4 and 5 now read:—

(3) Where a deduction is allowed under paragraph *(b)* of section 1 in respect of an oil or gas well, mine or timber limit operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and in the event that they cannot agree, the Minister may fix the portions.

(4) Where property has been acquired by gift, bequest or inheritance by a taxpayer, the capital cost thereof to him shall, for the purpose of paragraph *(a)* of subsection (1), be deemed to have been the fair market value thereof at the time he so acquired it.

(5) Where a deduction has been made in computing the income of a taxpayer for one or more taxation years as permitted by paragraph *(a)* of subsection (1) in respect of property and the regulation by which the deduction was allowed described the allowance as "extra depreciation" or "special depreciation", if the property has been subsequently sold for an amount in excess of

(a) the capital cost of the property

minus

(b) the aggregate of all amounts deducted in respect of the property under paragraph *(a)* of subsection (1) and under paragraph *(n)* of subsection (1) of section 6 of the *Income War Tax Act*,

the Minister may revise the taxpayer's assessment for the taxation years in which amounts so decscribed as "extra depreciation" or "special depreciation' were deducted by adding to the income for each year such amount as may be prescribed and reassessing the tax payable accordingly.

Subsection 3 is amended to correct the reference from "section 1" to "subsection 1". The old subsections 4 and 5 dealt with deductions for depreciation, this will now be dealt with by clause 20 of this Bill. The new subsection 4 is the old subsection 6 with a technical correction in the cross reference but no change in substance. Subsection 5 is new. Subsection 6 is the old subsection 7 amended only by adding paragraph *(d)* and a technical correction to the cross reference. Subsection 7 is the old subsection 8 amended only by a technical correction in the cross reference.

there may be deducted in computing his income for the year, notwithstanding paragraphs *(a)* and *(h)* of subsection (1) of section 12, amounts expended by him in the year for the purpose of earning the income from the employment not exceeding the commissions or other similar amounts fixed as aforesaid received by him in the year.

Expenses of Transport employees.

"(7) Notwithstanding paragraphs *(a)* and *(h)* of subsection (1) of section 12, where a taxpayer was an employee of a person whose principal business was passenger, goods, or passenger and goods transport and the duties of the employment required him, regularly,

(a) to travel, away from the municipality where the employer's establishment to which he reported for work was located and away from the metropolitan area, if there is one, where it was located, on vehicles used by the employer to transport the goods or passengers, and

(b) while so away from such municipality and metropolitan area, to make disbursements for meals and lodging,

amounts so disbursed by him in a taxation year may be deducted in computing his income for the taxation year to the extent that he has not been reimbursed and is not entitled to be reimbursed in respect thereof."

Application of section.

(4) This section is applicable to the 1949 and subsequent taxation years.

Deductions allowed.

5. In computing income under the *Income War Tax Act* for the 1948 taxation year,

(a) an amount shall not be included if, by virtue of subparagraph (iv) or (v) of paragraph *(b)* of section five of *The Income Tax Act*, it would not be included in computing income under that Act if that Act were applicable to the year; and

(b) such amounts may be deducted as would be deductible under paragraph *(o)* of subsection one of section eleven or subsection five of section eleven of *The Income Tax Act* in computing income under that Act if that Act were applicable to the year.

6. (1) Section seventeen of *The Income Tax Act* is amended by inserting the following subsection therein immediately after subsection three thereof:

Inadequate considerations.

"(3A) Where a non-resident person has paid, or agreed to pay, to a taxpayer carrying on business in Canada with whom he was not dealing at arms length as price, rental royalty or other payment for use or reproduction of any property an amount computed at a rate lower than that at which similar payments by other persons in the same kind

Clause 5. This makes the amendments affecting clergymen contained in sub-clause (1) of clause 1 and sub-clause (2) of clause 4 applicable under the *Income War Tax Act* to the 1948 taxation year.

Clause 6. New. This amendment supplements the existing provisions of the law regarding transactions between persons not dealing at arms length.

of business are computed, an amount computed at the rate at which similar payments are made by such other persons shall, for the purpose of computing the taxpayer's income from the business, be deemed to have been the amount that was paid or is payable therefor."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

7. (1) Section twenty of *The Income Tax Act* is repealed and the following substituted therefor:

Depreciation.

"**20.** (1) Where depreciable property of a taxpayer of a prescribed class has, in a taxation year, been disposed of and the proceeds of disposition exceed the undepreciated capital cost to him as of the beginning of the year of depreciable property of that class, the lesser of

(a) the amount of the excess, or

(b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the taxpayer,

shall be included in computing his income for the year.

Idem.

(2) Where depreciable property did, at any time after the commencement of 1949, belong to one person (hereinafter referred to as the original owner) and has, by one or more transactions between persons not dealing at arms length, become vested in a taxpayer, the following rules are, notwithstanding section 17, applicable for the purposes of this section and regulations made under paragraph *(a)* of subsection (1) of section 11:

(a) the capital cost of the property to the taxpayer shall be deemed to be the amount that was the capital cost of the property to the original owner;

(b) where the capital cost of the property to the original owner exceeds the actual capital cost of the property to the taxpayer, the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph *(a)* of subsection (1) of section 11 in computing income for taxation years before the acquisition thereof by the taxpayer.

Idem.

(3) In this section and regulations made under paragraph *(a)* of subsection (1) of section 11,

(a) 'depreciable property of a taxpayer' as of any time in a taxation year means property in respect of which the taxpayer has been allowed, or is entitled to, a deduction under regulations made under paragraph *(a)* of subsection (1) of section 11 in computing income for that or a previous taxation year;

Clause 7. The section 20 repealed reads:

"**20.** Where a corporation has been allowed a deduction from tax under this Act for a previous taxation year in respect of taxes paid to the government of a country other than Canada, the corporation's income for a taxation year shall be deemed to be not less than its income for the year from all sources outside that country."

The new section numbered 20 carries out the new scheme for depreciation which is being adopted by regulation under paragraph *(a)* of subsection (1) of section 11.

(b) 'disposition of property' includes any transaction or event entitling a taxpayer to proceeds of disposition of property;

(c) 'proceeds of disposition' of property include

(i) the sale price of property that has been sold,

(ii) compensation for property damaged, destroyed, taken or injuriously affected, either lawfully or unlawfully, or under statutory authority or otherwise,

(iii) an amount payable under a policy of insurance in respect of loss or destruction of property, and

(iv) an amount payable under a policy of insurance in respect of damage to property except to the extent that the amount has, within a reasonable time after the damage, been expended on repairing the damage;

(d) 'total depreciation allowed to a taxpayer' before any time for property of a prescribed class means the aggregate of all amounts allowed to the taxpayer in respect of property of that class under regulations made under paragraph *(a)* of subsection (1) of section 11 in computing income for taxation years before that time; and

(e) 'undepreciated capital cost to a taxpayer of depreciable property' of a prescribed class as of any time means the capital cost to the taxpayer of depreciable property of that class acquired before that time minus the aggregate of

(i) the total depreciation allowed to the taxpayer for property of that class before that time, and

(ii) for each disposition before that time of property of the taxpayer of that class, the least of

(A) the proceeds of disposition thereof,

(B) the capital cost to him thereof, or

(C) the undepreciated capital cost to him of property of that class immediately before the disposition.

Idem.

(4) For the purpose of this section and regulations made under paragraph *(a)* of subsection (1) of section 11, the following rules apply:

(a) where a taxpayer, having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, he shall be deemed to have disposed of it at that later time at its fair market value at that time;

(b) where a taxpayer, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, he shall be deemed to have acquired it at that later time at its fair market value at that time;

(c) where a taxpayer has acquired property by gift, bequest or inheritance, the capital cost to him shall be deemed to have been the fair market value thereof at the time he so acquired it;

(d) where a taxpayer has given property away otherwise than by will, he shall be deemed to have disposed of it at the time of the gift at its fair market value at that time;

(e) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the taxpayer shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to him equal to the same proportion of the capital cost to him of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property;

(f) where, at any time after a taxpayer has acquired property, there has been a change in the relation between the use made by him of the property for gaining or producing income and the use made of the property for other purposes, the property shall, for the purpose of paragraph *(e)*, be deemed to have been disposed of at that time by the taxpayer at its fair market value at that time and to have been reacquired at the same time at a capital cost equal to the same amount;

(g) where an amount can reasonably be regarded as being in part the consideration for disposition of depreciable property of a taxpayer of a prescribed class and as being in part consideration for something else, the part of the amount that can reasonably be so

regarded shall be deemed to be the proceeds of disposition of the depreciable property of that class irrespective of the form or legal effect of the contract or agreement;

(h) where a taxpayer has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, the capital cost of the property shall be deemed to be the capital cost thereof to the taxpayer minus the amount of the grant, subsidy or other assistance.

Idem. (5) In paragraphs *(a)*, *(b)*, *(e)* and *(f)* of subsection (4), in the case of a non-resident taxpayer, 'business' means a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada."

Application of section. (2) This section is applicable to the 1949 and subsequent taxation years.

Transitional provisions re depreciation. **8.** (1) Where a taxpayer has acquired depreciable property before the commencement of the 1949 taxation year, the following rules are applicable for the purpose of section twenty of *The Income Tax Act* and regulations made under paragraph *(a)* of subsection one of section eleven of *The Income Tax Act:*

(a) except in a case to which paragraph *(b)* applies, all such property shall be deemed to have been acquired at the commencement of that year at a capital cost equal to

(i) the actual capital cost (or the capital cost as it is deemed to be by subsection (3) or (4)) of such of the said property as the taxpayer had at the commencement of that year,

minus the aggregate of

(ii) the total amount of depreciation for such of the said property as he had at the commencement of that year that, since the commencement of 1917, has been or should have been taken into account, in accordance with the practice of the Department of National Revenue, in ascertaining the taxpayer's income for the purpose of the *Income War Tax Act*, or in ascertaining his loss for a year for which there was no income under that Act, minus the aggregate of

(A) all deductions allowed to the taxpayer in computing his income for the purpose of the *Income War Tax Act* as "special depreciation", "extra depreciation" or allowances in lieu of depreciation for property he had at the commencement of the 1949 taxation year (except deductions allowed under subparagraph (ii) of paragraph *(n)* of subsection one of section six of the *Income War Tax Act)*, and

Clause 8. The provisions in this clause are transitional to establish the initial position of taxpayers for the application of the new principles of depreciation.

(B) one-half of all amounts allowed to the taxpayer under subparagraph (ii) of paragraph *(n)* of subsection one of section six of the said Act for property he had at the commencement of the 1949 taxation year, and

(iii) any accumulated depreciation reserves that he had at the commencement of 1917 and that were recognized by the Minister for the purpose of the *Income War Tax Act* for property that he had at the commencement of the 1949 taxation year;

(b) in the case of a taxpayer who was resident in Newfoundland on the expiration of March 31, 1949, and was not resident in Canada in 1949 prior to that time, all such property shall be deemed to have been acquired at the commencement of that year at a capital cost equal to

(i) the capital cost of such of the said property as the taxpayer had at the commencement of that year,

minus

(ii) the greater of

(A) one-half the total amount of depreciation for such of the said property as he had at the commencement of that year that he would have been allowed since the commencement of 1917 if he had been allowed depreciation under the *Income War Tax Act* for each of the years since that time during which he had the property at the normal rates used in accordance with the practice of the Department of National Revenue, or

(B) the accumulated depreciation reserves that he had at the commencement of 1949;

(c) the aggregate of

(i) all deductions allowed to the taxpayer in computing his income for the purpose of the *Income War Tax Act* as "special depreciation", "extra depreciation" or allowances in lieu of depreciation for property he had at the commencement of the 1949 taxation year (except deductions allowed under subparagraph (ii) of paragraph *(n)* of subsection one of section six of the *Income War Tax Act)*, and

(ii) one-half of all amounts allowed to the taxpayer under subparagraph (ii) of paragraph *(n)* of subsection one of section six of the said Act for property that he had at the commencement of the 1949 taxation year,

shall be deemed to have been allowed to him under regulations made under paragraph *(a)* of subsection one of section eleven of *The Income Tax Act* in computing income for a taxation year before the 1949 taxation year.

Provisoes not applicable.

(2) The second and third provisoes to paragraph *(n)* of subsection one of section six of the *Income War Tax Act* are not applicable to sales made after the commencement of the 1949 taxation year.

Capital cost of property deemed lesser of actual capital cost.

(3) Where property did belong to one person (hereinafter referred to as the original owner) and has by one or more transactions prior to 1949 between persons not dealing at arms length become vested in a taxpayer who had it at the commencement of the 1949 taxation year (or who acquired it during his 1949 taxation year from a person whose 1948 taxation year had not expired at the time of the acquisition), the capital cost of the property to the taxpayer shall, for the purpose of subparagraph (i) of paragraph *(a)* of subsection one, be deemed to be the lesser of the actual capital cost of the property to the taxpayer or the amount by which

(a) the capital cost of the property to the original owner exceeds

(b) the aggregate of

(i) the total amount of depreciation for the property that, since the commencement of 1917, has been or should have been taken into account in accordance with the practice of the Department of National Revenue, in ascertaining the income of the original owner and all intervening owners for the purpose of the *Income War Tax Act*, or in ascertaining a loss for a year when there was no income under that Act, and

(ii) any accumulated depreciation reserves that the original owner or an intervening owner had for the property at the commencement of 1917 and that were recognized by the Minister for the purpose of the *Income War Tax Act*.

In case of assistance for the acquisition of property.

(4) Where a taxpayer has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public service in respect of or for the acquisition of property, the capital cost of the property shall, for the purpose of subparagraph (i) of paragraph *(a)* of subsection one, be deemed to be the capital cost thereof to the taxpayer minus the amount of the grant, subsidy or other assistance.

9. (1) *The Income Tax Act* is further amended by inserting the following section immediately after section twenty-four thereof:

Payments by employer to employee.

"**24A.** An amount received by one person from another,

(a) during a period while the payee was an officer of, or in the employment of, the payer, or

(b) on account or in lieu of payment of, or in satisfaction of, an obligation arising out of an agreement made by the payer with the payee immediately prior to, during or immediately after a period that the payee was an officer of, or in the employment of, the payer,

shall be deemed, for the purpose of section 5, to be remuneration for the payees' services rendered as an officer or during the period of employment, unless it is established that, irrespective of when the agreement, if any, under which the amount was received was made or the form or legal effect thereof, it cannot reasonably be regarded as having been received

(i) as consideration or partial consideration for accepting the office or entering into the contract of employment,

(ii) as remuneration or partial remuneration for services as an officer or under the contract of employment, or

(iii) in consideration or partial consideration for covenant with reference to what the officer or employee is, or is not, to do before or after the termination of the employment."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

Computation of taxable income.

10. (1) Section twenty-five of *The Income Tax Act* is amended by substituting the amount "$2,000.00" for the amount "$1,500.00" wherever the latter amount appears therein, by substituting the amount "$1,000.00" for the amount "$750.00" wherever the latter amount appears therein, by substituting the amount "$400.00" for the amount "$300.00" wherever the latter amount appears therein and by substituting the amount "$150.00" for the amount "$100.00" wherever the latter amount appears therein.

Limitation on deduction of spouse.

(2) Paragraphs *(a)* and *(b)* of subsection two of the said section twenty-five are repealed and the following substituted therefor:

"*(a)* has income for the year while married exceeding $250 and not exceeding $1,000, the deduction of $2,000 allowed the married person by paragraph *(a)* of subsection (1) shall be reduced by the amount by which the spouse's income exceeds $250, or

Clause 9. New. This is to carry out paragraph 9 of the Resolution, which reads:

"**9.** That, for the 1949 and subsequent taxation years, all amounts whether in the form of lump sums or otherwise, received by employees from their employers, whether before, during or after their employment, shall be included in computing income of the employee unless it is established that they cannot reasonably be regarded as consideration for entry into the employment, remuneration for services or consideration for restrictions on the activities of the employee."

Clause 10. (1) This clause is to carry out paragraphs 1 and 8 of the Resolution, which read as follows:

"**1.** That, for the 1949 and subsequent taxation years, the following shall be the exemptions from individual income tax:—

(a) $2,000 in the case of a married person and persons allowed a deduction equivalent to that of a married person and $1,000 in the case of all other persons; and

(b) $400 in the case of dependents not eligible for family allowances, $150 in the case of children eligible for family allowances."

"**8.** That, for the 1949 and subsequent taxation years, the exemption from income of an individual in respect of a spouse supported by him shall not be reduced because of exempt income of the spouse."

(2) The present paragraphs *(a)* and *(b)* which deal with a married person's income where the spouse has income read as follows:—

"*(a)* has income plus exempt income other than family allowances for the year while married exceeding $250 and not exceeding $750, the deduction of $1,500 allowed the married person by paragraph *(a)* of subsection (1) shall be reduced by the amount by which the spouse's income plus exempt income exceeds $250, or

(b) has income plus exempt income other than family allowances for the year while married exceeding $750, each spouse is entitled to the deduction permitted by paragraph *(b)* of subsection (1) and not that permitted by paragraph *(a)* thereof;

(b) has income for the year while married exceeding $1,000, each spouse is entitled to the deduction permitted by paragraph *(b)* of subsection (1) and not that permitted by paragraph *(a)* thereof;"

Application of section.

(3) This section is applicable to the 1949 and subsequent taxation years.

Medical expenses.

11. (1) Subparagraph (iv) of paragraph *(b)* of section twenty-six of *The Income Tax Act* is repealed and the following substituted therefor:

"(iv) as remuneration for one full-time attendant upon the taxpayer, his spouse or any such dependent who was throughout the whole of a 12 months period ending in the taxation year necessarily confined by reason of illness, injury or affliction to a bed or wheelchair,"

Idem.

(2) Subparagraph (vi) of the said paragraph *(b)* is repealed and the following substituted therefor:

"(vi) for an artificial limb, a spinal brace, a brace for a limb, an aid to hearing or a wheel chair for the taxpayer, his spouse or any such dependent,".

Idem.

(3) Subparagraph (vii) of the said paragraph *(b)* is repealed and the following substituted therefor:

"(vii) $1,000 in the case of a person who is entitled to a deduction of $2,000 under paragraph *(a)* of subsection (1) of section 25 or would be so entitled if it were not for subsection (2) of the said section and $750 in the case of any other person (but a husband and wife are entitled to only one such deduction of $1,000 between them), and".

(4) Paragraph *(c)* of the said section twenty-six is repealed and the following substituted therefor:

Blind persons and persons confined to bed or wheel chairs.

"*(c)* $500 if the taxpayer

(i) was totally blind at any time in the year or was, throughout the whole of the year, necessarily confined, by reason of illness, injury or affliction, to a bed or wheel chair, and

(ii) did not include any amount in respect of remuneration for an attendant by reason of his blindness, illness, injury or affliction in calculating a deduction for medical expenses under this section for the year; and".

(5) Paragraph *(d)* of the said section twenty-six is amended by repealing all that part thereof preceding subparagraph (i) thereof and substituting the following therefor:

Business losses.

"*(d)* business losses sustained in the 5 taxation years immediately preceding and the taxation year immediately following the taxation year, but"

Clause 11. (1) Sub-clause (1) of clause 11 is a beneficial amendment to allow as a deduction medical expenses relating to a 12 months period other than the calendar year. The underlined marks are inserted.

(2) Sub-clause (2) of clause 11 is to carry out paragraph 10 of the Resolution, which reads as follows:

> "**10.** That, for the 1949 and subsequent taxation years, payments made for a wheel chair may be included in the medical expenses for which a deduction from income may be made for the purpose of computing taxable income."

The underlined words are inserted.

(3) Sub-clause (3) of clause 11 is consequential upon sub-clause (1) of clause 10. The figure $2,000 is substituted for $1,500.

(4) Sub-clause (4) of clause 11 is to carry out paragraph 11 of the Resolution, which reads as follows:—

> "**11.** That, for the 1949 and subsequent taxation years, $500 may be deducted from income for the purpose of computing taxable income of a taxpayer who, throughout the whole of the taxation year, was necessarily confined by reason of illness, injury or affliction to a bed or wheel chair."

The underlined words are new.

(5) Sub-clause (5) of clause 11 is to carry out paragraph 6 of the Resolution, which reads as follows:

> "**6.** That, for the 1949 and subsequent taxation years, the business losses that may be deducted from income shall include losses sustained in the five years preceding and the year following the taxation year in the place of the three years preceding and the year following the taxation year."

The word "taxation" is inserted for clarification.

(6) The said section twenty-six is further amended by adding the following subsection thereto:

Charitable gifts.

"(2) Where an individual was, during the taxation year a member of a religious order and had, as such, taken a vow of perpetual poverty, he may, in lieu of the deduction permitted by paragraph *(a)* ofsubsection (1) deduct from his income for the year an amount equal to his earned income for the year as defined by section 31 if, of his income, that amount has been paid to the Order."

(7) This section is applicable to the 1949 and subsequent taxation years.

Dividends received by a corporation.

12. (1) Subsection one of section twenty-seven of *The Income Tax Act* is amended by deleting the word "or" at the end of paragraph *(b)* thereof, by inserting the word "or" at the end of paragraph *(c)* thereof and by inserting the following paragraph immediately after paragraph *(c)* thereof:

"*(d)* was a non-resident subsidiary controlled corporation,".

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

13. (1) Section twenty-eight of *The Income Tax Act* is repealed and the following substituted therefor:

Resident in Canada part of a year.

"**28.** Where an individual was resident in Canada during part of a taxation year, and during some other part of the year was not resident in Canada, was not employed in Canada and was not carrying on business in Canada, for the purpose of this Act, his taxable income for the taxation year is

(a) his income for the period or periods in the year during which he was resident in Canada, was employed in Canada or was carrying on business in Canada computed as though such period or periods were the whole taxation year.

minus

(b) the aggregate of such of the deductions from income permitted for determining taxable income as may reasonably be considered wholly applicable to such period or periods and of such part of any other of the said deductions as may reasonably be considered applicable to such period or periods."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

Life insurance corporations.

14. (1) Paragraph *(c)* of section twenty-nine of *The Income Tax Act* is repealed and the following substituted therefor:

(6) New. Sub-clause (6) of clause 11 is to remove with respect to earned income the limit of 10% on charitable donations in the case of a member of a religious order who has taken vows of perpetual poverty.

Clause 12. New. This is to allow dividends from foreign controlled subsidiaries to come in tax free to a Canadian parent company. Previously some dividends were allowed to come in tax free but others were taxable with a tax credit allowed under section 37 to the extent of foreign tax paid. Section 37 is therefore repealed by clause 18.

Clause 13. New. The existing section 28 is repealed consequential upon clause 12. It reads as follows:—

"**28.** (1) Where a corporation resident in Canada has directly or indirectly received a dividend from a non-resident subsidiary wholly-owned corporation in a taxation year during the whole of which at least 75% of the property (other than inter-company obligations and good will) of the principal corporation and all its subsidiary wholly-owned corporations is outside Canada, an amount equal to the dividend may be deducted from the corporation's income for the year for the purpose of determining its taxable income.

(2) Subsection (1) is not applicable unless the country where the subsidiary corporation resides grants substantially similar relief for the year to corporations resident therein in respect of dividends received by them from wholly-owned subsidiary corporations resident in Canada.

(3) Notwithstanding subsection (1), if, in any case, the dividends to which it would otherwise apply exceed the aggregate of the subsidiary corporation's income that was taxable in a country other than Canada in the taxation year when the dividends were declared and the income so taxable in the immediately preceding year, only the amount of the said aggregate may be deducted under this section."

The new section numbered 28 is a revision of the method of taxing individuals resident in Canada for only part of the year, presently contained in section 35.

Clause 14. The paragraph repealed reads as follows:

"*(c)* in a case where an amount equal to dividends or portions of dividends would be deductible under section 27 or 28, if those sections were applicable, such proportion of the amount credited or appropriated as aforesaid as may reasonably be regarded as having been derived from those dividends or portions of dividends,"

The amendment is consequential on the repeal of section 28 by clause 13.

"*(c)* in a case where an amount equal to dividends or portions of dividends would be deductible under section 27, if that section were applicable, such proportion of the amount credited or appropriated as aforesaid as may reasonably be regarded as having been derived from those dividends or portions of dividends, and".

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

Computation of tax.

15. (1) Paragraphs *(a)* to *(s)* of subsection one of section thirty-one of *The Income Tax Act* are repealed and the following substituted therefor:

Rates.

"*(a)* 15% of the amount taxable if the amount taxable does not exceed $1,000,

(b) $150 plus 17% of the amount by which the amount taxable exceeds $1,000 if the amount taxable exceeds $1,000 and does not exceed $2,000,

(c) $320 plus 19% of the amount by which the amount taxable exceeds $2,000 if the amount taxable exceeds $2,000 and does not exceed $4,000,

(d) $700 plus 22% of the amount by which the amount taxable exceeds $4,000 if the amount taxable exceeds $4,000 and does not exceed $6,000,

(e) $1,140 plus 26% of the amount by which the amount taxable exceeds $6,000 if the amount taxable exceeds $6,000 and does not exceed $8,000,

(f) $1,660 plus 30% of the amount by which the amount taxable exceeds $8,000 if the amount taxable exceeds $8,000 and does not exceed $10,000,

(g) $2,260 plus 35% of the amount by which the amount taxable exceeds $10,000 if the amount taxable exceeds $10,000 and does not exceed $12,000,

(h) $2,960 plus 40% of the amount by which the amount taxable exceeds $12,000 if the amount taxable exceeds $12,000 and does not exceed $15,000,

(i) $4,160 plus 45% of the amount by which the amount taxable exceeds $15,000 if the amount taxable exceeds $15,000 and does not exceed $25,000,

(j) $8,660 plus 50% of the amount by which the amount taxable exceeds $25,000 if the amount taxable exceeds $25,000 and does not exceed $40,000,

(k) $16,160 plus 55% of the amount by which the amount taxable exceeds $40,000 if the amount taxable exceeds $40,000 and does not exceed $60,000,

(l) $27,160 plus 60% of the amount by which the amount taxable exceeds $60,000 if the amount taxable exceeds $60,000 and does not exceed $90,000,

Clause 15. (1) This is to give effect to the rates proposed in paragraph 2 of the Resolution.

(m) $45,160 plus 65% of the amount by which the amount taxable exceeds $90,000 if the amount taxable exceeds $90,000 and does not exceed $125,000,

(n) $67,910 plus 70% of the amount by which the amount taxable exceeds $125,000 if the amount taxable exceeds $125,000 and does not exceed $225,000,

(o) $137,910 plus 75% of the amount by which the amount taxable exceeds $225,000 if the amount taxable exceeds $225,000 and does not exceed $400,000,

(p) $269,160 plus 80% of the amount by which the amount taxable exceeds $400,000 if the amount taxable exceeds $400,000."

(2) Subsection two of the said section thirty-one is amended by repealing all that part thereof preceding paragraph *(a)* thereof and substituting the following therefor:

Special tables for incomes not exceeding $3,000.

"(2) An individual, other than a trust or estate or an individual whose income for the year is wholly or partly from a business, whose taxable income or taxable income earned in Canada, as the case may be, for a taxation year is $3,000 or less and whose investment income for the year is not more than $2,400, may, in lieu of the tax under subsection (1), pay a tax computed in accordance with a prescribed table, which shall be prepared in accordance with the following rules:"

(3) Subsection three of the said section thirty-one is repealed and the following substituted therefor:

Tax on investment income.

"(3) There shall be added to the tax of each individual computed under subsection (1) for each year an amount equal to 4% of the amount by which the taxpayer's investment income for the year exceeds the greater of

(a) $2,400, or

(b) the aggregate of the deductions from income for the year to which he is entitled under section 25."

Application of section.

(4) This section is applicable to the 1949 and subsequent taxation years.

Employee not resident during last year of employment.

16. (1) Section thirty-four of *The Income Tax Act* is amended by adding the following subsection thereto:

"(2) Where a taxpayer has elected that a payment or payments of one of the classes described in paragraphs *(a)* and *(b)* of subsection (1) in respect of an employee or former employee who was not taxable under this Part for the last complete taxation year in the employment because he was not resident in Canada in that year shall be deemed not to be income of the taxpayer for the purpose of this Part, the tax payable under this section is the proportion of the payment or payments that the tax that would have been payable by the employee under this Part for the last complete

(2) The sub-section repealed reads as follows:

"An individual, other than a trust or estate or an individual whose income for the year is wholly or partly from a business, whose income for a taxation year is $3,000 or less, of which not more than $1,800 is investment income, shall, in lieu of the tax under subsection (1), pay a tax computed in accordance with a prescribed table, which shall be prepared in accordance with the following rules:"

This change, in addition to inserting the new exemption for the investment income tax, makes the use of the short form of return optional rather than compulsory.

(3) The effect of this amendment is to increase the exemption for the investment income tax from $1,800 to the greater of $2,400 of the amount of the taxpayer's personal exemptions.

"(3) Where a deduction is allowed under paragraph *(b)* of section 1 in respect of an oil or gas well, mine or timber limit operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions."

Clause 16. New. This provides for the case where the employee in respect of whom the payment was made was not resident in Canada during the last year of employment for example, in Newfoundland. The payments affected are lump-sum payments out of pension funds, upon retirement or for loss of office.

taxation year in the employment, if the employee had been resident in Canada and his income had been from sources in Canada is of the employee's income for that year; and, in any such case, the election is not valid unless the taxpayer has filed, with his election, a return of the employee's income for the last complete taxation year in the employment in the same form and containing the same information as the return that the employee or his legal representatives would have been required to file under this Part if he had been resident in Canada in that year."

(2) This section is applicable to the 1949 and subsequent taxation years.

17. (1) Section thirty-five of *The Income Tax Act* is repealed and the following substituted therefor:

Dividend deduction.

"**35.** (1) An individual who was resident in Canada at any time in a taxation year may deduct from the tax otherwise payable under this Part for a taxation year the lesser of

(a) 10% of the amount by which

(i) the aggregate of all dividends received by him in the year from taxable corporations in respect of shares of the capital stock of the corporations from which they were received and of all dividends he is, by sections 8, 9 and 73 deemed to have received in the year,

exceeds the aggregate of

(ii) the amount, if any, deductible from income in respect of those dividends by virtue of a regulation made under subsection (2) of section 11, and

(iii) all outlays and expenses deductible in computing the taxpayer's income for the year to the extent that they may reasonably be regarded as having been made or incurred for the purpose of earning the dividend income, or

(b) the amount by which

(i) the taxpayer's tax under this Part for the year before making any deductions under sections 32 to 38,

exceeds

(ii) the amount that the taxpayer's tax under this Part for the year before making any deductions under sections 32 to 38 would be if the taxpayer had not received, nor been deemed to have received, the dividends referred to in subparagraph (i) of paragraph *(a)*.

"Taxable Corporation."

(2) In this section, 'taxable corporation' means a corporation that

(a) was resident in Canada in the taxation year in which the dividend was received or deemed to have been received, and

Clause 17. New. The new section 35 is to carry out paragraph 3 of the Resolution, which reads as follows:

"3. That, for the 1949 and subsequent taxation years, there may be deducted from tax payable by an individual resident in Canada 10 per cent of the amount of his income that is from dividends on shares, having no preference of any kind, in a corporation resident in Canada that was liable to corporation tax in the taxation year; Provided that in the case of dividends deemed to have been received from a personal corporation the deduction shall only be 10 per cent of that part of the income deemed to have been received by the shareholder as a dividend that the income of the corporation derived from dividends is of the whole income of the corporation."

The section repealed reads as follows:

"35. (1) An individual who was resident in Canada during part only of a taxation year may deduct from the tax otherwise payable under this Part the portion of that tax that the period in the year during which he did not reside in Canada is of the whole year.

(2) In this section 'tax otherwise payable' means the tax payable before making any deduction in respect of taxes payable to a provincial government or in respect of taxes paid to the government of a country other than Canada."

The reason for the repeal of this section was explained under clause 13.

(b) was not, by virtue of a statutory provision, exempt from tax under this Part for the year."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

18. (1) Sections thirty-six and thirty-seven of *The Income Tax Act* are repealed and the following substituted therefor:

Rate.

"**36.** (1) The tax payable by a corporation under this Part upon its taxable income or taxable income earned in Canada, as the case may be, (in this section referred to as the 'amount taxable') for a taxation year is, except where otherwise provided,

(a) 10% of the amount taxable if the amount taxable does not exceed $10,000.00, and

(b) $1,000.00 plus 33% of the amount by which the amount taxable exceeds $10,000.00, if the amount taxable exceeds $10,000.00.

Related corporations.

(2) Where two or more corporations are related to each other in a taxation year, the tax payable by each of them under this Part for the year is, except where otherwise provided by another section, 33% of the amount taxable for the taxation year.

idem.

(3) Notwithstanding subsection (2), where two or more corporations are related to each other, the tax payable by such one of them as may be agreed by them or, if they cannot agree, as may be designated by the Minister shall be computed under subsection (1).

idem.

(4) For the purpose of this section, one corporation shall be deemed to be related to another in a taxation year if, at any time in the year,

(a) it, directly or indirectly, controls the other,

(b) it is, directly or indirectly, controlled by the other, or

(c) both corporations are controlled, directly or indirectly, by the same person.

idem.

(5) Where two corporations are related or are deemed by subsection (4) or by this subsection to be related to the same corporation in the same taxation year, whether or not at the same time in the year, they shall, for the purpose of this section, be deemed to be related to each other in the year."

Application of section.

(2) Section thirty-six of *The Income Tax Act*, as enacted by this section, is applicable to the 1949 and subsequent taxation years but, where a corporation has a taxation year part of which is before and part of which is after the commencement of 1949, the tax payable by the corporation under Part I of *The Income Tax Act* for that taxation year is the aggregate of

Clause 18. New. This clause repeals sections 36 and 37. Section 36 contained the previous rate structure. The new section 36 is to carry out paragraph 4 of the Resolution, except as to consolidations. Paragraph 4 reads as follows:

"**4.** That, with respect to income of corporations earned on and after January 1, 1949; the present rate of tax of 30 per cent shall be reduced to 10 per cent on the first $10,000 of income and increased to 33 per cent on income in excess of $10,000 with corresponding changes in the rates in the case of consolidations."

Section 37 is repealed for the reasons given in clause 12. It is not replaced.

The sections repealed read as follows:

"**36.** The tax payable by a corporation under this Part for a taxation year is, except where otherwise provided, an amount equal to 30% of its taxable income for the year or its taxable income earned in Canada for the year, as the case may be.

"**37.** (1) A corporation may deduct from the tax otherwise payable under this Part for a taxation year during which it was resident in Canada an amount equal to the income tax deemed to have been paid to the government of a country other than Canada on the income out of which dividends (other than dividends in respect of which amounts are deductible from income under section 28) are paid to it in the year by a non-resident subsidiary controlled corporation, other than a subsidiary wholly-owned non-resident holding corporation, calculated in accordance with the following rules:

(a) the dividends shall be deemed to have been paid out of income of the subsidiary for the year immediately preceding the year in which the dividends were declared; and

(b) the tax paid on the income from which the dividends are deemed to have been paid in a year shall be deemed to be an amount equal to that proportion of the dividends that the income tax paid by the subsidiary to that government for the year is of its income for that year.

(2) A corporation may deduct from the tax otherwise payable under this Part for a taxation year during which it was resident in Canada that proportion of the dividends received by it in the year from a subsidiary wholly-owned non-resident holding corporation that the income tax paid by the holding corporation's non-resident subsidiary controlled corporations to countries other than Canada on income for the year preceding the taxation year is of the aggregate of the incomes of the said subsidiary controlled corporations for the said preceding year.

(3) In this section 'non-resident holding corporation' means a non-resident corporation that, in the taxation year in respect of which the expression is used, derives more than 75% of its income from dividends from non-resident subsidiary controlled corporations.

(4) Notwithstanding this section and section 38, no more shall be deducted under those sections in respect of tax paid to a country other than Canada on dividends received in a taxation year by a corporation resident in Canada from a non-resident subsidiary corporation than the tax otherwise payable under this Part for the year on the amount of the dividends."

(a) that proportion of the tax computed under section thirty-six of chapter fifty-two of the statutes of 1948 that the number of days in that portion of the taxation year that is in 1948 is of the number of days in the whole taxation year, and

(b) that proportion of the tax computed under section thirty-six of *The Income Tax Act* as enacted by subsection one that the number of days in that portion of the taxation year that is in 1949 is of the number of days in the whole taxation year.

Foreign tax deduction.

19. (1) Paragraph *(b)* of subsection one of section thirty-eight of *The Income Tax Act* is repealed and the following substituted therefor:

"*(b)* that proportion of the tax for the year otherwise payable under this Part that

(i) that part of the taxpayer's income for the year from sources in that country that was not exempt from income tax in that country minus amounts that are deductible for the year under paragraph *(d)* of subsection (1) of section 27,

is of

(ii) the taxpayer's income for the year minus amounts that are deductible for the year under section 27."

(2) Subsection two of the said section thirty-eight is repealed and the following subsections substituted therefor:

Life insurance corporations.

"(2) In lieu of any deduction permitted by subsection (1), a life insurance corporation that was resident in Canada at any time in a taxation year may deduct from the tax for the year otherwise payable under this Part an amount equal to the lesser of

(a) the tax for the year paid by it to the government of a country other than Canada under the income tax laws of that country, or

(b) the tax for the year otherwise payable under this Part of the corporation's taxable income for the year received from that country computed in a prescribed manner.

Employees of international organizations.

(3) In addition to any deduction permitted by subsection (1), an individual who was resident in Canada at any time in a taxation year may deduct from the tax for the year otherwise payable under this Part an amount equal to the lesser of

(a) an amount paid to an organization as defined for the purpose of section 3 of *The Privileges and Immunities (United Nations) Act* by whom he was employed in payment of a levy (the proceeds of which are used to defray expenses of the organization) computed by reference to the remuneration received by him in the year from the organization in a manner similar to the manner in which income tax is computed, or

1947, c. 69.

Clause 19. (1) The paragraph repealed reads as follows:

"*(b)* that proportion of the tax for the year otherwise payable under this Part that

(i) that part of the taxpayer's income for the year from sources in that country that was not exempt from income tax in that country minus amounts that are deductible for the year under section 28.

is of

(ii) the taxpayer's income for the year minus amounts that are deductible for the year under sections 27 and 28."

The amendment is consequential on the repeal of section 28.

(2) New. The present subsection (2), with minor changes in cross references, becomes subsection (4). The new subsection (2) provides for life insurance companies a credit in respect of foreign income taxes not now contained in the *Income Tax Act.*

(3) New. The effect of this amendment is to allow employees of United Nations organizations a credit against their Canadian income tax for compulsory levies imposed by the employing organizations.

(b) that proportion of the tax for the year otherwise payable under this Part that

(i) the remuneration by reference to which the levy was computed,

is of

(ii) the taxpayer's income for the year.

"tax otherwise payable."

(4) In this section, 'tax otherwise payable' means the tax payable before making any deduction in respect of taxes paid to a provincial government but after making the deduction, if any, permitted by section 35."

Application of section.

(3) This section is applicable to the 1949 and subsequent taxation years.

20. (1) Subsection one of section forty of *The Income Tax Act* is amended by inserting therein immediately after paragraph *(b)* thereof the following paragraph:

Trusts or estates.

"*(ba)* in the case of an estate or trust, within 90 days from the end of the year,"

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

21. (1) Subsection two of section forty-four of *The Income Tax Act* is repealed and the following substituted therefor:

Payment of remainder.

"(2) Where amounts have been deducted or withheld under this section from the remuneration received by an individual in a taxation year, if remuneration from which such amounts have been deducted or withheld and which he had received in the year is equal to or greater than three-quarters of his income for the year, he shall, on or before April 30 in the next year, pay to the Receiver General of Canada the remainder of his tax for the year as estimated under section 41.

Effect of deduction.

(3) When an amount has been deducted or withheld under subsection (1), it shall, for all the purposes of this Act, be deemed to have been received at that time by the person to whom the remuneration, benefit, payment, fees, commissions or other amounts were paid."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

22. (1) Subsection two of section forty-seven of *The Income Tax Act* is repealed and the following substituted therefor:

Special case.

"(2) Where a corporation has held forth the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as described by section 68 and its tax under this Part for the year is estimated by it to be not more than $1,000, it may, instead of paying the instalments required by subsection (1), pay to the Receiver General of Canada, at the end of the 12 months

(4) This provision replaces subsection (2), which reads as follows:

"(2) In this section 'tax otherwise payable' means the tax payable before making any deductions under section 37 or in respect of taxes payable to a provincial government but after making the deduction, if any, permitted by section 35."

The amendment is consequential on the repeal of section 37.

Clause 20. New. This paragraph provides that an estate or trust must file a return of income within 90 days of the end of its taxation year where previously the requirement was that it file on or before April 30th.

Clause 21. The subsection repealed reads as follows:

"(2) Where an amount has been deducted or withheld under this section from the remuneration received by an individual in a taxation year, if the remuneration received by him in the year is equal to or greater than three-quarters of his income for the year, he shall, on or before April 30 in the next year, pay to the Receiver General of Canada the remainder of his tax for the year as estimated under section 41."

The new subsection (2) clarifies the requirement in the present subsection (2) with regard to quarterly instalment payments.

The new subsection (3) makes it clear that amounts deducted are deemed to have been received by the payee.

Clause 22. The subsection repealed reads as follows:

"(2) Where a corporation has held forth the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as described by section 68 and its income for the year is estimated by it to be not more than $3,000, it may, instead of paying the instalments required by subsection one, pay to the Receiver General of Canada at the end of the 12 months period referred to in subsection one the whole of the tax as estimated under section 41."

period referred to in subsection (1), the whole of the tax as estimated under section 41."

(2) This section is applicable to the 1949 and subsequent taxation years.

23. (1) Subsection two of section forty-nine of *The Income Tax Act* is repealed and the following substituted therefor:

Certificate before distribution.

"(2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Minister certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property."

Coming into force.

(2) This section shall come into force on a day to be fixed by proclamation of the Governor in Council.

24. (1) Subsection one of section fifty of *The Income Tax Act* is repealed and the following substituted therefor:

General.

"(1) Where the amount paid on account of tax payable by a taxpayer under this Part for a taxation year before the expiration of the time allowed for filing the return of the taxpayer's income is less than the amount of tax payable for the year under this Part, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return of income to the day of payment at the rate of 6% per annum."

(2) Subsection three of the said section fifty is repealed and the following substituted therefor:

Special case.

"(3) In addition to the interest payable under subsection (1), when the tax under this Part for the taxation year of a corporation that paid tax under subsection (2) of section 47 exceeds $1,000, it shall, forthwith, after assessment, pay an amount equal to 3% of the tax."

(3) Subsection six of the said section fifty is repealed and the following substituted therefor:

Limitation on interest period.

"(6) No interest under this section upon the amount by which the unpaid taxes exceeds the amount estimated under section 41 is payable in respect of the period beginning 12 months after the day fixed by this Act for filing the return of the taxpayer's income upon which the taxes are payable or 12 months after the return was actually filed, whichever was later, and ending 30 days from the day of mailing of the notice of the original assessment for the taxation year."

Application of subsections (1) and (3).

(4) Subsections one and three of this section are applicable to the 1949 and subsequent taxation years.

Application of subsection (2).

(5) Subsection two is applicable to the 1949 and subsequent taxation years; and, for the 1948 taxation year, subsection five of section fifty-four of the *Income War Tax*

Clause 23. The subsection repealed reads as follows:

"(2) Every trustee in bankruptcy, assignee, liquidator, administrator executor and other like person, before distributing any property under his control shall obtain a certificate from the Minister certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property."

This is consequential upon proposed amendments to the Bankruptcy Act.

Clause 24. (1) This amendment has the effect of eliminating the additional 1% penalty rate on taxes remaining unpaid after assessment. The subsection repealed reads as follows:—

"(1) Where the amount paid on account of tax payable by a taxpayer under this Part for a taxation year before the expiration of the time allowed for filing the return of the taxpayer's income is less than the amount of tax payable for the year under this Part, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return of income to the day of payment at the rate of

(a) 6% per annum *for the part of the period preceding the thirtieth day after the day of mailing of the notice of assessment or the one hundred and twentieth day after the expiration of the time allowed for filing the return of the income, whichever is the later, and*

(b) 7% per annum for the remainder, if any, of the period."

(2) The subsection repealed reads as follows:

"(3) In addition to the interest payable under subsection (1), where a corporation that paid tax under subsection (2) of section 47 had an income for the taxation year of more than $3,000, it shall, forthwith after assessment, pay an amount equal to 3% of the tax payable under this Part for the taxation year."

(3) Sub-clauses (3) and (5) carry out paragraph 5 of the Resolution, which reads as follows:

"**5.** That interest on unpaid taxes on incomes of the 1948 and subsequent taxation years for which no assessments have been issued will cease to accrue twelve months after the date for filing the return in place of twenty months."

The amendment substitutes "12 months" for "20 months".

Act shall be read as though the expression "twenty months" contained therein were "twelve months".

Rate of interest.

(6) Where, under one or more provisions of the *Income War Tax Act*, a person liable to pay tax or an instalment of tax is liable to pay interest on a payment in arrears in respect of a period or part of a period after the end of 1949 at a rate of more than 6% per annum or at rates the aggregate of which is more than 6% per annum, notwithstanding the provision or provisions of the *Income Wax Tar Act* under which he is so liable to pay interest, he shall pay the interest for that period or part of the period at the rate of 6% per annum.

Delay in making returns.

25. (1) Paragraphs *(a)* and *(b)* of subsection one of section fifty-one of *The Income Tax Act* are repealed and the following substituted therefor:

Penalty.

"*(a)* an amount equal to 5% of the tax that was unpaid when the return was required to be filed, if the tax payable under this Part that was unpaid at that time was less than $10,000.00, and"

and paragraph *(c)* of the said subsection one is relettered as paragraph *(b)*.

Application of subsection (1).

(2) Subsection one is applicable to the 1949 and subsequent taxation years and for the 1948 taxation year, the penalty payable under subsection one of section seventy-seven of the *Income War Tax Act* where the unpaid tax was less than one hundred dollars is five per cent of the unpaid tax.

26. (1) Paragraph *(d)* of subsection one of section fifty-seven of *The Income Tax Act* is repealed and the following substituted therefor:

Municipal or provincial corporations.

"*(d)* a corporation, commission or association not less than 90% of the shares or capital of which was owned by His Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association;"

Credit unions.

(2) Subparagraph (i) of paragraph *(i)* of subsection one of section fifty-seven of *The Income Tax Act* is repealed and the following substituted therefor:

"(i) it was restricted to carrying on business in one province and it derived its revenue primarily from loans made to members residing within the province or from bonds of, or guaranteed by, the government of Canada or a province, or"

Idem.

(3) Clause (A) of subparagraph (ii) of the said paragraph *(i)* is repealed and the following substituted therefor:

"(A) incorporated or organized as credit unions deriving their revenues primarily from loans made to members or from bonds of, or guaranteed by, the government of Canada or a province,"

(6) Sub-clause (6) provides that penalties for unpaid liabilities of income tax will accrue from January 1, 1950, at a rate not higher than 6%.

Clause 25. The paragraphs repealed read as follows:

"*(a) $5, if at the time the return was required to be filed tax payable under this Part equal to $100 or less was unpaid,*

(b) an amount equal to 5% of the tax that was unpaid when the return was required to be made, if the tax payable under this Part that was unpaid at that time was *more than $100* and less than $10,000, and".

The amendment eliminates the minimum penalty of $5 for late filing of returns. The underlined words are repealed.

Clause 26. (1) The paragraph repealed reads as follows:

"A corporation, commission or association not less than 90% of the shares or capital of which was owned by His Majesty in right of Canada or a province or by a Canadian municipality."

The amendment extends the exemption to a wholly owned subsidiary of such a corporation, commission or association.

(2) The paragraph repealed reads as follows:—

"*(i)* it was restricted to carrying on business in one province and it derived its revenue primarily from loans made to members residing within that province, or"

The amendment extends the exemption to include credit unions deriving income primarily from bonds of or guaranteed by the Dominion or a province.

(3) The present sub-paragraph reads as follows:—

"(A) incorporated or organized as credit unions deriving their revenues primarily from loans made to members."

The amendment has the same effect as sub-paragraph (2) in the case of associations of credit unions.

Application of section.

(4) This section is applicable to the 1949 and subsequent taxation years.

27. (1) Section fifty-eight of *The Income Tax Act* is amended by adding the following subsections thereto:

Dividend deduction from tax.

"(7) That proportion of the amount included in computing the income for a taxation year of a beneficiary or other person beneficially interested in a trust or estate by virtue of subsection (5) that

(a) the income of the trust or estate for the taxation year (before making any deduction under subsection (4)) from shares of the capital stock of taxable corporations, including the amount by which its income for the year was increased by the operation of sections 8, 9 and 73,

is of

(b) the income of the trust or estate for the taxation year (before making any deduction under subsection (4)),

shall be deemed, for the purpose of section 35, to be a dividend in respect of shares of the capital stock of a taxable corporation; and in computing the deduction that a trust or estate may make from its tax for the year under that section, the same proportion of its income for the year (after making the deduction therefrom permitted by subsection (4)) shall be deemed to be such a dividend.

(8) For the purpose of section 38, the following rules apply:

Foreign tax deduction from tax.

(a) that proportion of an amount included in computing the income for a taxation year of a beneficiary or other person beneficially interested in a trust or estate by virtue of subsection (5) that

(i) the income of the trust or estate for the taxation year from sources in a foreign country (before making any deduction under subsection (4)),

is of

(ii) the income of the trust or estate for the taxation year (before making any deduction under subsection (4)),

shall be deemed to have been income for the taxation year from sources in that country;

(b) a beneficiary or other person beneficially interested in a trust or estate shall be deemed to have paid as income tax, on the income that he is deemed by paragraph *(a)* to have for a taxation year from sources in a foreign country, to the government of that country an amount equal to that proportion of the tax paid to that government by the trust or estate on its income from sources in that country for the year that

Clause 27. (1) New subsection 7 provides that a part of the income received by a beneficiary of a trust or estate will be deemed to be a dividend and hence eligible for the 10% tax credit. The part is the same proportion of the whole income of the beneficiary as the dividends received by the trust or estate are of the total income of the trust or estate.

(8) New. Subsection (8) allows a deduction to a beneficiary of a trust or estate for his proportionate share of taxes paid to a foreign country on the income of the trust or estate.

(i) the amount included in computing his income for the year by virtue of subsection (5),

is of

(ii) the income of the trust or estate for the year (before making any deduction under subsection (4));

(c) the income of a trust or estate from sources in a foreign country for a taxation year shall be deemed to be its actual income therefrom for the year minus the aggregate of the amounts deemed by paragraph *(a)* to have been the income therefrom for the year of all beneficiaries and other such persons;

(d) a trust or estate shall be deemed to have paid as income tax on its income for a taxation year from sources in a foreign country to the government of that country an amount equal to the tax actually so paid by it minus the aggregate of the amounts deemed by paragraph *(b)* to have been paid to that government for the year by beneficiaries and other such persons.

(9) In the case of a trust or estate arising on death, notwithstanding the other provisions of this Act,

Trust or estate arising on death.

(a) 'taxation year' of the trust or estate means the period for which the accounts of the trust or estate have been ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the period adopted by the trust or estate for that purpose: Provided that the period may not exceed 12 months and that a change in a usual and accepted period may not be made for the purpose of this Act without the concurrence of the Minister;

(b) when a taxation year is referred to by reference to any calendar year, the reference is to the taxation year or years coinciding with, or ending in, that year;

(c) the income of a person from the trust or estate for a taxation year shall be deemed to be his benefits from or under the trust or estate for the taxation year or years of the trust or estate that ended in the year determined as provided by this section and section 60;

(d) where an individual having income from the trust or estate died after the end of a taxation year of the trust or estate but before the end of the calendar year in which that taxation year ended, a separate return of his income from the trust or estate after the end of the trust's or estate's taxation year to the time of death shall be filed and the tax under this Part shall be paid thereon as if that income were the income of another person; and

(e) in lieu of making the payments required by section 46, the trust or estate shall pay to the Receiver

(9) New. Subsection (9) makes a technical change in the time for payment of tax by certain trusts and estates.

General of Canada within 90 days from the end of each taxation year, the tax for the year as estimated under section 41."

(2) This section is applicable to the 1949 and subsequent taxation years.

28. (1) Section fifty-nine of *The Income Tax Act* is amended by adding the following subsections thereto:

Rights or things transferred to beneficiaries.

"(3) Where before the time for making an election under subsection (2) has expired, a right or thing to which that subsection would otherwise apply has been transferred or distributed to beneficiaries or other persons benefically interested in the estate or trust,

(a) subsection (2) is not applicable to that right or th ng, and

(b) an amount received by one of the beneficiaries or other such persons upon the realization or disposition of the right or thing shall be included in computing his income for the taxation year in which he received it

Taxpayer not resident prior to death.

(4) Where the legal representative of a taxpayer who was not taxable under this Part because he was not resident in Canada for one or more of the four taxation years immediately preceding the taxation year in which he died elects that the rule contained in paragraph *(a)* of subsection (2) be applicable in respect of rights or things that the taxpayer had at the time of his death,

(a) the election is not effective unless the legal representative has filed with the election a return of the taxpayer's income for each of those years for which he was not so taxable in the same form and containing the same information as the return the taxpayer or his legal representative would have been required to file under this Part if the taxpayer had been resident in Canada during that year, and

(b) the amount payable in respect of the rights or things by virtue of the election for each of those years for which he was not so taxable is the amount by which

(i) the tax for the year that would have been payable under this Part if the taxpayer had been resident in Canada, his income had been from sources in Canada and he had received the amount included in his income by virtue of paragraph *(a)* of subsection (2),

exceeds

(ii) the tax for the year that would have been payable under this Part if the taxpayer had been resident in Canada, his income had been from sources in Canada and if no amount were included by virtue of paragraph *(a)* of subsection (2) in computing his income for the year."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

28. Section 59 of the Act deals with the income of deceased persons during the year in which they die. Subsection (3) is new and provides that certain income items may be taxed in the hands of the beneficiary in certain cases. Subsection (4) is new and makes special provision for the case where the deceased was not resident in Canada in all of the four years preceding his death, as for example in the case of a resident of Newfoundland.

29. (1) Subsection two of section sixty of *The Income Tax Act* is repealed and the following substituted therefor:

Upkeep, etc.

"(2) Such part of an amount paid by a trust or estate out of income of the trust or estate for the upkeep, maintenance or taxes of or in respect of property that, under the terms of the trust or will, is required to be maintained for the use of a tenant for life or a beneficiary as is reasonable in the circumstances shall be included in computing the income of the tenant for life or other beneficiary from the trust or estate for the taxation year for which it was paid."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

30. (1) Subsection six of section sixty-one of *The Income Tax Act* is repealed and the following substituted therefor:

Dividends declared.

"(6) Where a dividend has, in a taxation year, actually been paid by a corporation that was at the time of payment and always had been a personal corporation, the portion thereof received by a shareholder shall not be included in computing his income for the taxation year in which it was received.

idem.

(6A) Where a dividend has, in a taxation year, actually been paid by a personal corporation that was in some previous taxation year not a personal corporation, the following rules are applicable:

(a) the dividend shall not be included in computing the incomes of the shareholders by whom it was received for the taxation year in which it was received if the dividend does not exceed the remainder obtained when

(i) the aggregate of dividends actually paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of the shareholders by whom they were received,

is subtracted from

(ii) the aggregate of the amounts deemed under this section to have been distributed while it was a personal corporation;

(b) in a case where the dividend does exceed the remainder referred to in paragraph *(a)*, the dividend shall only be included in computing the incomes of the shareholders by whom it was received for the taxation year in which it was received to the extent that the excess does not exceed the undistributed income on hand earned by the corporation since January 1, 1917, in taxation years when the corporation was not a personal corporation;

Clause 29. The subsection repealed reads as follows:

"(2) Such part of an amount paid by a trust or estate for the upkeep, maintenance or taxes of or in respect of property, that under the terms of the trust or will, is required to be maintained for the use of a tenant for life or a beneficiary as is reasonable in the circumstances shall be included in computing the income of the tenant for life or other beneficiary for the taxation year for which it was paid."

The amendment makes payments out of a trust or estate for the upkeep of a property income of the beneficiary only when paid and of the income of the trust or estate, and not when paid out of capital. The underlined words are inserted.

Clause 30. (1) The subsection (6) repealed reads as follows:

"(6) Where dividends have, in a taxation year, actually been paid by a personal corporation or a corporation that had previously been a personal corporation, they shall only be included in computing the incomes of the shareholders by whom they were received for the taxation year to the extent that the aggregate of the dividends paid in that year exceeds

(a) the aggregate of the amounts deemed, under this section, to have been distributed by it to its shareholders while it was a personal corporation minus

(b) the aggregate of dividends actually paid by the corporation previous to that time and not included, by virtue of this section, in computing the incomes of the shareholders by whom they were received,

and where that excess is less than the aggregate of the dividends so paid, the amount that shall be so included in computing a particular shareholder's income for the year is the proportion of the excess that his dividend is of the aggregate of the dividends so paid."

The new subsections (6), (6A), (6B) and (6C) correct a technical error in certain provisions relating to personal corporations. The purpose of the amendments is to allow practice under the *Income War Tax Act* to be continued under the *Income Tax Act.*

(c) where the amount to be included in computing the incomes of the shareholders by virtue of paragraph *(b)* is less than the dividend, the portion thereof that shall be so included in computing a particular shareholder's income for the taxation year is the portion thereof that his portion of the dividend is of the whole dividend.

idem.

(6B) Where a dividend has, in a taxation year, actually been paid by a corporation when it was not a personal corporation but had previously been one, it shall only be included in computing the incomes of the shareholders by whom it was received for the taxation year in which it was received to the extent that the dividend exceeds the remainder obtained when

(a) the aggregate of dividends actually paid by the corporation previous to that time and not included, by virtue of this section, in computing the incomes of the shareholders by whom they were received,

is subtracted from

(b) the aggregate of the amounts deemed under this section to have been distributed by it to its shareholders while it was a personal corporation,

and, where the excess is less than the dividend so paid, the amount that shall be so included in computing a particular shareholder's income for the year is the proportion of the excess that his portion of the dividend is of the whole dividend.

Dividend deduction from tax.

(6C) Where a dividend is deemed by any provision other than this section to have been paid or received, it shall, for the purpose of this section, be regarded as having been actually paid.

(6D) Where a dividend is deemed by this section to have been received by an individual from a personal corporation on the last day of a taxation year, the taxpayer shall, for the purpose of section 35, be deemed to have received on that day from a taxable corporation that portion of the dividend that he is so deemed to have received that

(a) the income of the personal corporation for the taxation year from shares of the capital stock of taxable corporations, including the amount by which its income for the year was increased by the operation of sections 8, 9 and 73,

is of

(b) the income of the personal corporation for the taxation year.

Foreign tax deduction from tax.

(6E) Where a dividend is deemed by this section to have been received by an individual from a personal corporation on the last day of a taxation year of the corporation, the individual shall, for the purpose of section 38, be deemed to have income on that day from sources in a foreign country

The new subsection (6D) provides that an appropriate portion of the income received by the shareholder of a personal corporation will be eligible for the 10% tax credit as dividends.

The new subsection (6E) provides that an appropriate portion of the foreign taxes paid on the income of the personal corporation may be taken as a deduction by the shareholders.

equal to that proportion of the dividend that he is so deemed to have received that

(a) the income of the personal corporation for that taxation year from sources in that country,

is of

(b) the income of the personal corporation for the taxation year;

and he shall be deemed, for the purpose of section 38, to have paid income tax thereon to the government of hat country equal to that p oportion of the tax paid to that government by the personal corporation on its income from sources in that country that

(i) the dividend he is so deemed to have received,

is of

(ii) the income of the personal corporation deemed to have been distributed to its shareholders on that day."

When not deemed a personal corporation.

(2) Where a corporation is, for a taxation year, a personal corporation within the meaning of that expression as used in *The Income Tax Act* and was, during the taxation year, controlled by the legal representatives of, or trustees under the will of, an individual who died prior to 1949 and members of the family of that individual who did not, during the taxation year, live together, if it has, prior to the end of 1949, elected in a prescribed manner not to be exempt under section 61 of that Act, it shall be deemed not to be a personal corporation for the purpose of that Act.

Application of section.

(3) This section is applicable to the 1949 and subsequent taxation years.

Investment companies.

31. (1) Subsection two of section sixty-two of *The Income Tax Act* is amended by deleting the word "and" at the end of paragraph *(d)* thereof, by repealing paragraph *(e)* thereof and by substituting the following paragraphs therefor:

Definition.

"*(e)* an amount not less than 85% of its taxable income plus exempt income for the year (other than dividends or interest received in the form of shares, bonds or other securities that have not been sold before the end of the taxation year) minus taxes paid to other governments was distributed to the shareholders before the end of the year, and

(f) it has not, within 90 days from the commencement of the taxation year, elected in a prescribed manner to pay tax under this Part, or, if it has at any time so elected, has, before the taxation year, revoked in a prescribed manner the elections so made by it."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years but, for the 1949 taxation year, an election

(2) This sub-clause enables a corporation under certain conditions to retain its status as a taxable corporation even though under the revised definition in *The Income Tax Act* it would be a personal corporation.

Clause 31. (1) The paragraph *(e)* being repealed reads as follows:

> "*(e)* at least 85% of its taxable income plus exempt income for the year (other than dividends or interest received in the form of shares, bonds or other securities that have not been sold before the end of the taxation year) minus taxes paid to other governments was distributed to the shareholders before the expiration of 120 days after the end of the year."

New.

Paragraph *(f)* offers investment companies which are now exempt from tax the option of being a taxpaying corporation in order that their shareholders may be entitled to tax credit on dividends.

under paragraph *(f)* of subsection (2) of section 62 of *The Income Tax Act* may be made in the prescribed manner within 90 days from the commencement of this Act.

Non-resident-owned investment corporation.

32. (1) Paragraph *(c)* of subsection four of section sixty-three of *The Income Tax Act* is repealed and the following substituted therefor:

Definition.

"*(c)* its principal business was not the making of loans;"

Application of section.

(2) Subsection one is applicable to the 1949 and subsequent taxation years.

Deduction not allowed.

(3) For greater certainty it is hereby declared and enacted that, in determining the taxable income of a Non-Resident-Owned Investment Corporation for the purpose of the *Income War Tax Act* for any taxation year after the effective date of election under subsection four of section nine of that Act and so long as it was subject to tax at the rate set forth in paragraph E of the first Schedule to that Act, no deduction was or is permitted by paragraph *(n)* of section four of that Act in respect of dividends paid to the Non-Resident-Owned Investment Corporation by a company incorporated in Canada except to the extent expressly allowed by section twenty-two A of that Act for the taxation year.

Exception.

Scientific research.

33. (1) Paragraph *(b)* of subsection one of section sixty-five of *The Income Tax Act* is repealed and the following substituted therefor:

Deductions from income.

"*(b)* the lesser of

(i) one-third of expenditures of a capital nature made in Canada (by acquiring property other than land) in the year and the two years immediately preceding that year on scientific research related to the business and directly undertaken by or on behalf of the taxpayer, or

(ii) the undepreciated capital cost to the taxpayer of the property so acquired as of the beginning of the taxation year."

(2) The said section sixty-five is amended by adding the following subsection thereto:

Expenditures of a capital nature.

"(5) An amount deducted under paragraph *(b)* of subsection (1) shall, for the purpose of section 20, be deemed to be an amount allowed to the taxpayer in respect of the property (acquired by the expenditures) under regulations made under paragraph *(a)* of subsection (1) of section 11 and for that purpose the property (acquired by the expenditures) shall be deemed to be of a separate prescribed class."

Deduction deemed depreciation.

(3) An amount deducted under paragraph *(u)* of subsection one of section five of the *Income War Tax Act* in respect of amounts of a capital nature shall, for the purpose of section eight of this Act, be deemed to be depreciation taken into account in ascertaining the taxpayer's income for the purpose of the *Income War Tax Act* or in ascertaining his loss for the year it was deducted.

Clause 32. (1) The paragraph repealed reads as follows:

"*(c)* its principal business was not the making of loans of $500 or less:"

The underlined words are repealed.

(3) This sub-clause prevents Non-Residents-Owned Investment Corporations from claiming an exemption which under the *Income War Tax Act* was not allowed in practice and which if allowed would have been inconsistent with other provisions of the law.

Clause 33. (1) The previous paragraph reads as follows:

"*(b)* one-third of expenditures of a capital nature made in Canada in the year and the 2 years immediately preceding that year on scientific research related to the business and directly undertaken by or on behalf of the taxpayer."

(2) and (3) New. The effect of sub-clauses (2) and (3) is to apply the new principles of depreciation contained in clauses 7 and 8 to capital expenditures referred to in Section 65 of *The Income Tax Act.*

(4) Subsections one and two are applicable to the 1949 and subsequent taxation years.

Mining companies.

34. Subsection one of section seventy-four of *The Income Tax Act* is amended by repealing all that portion thereof after paragraph *(b)* thereof and by substituting the following therefor:

Mine.

"that came into production of ore during the calendar years 1946 to 1952, inclusive, income derived from the operation of the mine during the period of 36 months commencing with the day on which the mine came into production (other than any portion thereof in the year 1946) shall, subject to prescribed conditions, not be included in computing the income of the corporation."

Deduction of consolidated loss.

35. (1) Subsection eight of section seventy-five of *The Income Tax Act* is amended by repealing all that portion thereof before paragraph *(a)* thereof and substituting the following therefor:

"From the consolidated taxable income for a taxation year there may be deducted the consolidated loss, if any, in the 5 taxation years immediately preceding and the taxation year immediately following the taxation year, but".

(2) Subsection nine of the said section seventy-five is repealed and the following substituted therefor:

Consolidated loss.

"(9) For the purpose of subsection (8), consolidated loss for a taxation year is the aggregate of such losses as any of the individual corporations may have sustained in the year minus the aggregate of the taxable incomes for the year of the other corporations affected by the election to consolidate."

(3) Subsection eleven of the said section seventy-five is repealed and the following substituted therefor:

Rate.

"(11) Where a return for a taxation year is required to be filed under this section, there shall be added to the tax computed under section 36 an amount equal to 2% of the consolidated taxable income for the year."

Application of section.

(4) This section is applicable to the 1949 and subsequent taxation years.

36. Section ninety of *The Income Tax Act* is repealed and the following substituted therefor:

Reply to appeal.

"**90.** (1) The respondent shall, within 60 days from the day the notice of appeal is received, or within such further time as the court or a judge thereof may either before or after the expiration of that time allow, serve on the appellant and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the respondent intends to rely on.

Clause 34. This is to carry out paragraph 14 of the Resolution, which reads as follows:

"14. That the provision for the exemption of income derived from a metalliferous or industrial mineral mine that came into production during the calendar years 1946 to 1949 inclusive during the period of thirty-six months after the mine came into production be extended to exempt income from such mines that come into production during the calendar years 1950, 1951, and 1952."

The date 1952 is substituted for 1949.

Clause 35. (1) This amendment is necessary in order to carry out paragraph 6 of the Resolution, which is quoted opposite sub-clause (5) of clause 11 which permits losses to be carried forward 5 years. The words "5 taxation years" are substituted for "3 years."

(2) The sub-section being repealed reads as follows:

"For the purpose of sub-section (8), consolidated loss for a taxation year is the aggregate of such losses as any of the individual corporations may have sustained in the year minus the aggregate of the income for the year of the other corporations affected by the election to consolidate."

(3) This amendment is to carry out paragraph 4 of the Resolution, which is quoted opposite clause 18. It is new in form because of the new graduated rate on corporation income. Instead of specifying the total rate it is provided that an additional 2% be added. The old subsection read:

"(11) Where a return for a taxation year is required to be filed under this section, the tax payable under this Part is an amount equal to 32% of the consolidated taxable income for the year."

Amendment of notice of appeal.

(2) The court or a judge may, in its or his discretion, strike out a notice of appeal or any part thereof for failure to comply with subsection (3) of section 89 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

Amendment of reply.

(3) The court or a judge may, in its or his discretion,

(a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply, and

(b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

Failure to comply.

(4) Where a notice of appeal is struck out for failure to comply with subsection (3) of section 89 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may in its or his discretion, dispose of the appeal by dismissing it.

idem.

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true."

37. Subsection two of section ninety-one of *The Income Tax Act* is repealed and the following substituted therefor:

Action in court.

"(2) Upon the filing of the material referred to in subsection (1) and of the reply required by section 90, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing."

38. (1) Subparagraphs (i) and (ii) of paragraph *(a)* of subsection one of section ninety-six of *The Income Tax Act* are repealed and the following substituted therefor:

Dividends.

"(i) a dividend in respect of shares in a non-resident-owned investment corporation if the tax paid by its shareholders under this Part on other dividends declared previous to the declaration thereof since the 1932 taxation year plus the tax paid by the corporation under Part I on its income for taxation years since 1932 for which it was not taxable under section 63 is not less than the taxes that would have been payable by its shareholders under this Part if an amount equal to the corporation's surplus determined in prescribed manner for each of the taxation years for which it was not taxable under section 63 had been distributed by way of dividends in the year in which it was earned to non-resident shareholders, or

(ii) a dividend that would not be included in computing income under Part I by virtue of section 61,"

Clauses 36 and 37. These amendments provide for an improvement in the procedure with respect to appeals to expedite hearings.

The section being repealed reads as follows:

"The respondent may, within 60 days from the day the notice of appeal is received, serve on the appellant and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the respondent intends to rely on."

Clause 37. The subsection repealed reads as follows:

"(2) Upon the filing of the material referred to in subsection (1), the matter shall be deemed to be an action in the court and, unless the court orders the parties to file pleadings ready for hearing."

Clause 38. (1) The sub-paragraph repealed reads as follows:

"*(i)* a dividend in respect of shares in a non-resident-owned investment corporation if the tax paid by the corporation on its income earned between the 1932 taxation year and the first taxation year in which it became taxable as a non-resident-owned investment corporation under Part I plus tax paid by its shareholders under this Part on dividends declared by the corporation in that period is not less than the taxes that would have been payable under this Part if all the corporation's income for each taxation year in that period had been distributed by way of dividends in the year in which it was earned to non-resident shareholders, or".

This amendment makes two minor technical changes in the conditions which qualify a non-resident-owned investment corporation.

(2) Paragraphs *(d)* and *(e)* of the said subsection one are repealed and the following substituted therefor:

Rents, royalties, etc.

"*(e)* rent, royalty or a similar payment, including, but not so as to restrict the generality of the foregoing, any such a payment

(i) for the use in Canada of property,

(ii) in respect of an invention used in Canada, or

(iii) for any property, trade name, design or other thing whatsoever used or sold in Canada,

but not including a royalty or similar payment on or in respect of a copyright,".

Paragraphs repealed.

(3) Paragraphs *(f)*, *(g)* and *(j)* of the said subsection one are repealed.

(4) Subsection two of the said section ninety-six is repealed and the following substituted therefor:

Motion picture films.

"(2) Every non-resident person shall pay an income tax of 10% on every amount that a person resident in Canada pays or credits, or is deemed by Part I to pay or credit, to him as, on account or in lieu of payment of, or in satisfaction of, payment for a right in or to the use of motion picture films that have been or are to be produced or reproduced in Canada"

Dividends, etc.

(5) Paragraph *(b)* of subsection three of the said section ninety-six is repealed and the following substituted therefor:

"*(b)* a dividend to a non-resident corporation in respect of shares in a subsidiary corporation if the following conditions are satisfied:

(i) all the subsidiary corporation's share capital having full voting rights under all circumstances (except directors' qualifying shares) belongs to the non-resident corporation, and

(ii) either

(A) the chief busines of the subsidiary corporation is the making of loans, or

(B) not more than one-quarter of the gross revenue of the subsidiary corporation, for the taxation year in which the dividend was paid was derived from interest and dividends other than interest or dividends received from a wholly-owned subsidiary corporation,"

(6) Subsection four of the said section ninety-six is repealed and the following subsections substituted therefor:

Exemptions.

"(4) No tax is payable under paragraph *(c)* of subsection (1) on an amount paid or credited to a non-resident person as income of or from a trust if it may reasonably be regarded as having been derived from

(a) dividends or interest received by the trustee from a non-resident owned investment corporation, or

(b) amounts received in respect of copyright in a book, music, an article in a periodical, a newspaper syndi-

(2) The paragraphs repealed read as follows:

"*(d)* a right in or to the use of any work, whether copyrighted or not, that has been or is to be produced or reproduced in Canada by speech, print or mechanical sound on or from paper, composition, films or mechanical devices of any description,

(e) rent, royalty or a similar payment for the use in Canada of property, in respect of an invention used in Canada or for any property, trade name, design or other thing whatsoever used or sold in Canada,

(3) The paragraphs repealed read as follows:

(f) management, technical, professional or other services, information or advice, "know-how", "sales rights" or the right to use a patented or unpatented invention, process or formula, discovered or undiscovered (except in a case where the non-resident person is an individual and the payment is for services rendered by him), minus a reasonable amount or the amount paid or payable by the non-resident person, whichever is the lesser, in respect of services actually rendered in Canada by the recipient's officers or servants under or pursuant to the contract or arrangement for the services, information, advice, "know-how", "sales rights" or the use of the invention, process or formula,

(g) director's fees,

(j) copyright in a book, music, an article in a periodical, a newspaper syndicated article, picture, comics or any other newspaper or periodical feature used or to be used in Canada."

(4) The subsection repealed reads as follows:

"(2) Where an amount described by paragraph *(d)* of subsection (1) relates to a right in or to the use of motion picture films, the tax payable under subsection (1) is 10% of the amount."

(6) The subsection repealed reads as follows:

"(4) No tax is payable under paragraph *(c)* of subsection (1) on an amount paid or credited to a non-resident person as income of or from a trust if it may reasonably be regarded as having been derived from dividends or interest received by the trustee from a non-resident owned investment corporation on which no tax would have been payable under this Part if they had been paid by the non-resident owned investment corporation to the non-resident person instead of to the trustee."

cated article, picture, comics or any other newspaper or periodical feature used or to be used in Canada,

on which no tax would have been payable under this Part if they had been paid by the non-resident owned investment corporation or person paying the amounts in respect of copyright to the non-resident person instead of to the trustee.

Trust beneficiaries residing outside of Canada.

(5) Where all the beneficiaries of a trust established before 1949 reside, during a taxation year, in one country other than Canada and all amounts included in computing the income of the trust for the taxation year were received from persons resident in that country, no tax is payable under paragraph *(c)* of subsection (1) on an amount paid or credited in the taxation year to a beneficiary as income of or from the trust."

Application of section.

(7) This section is applicable to amounts paid or credited after 1948.

39. (1) Subsections two and three of section ninety-seven of *The Income Tax Act* are repealed and the following substituted therefor:

Redemption by non-resident owned corporation.

"(3) Where a corporation whose business was of an investment or financial nature and whose shares had not been offered for public subscription or listed on any recognized stock exchange has redeemed any of its stock, shares, bonds, debentures or other securities or discharged a capital obligation, the payment made shall, for the purpose of this Part, be deemed to be the payment of a dividend to the extent of the corporation's surplus determined in a prescribed manner."

(2) Subsection nine of the said section ninety-seven is amended by deleting the word "and" at the end of paragraph *(a)* thereof, by inserting the word "and" at the end of paragraph *(b)* thereof and by adding the following paragraph thereto:

Regulations re residents.

"*(c)* where a non-resident person carried on business in Canada, what amounts are taxable under this Part."

Application of section.

(3) This section is applicable to payments made after 1948.

40. Section ninety-eight of *The Income Tax Act* is amended by adding the following subsection thereto:

Deduction.

"(4) The Governor in Council may make regulations with reference to any non-resident person or class of persons who carry on business in Canada, providing that subsections (1), (2) and (3) are not applicable to amounts paid to or credited to them and requiring them to file an annual return on a prescribed form and to pay the tax imposed by this Part within a time limited in the regulations."

The new subsection (5) provides that under certain conditions income from a trust may be received tax-free by a non-resident beneficiary.

Clause 39. (1) The present subsections read as follows:

(2) Where a lesser amount than that actually paid or credited is deemed by subsection (3) of section 17, to have been paid, the tax under section 96 on an amount described by paragraph *(d)* or *(j)* of subsection (1) thereof is payable on the amount that is so deemed to have been paid.

(3) Where a corporation whose business was of an investment or financial nature and whose shares had not been offered for public subscription or listed on any recognized stock exchange has redeemed any of its stock, shares, bonds, debentures or other securities or discharged a capital obligation, the payment made shall, for the purpose of this Part, be deemed to be the payment of a dividend to the extent of the amount by which

(a) the income earned by the corporation after the 1932 taxation year exceeds

(b) the portion of the income earned by the corporation after the 1932 taxation year on which the corporation paid tax under Part I plus the dividends paid by the corporation after the 1932 taxation year on which tax under this Part has been paid.

(2) The new paragraph *(c)* gives authority to establish rules for the determination of the tax liability of a non-resident insurance company carrying on business in Canada.

Clause 40. This amendment gives authority for the requirement of a return from a non-resident person in respect of income from which no tax has been deducted at the source.

41. Section ninety-nine of *The Income Tax Act* is amended by repealing subsection three thereof, renumbering subsection four as subsection three and adding the following subsection thereto:

Optional method of payment.

"(4) If a non-resident person has filed with the Minister an undertaking in prescribed form to file a return of income for a taxation year as permitted by this section, a person who is otherwise required by subsection (3) of section 98 to remit in the year an amount to the Receiver General of Canada in payment of tax on rent on real property may elect, by virtue of this section, not to remit under that subsection but, ifhe does so elect,

(a) he shall, when any amount is available out of the rents received for remittance to the non-resident person, deduct therefrom 15% thereof and remit the amount deducted to the Receiver General of Canada on behalf of the non-resident person on account of the tax under this Part, and

(b) he shall, if the non-resident person

(i) does not file a return for the taxation year as and when permitted, or

(ii) does not pay the tax he is liable to pay for the taxation year under this section within the time limited for payment,

pay to the Receiver General of Canada, upon the expiration of the time for filing or payment, as the case may be, the full amount that he would otherwise have been required to remit in the year minus the amounts that he has remitted in the year under paragraph *(a)*."

42. Section one hundred and five of the said Act is amended by adding the following subsection thereto:

Administration of oaths.

"(5) Any officer or servant employed in connection with the administration or enforcement of this Act, if he is designated by the Minister for the purpose, may, in the course of his employment, administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or regulations made thereunder, and every officer or servant so designated has for such purposes all the powers of a commissioner for administering oaths or taking affidavits."

French version amended.

43. (1) Subsection four of section one hundred and nine of the French version of *The Income Tax Act* is repealed and the following substituted therefor:

Saisie-arrêt.

"*(4)* Toute personne qui s'est libérée d'une obligation envers une personne astreinte à faire un paiement en vertu de la présente loi, sans se soumettre à une pres-

Clause 41. This amendment is to give legal effect to the practice which has been followed under the *Income War Tax Act.*

Subsection 3 now reads:

"(3) This section is applicable only in respect of a person resident in a country the government of which grants a similar privilege to persons resident in Canada."

Clause 42. Other provisions of the Act provide for the proof of documents (for example, returns) under the Act by affidavit. This section is to make provision for the authorization of persons to take these affidavits.

Clause 43. The subsection repealed reads as follows:

"(4) Toute personne qui a donné quittance d'une obligation a une personne astreinte a faire un paiement en vertu de la presente loi, sans se soumettre a une prescription du present article, est tenue de payer a Sa Majesté un montant égal a l'obligation quittance ou au montant qu'elle était tenue, aux termes dn présent article, de payer au Receveur général du Canada, selon le moin élevé des deuz montant."

cription du présent article, est tenue de payer à Sa Majesté un montant égal à l'obligation acquittée ou au montant qu'elle était tenue, aux termes du présent article, de payer au Receveur général du Canada, selon le moins élevé des deux montants."

Application of section.

(2) This section is applicable to the 1949 and subsequent taxation years.

Withholding taxes.

44. (1) Subsection six of section one hundred and twelve of *The Income Tax Act* is repealed and the following substituted therefor:

Idem.

"(6) Every person who deducts or withholds an amount under this Act is liable to pay to His Majesty on the day fixed by or pursuant to this Act an amount equal to the amount so deducted or withheld and, except in the case of bankruptcy, this liability constitutes a first charge on his property and, notwithstanding *The Bank Act* or any other statute or law other than the *Bankruptcy Act*, ranks for payment in priority to all other claims, including claims of His Majesty in right of a province or in any other right, of whatsoever kind arising before or after the commencement of this Act, except only the judicial costs, fees and lawful expenses of an assignee or other public officer charged with the administration or distribution of his property."

R.S., c. 11.

Idem.

(2) Paragraph *(a)* of subsection eight of the said section one hundred and twelve is repealed and the following substituted therefor:

"*(a)* if the amount should have been deducted or withheld under subsection (1) of section 44 from an amount that has been paid to a person resident in Canada, 10% of the amount that should have been deducted or withheld, and"

Coming into force of ss. (1).

(3) Subsection one of this section shall come into force on a day to be fixed by proclamation of the Governor in Council and subsection two of this section is applicable to amounts that should have been deducted or withheld after the commencement of this Act.

Application of ss. (2).

45. (1) Paragraph *(h)* of subsection one of section one hundred and twenty-seven of *The Income Tax Act* is repealed and the following substituted therefor:

"Corporation" and "corporation incorporated in Canada."

"*(h)* 'corporation' includes an incorporated company and a 'corporation incorporated in Canada' includes a corporation incorporated in any part of Canada before or after it became part of Canada;"

(2) Paragraph *(j)* of the said subsection one is repealed and the following substituted therefor:

"dividend."

"*(j)* 'dividend' includes stock dividend except where the stock dividend has been declared by a non-resident corporation

Clause 44. (1) The subsection repealed reads as follows:

"(6) Every person who deducts or withholds an amount under this Act is liable to pay to His Majesty on the day fixed by or pursuant to this Act an amount equal to the amount so deducted or withheld and this liability constitutes a first charge on his assets and, notwithstanding the Bank Act, the Bankruptcy Act or any other statute or law, ranks for payment in priority to all other claims including claims of His Majesty in right of a province or in any other right, of whatsoever kind arising before or after the commencement of this Act, except only the judicial costs, fees and lawful expenses of an assignee or other public officer charged with the administration or distribution of such assets."

This amendment is consequential upon proposed amendments to the Bankruptcy Act.

(2) The paragraph repealed reads as follows:

"*(a)* if the amount should have been deducted or withheld under subsection (1) of section 44, 10% of the amount that should have been deducted or withheld, and".

This amendment limits the penalty to 10% of the amount that should have been deducted from a resident of Canada.

Clause 45. (1) The paragraph repealed reads as follows:

"*(h)* 'corporation' includes an incorporated company;"

(2) This is consequential on and for the same purpose as the amendment contained in Clause 3.

The underlined words are new.

(i) the shares of which are listed on a recognized stock exchange, and

(ii) more than 50% of the share capital of which (having full voting rights under all circumstances) belongs to non-resident persons;"

(3) Paragraph *(n)* of the said subsection one is repealed and the following substituted therefor:

"exempt income." "*(n)* 'exempt income' means money, rights or things received or acquired by a person in such circumstances that they are, by reason of any provision in Part I, not included in computing his income and includes amounts deductible under section 27;"

(4) Paragraph *(w)* of the said subsection one is repealed and the following substituted therefor:

"loss." "*(w)* 'loss' means a loss computed by applying the provisions of this Act respecting computation of income from a business *mutatis mutandis* (but not including in the computation a dividend or part of a dividend the amount whereof would be deductible under section 27 in computing taxable income) minus any amount by which a loss operated to reduce the taxpayer's income from other sources for purpose of income tax for the year in which it was sustained;"

"office." (5) Paragraph *(aa)* of the said subsection one is repealed and the following substituted therefor:

"*(aa)* 'office' means the position of an individual entitling him to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a Minister of the Crown, the office of a member of the Senate or House of Commons of Canada, a member of a legislative assembly, senator or member of a legislative or executive council and any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a corporation director;

"officer." and 'officer' means a person holding such an office."

(6) Paragraph (*aj*) of the said subsection one is repealed and the following substituted therefor:

"salary or wages." "*(aj)* 'salary or wages', except in section 5, means the income of a taxpayer from an office or employment as computed under section 5 and includes all fees received for services not rendered in the course of the taxpayer's business but does not include superannuation or pension benefits or retiring allowances;"

(7) Subsection two of the said section one hundred and twenty-seven is repealed and the following substituted therefor:

"taxation year." "(2) For the purpose of this Act, a 'taxation year' is *(a)* in the case of a corporation, a fiscal period, and

(3) The paragraph repealed reads as follows:

"*(n)* 'exempt income' means money, rights or things received or acquired by a person in such circumstances that they are, by reason of any provision in Part I, not included in computing his income and includes amounts deductible under section 27 or 28;"

The words "or 28" are repealed.

(4) The paragraph repealed reads as follows:

"*(w)* 'loss' means a loss computed by applying the provisions of this Act respecting computation of income from a business *mutatis mutandis* (but not including in the computation a dividend or part of a dividend the amount whereof would be deductible under section 27 or 28 in computing taxable income) minus any amount by which a loss operated to reduce the taxpayer's income from other sources for purpose of income tax for the year in which it was sustained;"

The words "or 28" are repealed.

(5) The paragraph repealed reads as follows:

"*(aa)* "office" means the position of an individual entitling him to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a Minister of the Crown, the office of a member of the Senate or House of Commons of Canada, a member of a legislative assembly, senator or member of a legislative or executive council and any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity but does not include the position of a corporation director; and "officer" means a person holding such an office;"

(6) The paragraph repealed reads as follows:

"*(aj)* 'salary or wages', except in section 5, means the income of a taxpayer from an office or employment as computed under section 5 and includes all fees (except fees of a corporation director) received for services not rendered in the course of the taxpayer's business but does not include superannuation or pension benefits or retiring allowances;"

The underlined words are repealed.

(7) The subsection repealed reads as follows:

"(2) For the purposes of this Act, the "taxation year" denoted by reference to any year is

(a) in the case of a corporation, the fiscal period or periods ending in that year, and

(b) in the case of an individual, the calendar year."

The underlined words are repealed.

(b) in the case of an individual, a calendar year,

and when a taxation year is referred to by reference to a calendar year the reference is to the taxation year or years coinciding with, or ending in, that year."

Application fo section.

(8) This section is applicable to the 1949 and subsequent taxation years.

46. Subsection ten of section one hundred and twenty-nine of *The Income Tax Act* is repealed and the following substituted therefor:

Investigation, etc.

"(10) Sections 108, 109, 110, 111 and 115, section 124 except subsection (4) thereof, and regulations made under paragraphs *(e)* and *(g)* of subsection (1) of section 106 are applicable *mutatis mutandis* in respect of matters arising under the *Income War Tax Act*."

Foreign tax deduction under I.W.T. and E.P.T. Acts.

47. No taxpayer shall be deemed ever to have been entitled, by virtue of subsections one and two A of section eight of the *Income War Tax Act* and section nine of *The Excess Profits Tax Act, 1940*, to deduct from the taxes otherwise payable under either or both of those Acts for a taxation year an amount or amounts exceeding, in the aggregate, that proportion of the tax or taxes so otherwise payable for the year that

(a) that part of the taxpayer's income for the year from sources in the other country that was not exempt from income tax in that country minus amounts exempt from income tax for the year by virtue of paragraph *(r)* of section four of the *Income War Tax Act*,

is of

(b) the taxpayer's income for the year for the purpose of the *Income War Tax Act* minus amounts exempt from income tax for the year under paragraphs *(n)*, *(o)*, *(r)* and *(s)* of section four of that Act.

Newfoundland.

48. (1) The following rules are applicable in the application of Part I of *The Income Tax Act* to a taxpayer who was resident in Newfoundland on the expiration of March 31, 1949, and was not resident in Canada in 1949 prior to that time:

(a) the taxpayer is not required to make any payment of tax that he would otherwise be required to make prior to July 1, 1949;

(b) where a return is required to be made of income for a period commencing before the end of March, 1949, the return shall be of the income for the part of the period after the end of that month;

(c) a taxpayer may elect, when filing his return for a taxation year commencing before the end of March, 1949, that his income from a business for the year shall be deemed to be that proportion of the income

Clause 46. The subsection repealed reads as follows:

"(10) Section 115, and section 124 except subsection (4) thereof, are applicable *mutatis mutandis* in respect of matters arising under the Income War Tax Act."

Clause 47. This section removes the possibility of claiming tax credits under the *Income War Tax Act* and *Excess Profits Tax Act* for taxes paid to a foreign country in excess of the Canadian tax on the same income.

48. This clause contains special provisions relating to residents of Newfoundland.

from the business for the whole fiscal period that the number of days in the portion of the fiscal period that is after the end of March, 1949, is of the number of days in the whole fiscal period and, if he so elects, paragraph *(b)* is not applicable to the computation of income from the business for the year;

(d) where a taxpayer is an individual, his income for the 1949 taxation year shall be deemed to be the income computed by application of the rules in paragraphs *(b)* and *(c)* plus an amount equal to one-third thereof;

(e) where a taxpayer is an individual, the tax payable for the 1949 taxation year is

(i) one-half the tax otherwise payable (which expression in this rule means the tax that would be payable under the said Part I for the year if it were not for this rule), plus

(ii) an amount equal to one-half the portion of the tax otherwise payable that

(A) the amount by which the investment income for the year exceeds $3,000,

is of

(B) the amount by which the income for the year exceeds the amounts deducted therefrom under paragraphs *(a)*, *(b)* and *(c)* of subsection one of section twenty-six of the said Act; and

(f) the portion of the tax fixed by subparagraph (i) of paragraph *(e)* is payable when other tax for the year under the said Part I is required to be paid but the portion of the tax fixed by subparagraph (ii) thereof shall be paid by the legal representatives of the taxpayer upon the death of the taxpayer except to the extent that the taxpayer may have elected to pay, and has paid,

(i) on or before April 30, 1950, the discounted value of the whole thereof calculated at a rate of 2% per annum for the period of his normal expectation of life as shown by mortality tables approved by the Minister, or

(ii) the whole or any part thereof at any time before death;

(g) for the purpose of determining any matter not specifically dealt with by paragraphs *(a)* to *(f)*, a taxation year commencing before the end of March, 1949, shall be deemed to be the period in the taxation year after the end of March, 1949.

Idem. (2) In relation to a corporation that was resident in Newfoundland on the expiration of March 31, 1949, and was not resident in Canada at any time prior to that time, the words "undistributed income earned since the beginning of April, 1949," shall be substituted for the words "undistributed income earned since the beginning of 1917" where the latter words appear in *The Income Tax Act.*

Idem. (3) For the purpose of computing a deduction under paragraph *(d)* of subsection one of section twenty-six or subsection eight of section seventy-five of the said Act, a taxpayer who was resident in Newfoundland on the expiration of March 31, 1949, and was not resident in Canada prior to that time shall be deemed not to have had income or a loss for a taxation year prior to the 1949 taxation year.

Idem. (4) An election under paragraph *(d)* of subsection four of section sixty-three of the said Act, in the case of a corporation that was resident in Newfoundland on the expiration of March 31, 1949, and that was not resident in Canada prior to that time, may, for the 1949 taxation year, be made within ninety days from the commencement of this Act.

Idem. (5) For the purpose of paragraph *(b)* of subsection one of section sixty-five of the said Act, an expenditure made in Newfoundland shall be deemed to have been made in Canada.

Idem. (6) For the purpose of section sixty-six of the said Act,

(a) a corporation incorporated under Newfoundland legislation shall be deemed to have been incorporated under provincial legislation whether or not it was so incorporated before Newfoundland became part of Canada, and

(b) the first three taxation years after commencement of a corporation's business shall be deemed to have expired at the end of the last taxation year (as defined by *The Income Tax Act)* beginning within thirty-six months from the commencement of its business whether or not its business was commenced before Newfoundland became part of Canada.

(7) For the purpose of section sixty-nine of the said Act,

(a) a payment made in Newfoundland before Newfoundland became part of Canada shall be deemed to have been made in Canada, and

(b) an amount that would, if a taxpayer had been resident in Canada, have been deductible, in respect of a payment deemed by paragraph *(a)* to have been made in Canada under section sixty-nine in computing his income for a year previous to a taxation year shall be deemed, for the purpose of determining his deduction under section sixty-nine for the taxation year, to have been deductible under that section in computing his income for the previous year.

Coming into force in Newfoundland. (8) *The Income Tax Act* shall be deemed to have come into force in Newfoundland upon the expiration of March 31, 1949.

Pre-Confederation tax exemptions.

49. For greater certainty it is hereby declared and enacted that, notwithstanding any other law heretofore enacted by a legislative authority other than the Parliament of Canada (including a law of Newfoundland enacted prior to the first day of April nineteen hundred and forty-nine), no person is entitled to

(a) any deduction, exemption or immunity from, or any privilege in respect of,

(i) any duty or tax imposed by an Act of the Parliament of Canada, or

(ii) any obligation under an Act of the Parliament of Canada imposing any duty or tax, or

(b) any exemption or immunity from any provision in an Act of the Parliament of Canada requiring a licence, permit or certificate for the export or import of goods,

unless provision for such deduction, exemption, immunity or privilege is expressly made by the Parliament of Canada.

Refunds.

50. Subsection two of section eleven of chapter sixty-three of the statutes of 1947 shall not be deemed to limit the power of the Minister of National Revenue to make a refund under subsection eight of section ninety-two of the *Income War Tax Act* at or prior to the issue of a notice of assessment or, on application in writing therefor by the taxpayer within twelve months from the day on which a notice of assessment was issued.

Income Tax Appeal Board and Exchequer Court appeals.

51. (1) All references in the *Income War Tax Act* to the Income Tax Appeal Board constituted by the Third Schedule to that Act shall be deemed to be references to the Income Tax Appeal Board constituted by Division I of Part I of *The Income Tax Act;* all references in the *Income War Tax Act* to the said Third Schedule shall be deemed to be references to the said Division I; and all references in the *Income War Tax Act* to the Fourth Schedule to the *Income War Tax Act* shall be deemed to be references to Division J of Part I of *The Income Tax Act.*

Clause 49. This is to carry out paragraph 15 of the Resolution, which reads as follows:

"**15.** That tax concessions under Statutes of Newfoundland shall not apply in respect of taxes imposed by any Act of the Parliament of Canada."

Clause 50. Section 11 of Chapter 63 of the Statutes of 1947 reads as follows:

"**11.** (1) Subsection eight of section ninety-two of the said Act is repealed and the following substituted therefor:—

'(8) Where any person on whose behalf money has been paid to the Receiver General of Canada under this section was not liable to pay any tax under this Act or where moneys paid to the Receiver General of Canada under this section on behalf of any person are in excess of the tax that such person was liable to pay under this Act, the Minister may, at or prior to the issue of the notice of assessment, without application therefor, or on application in writing therefor by the taxpayer within two years from the end of the calendar year in which payment was made or within twelve months from the date at which notice of assessment was issued, whichever is later, refund to the said person the amount so paid or such part thereof as in his opinion such person was not liable to pay.'

(2) Where a payment on behalf of any person has been made to the Receiver General of Canada under section ninety-two of the said Act on or before the thirty-first day of December, nineteen hundred and forty-five, the Minister may, upon an application made on or before the thirty-first day of December, nineteen hundred and forty-eight, if that person was not liable to pay tax under this Act or the payment was in excess of the tax that the person was liable to pay under this Act, refund to that person the amount so paid or such part thereof as, in his opinion, such person was not liable to pay."

Clause 51. This is to synchronize the operations of the Income Tax Appeal Board under the Income War Tax Act and The Income Tax Act.

Idem.

(2) Any notice given by or on behalf of a taxpayer which would have been sufficient under the provisions of the Third or Fourth Schedules to the *Income War Tax Act* shall be deemed to have been duly given in accordance with the provisions of Division I and Division J of Part I of *The Income Tax Act.*

Idem.

(3) The Chairman and members of the Income Tax Appeal Board appointed on the twenty-third day of December, 1948, under the Third Schedule to the *Income War Tax Act*, shall be deemed to have been appointed on that day to the Income Tax Appeal Board under Division I of Part I of *The Income Tax Act* and all things purporting to have been done by such persons under *The Income Tax Act* are hereby ratified to the extent that such things would have been valid if done by an Income Tax Appeal Board duly constituted under *The Income Tax Act.*

Schedules repealed.

(4) The Third and Fourth Schedules to the *Income War Tax Act* are repealed.

Deductions from income of corporations in petroleum buiness.

52. (1) A corporation whose principal business is the production, refining or marketing of petroleum or petroleum products may deduct, in computing its income for the purpose of *The Income Tax Act* for the year of expenditure, an amount equal to the aggregate of the drilling and exploration costs, including all general geological and geophysical expenses incurred by it, directly or indirectly, on oil wells spudded in or the deepening of which commenced in the calendar years 1950 to 1952, inclusive, and which wells are abandoned within six months after the completion of the drilling.

Exploration and drilling for oil expenses deductible.

(2) A corporation, association, syndicate or exploration partnership formed for the purpose of exploring and drilling for oil may deduct, in computing its income for the purpose of the said Act for the year of expenditure or, if the deduction permitted under this subsection exceeds the amount that would otherwise be the income for that year, in computing the income for subsequent years, an amount equal to the exploration and drilling expenses incurred by it directly or indirectly during the calendar years 1950 to 1952, inclusive.

Exploration and drilling for natural gas.

(3) A corporation, association, syndicate or exploration partnership formed for the purpose of exploring and drilling for natural gas may deduct, in computing its income for the purpose of the said Act for the year of expenditure, exploration and drilling expenses incurred by it directly or indirectly during the calendar years 1950 to 1952, inclusive.

Mining or exploring for minerals.

(4) A corporation whose chief business is that of mining or exploring for minerals may deduct, in computing its income for the purpose of the said Act for the year of expenditure, an amount equal to all prospecting, exploration and development expenses incurred by it, directly or indi-

Clause 52. This is to carry out paragraphs 12 and 13 of the Resolution, which reads as follows:

"**12.** That special deductions from income to taxpayers engaged in exploring or drilling for natural gas, oil or minerals be allowed for expenses incurred in the 1950, 1951, and 1952 operations on the same basis as for expenses in 1949 operations.

"**13.** That special deduction from taxes to taxpayers engaged in exploring or drilling for oil for expenses incurred on deep-test oil wells be allowed for such expenses in 1950 operations on the same basis as for such expenses in 1949 operations."

rectly, in searching for minerals during the calendar years 1950 to 1952, inclusive, if the corporation files certified statements of such expenditures and satisfies the Minister that it has been actively engaged in prospecting and exploring for minerals by means of qualified persons and has incurred the expenditure for such purposes.

Expenditures in production, refining or marketing of petroleum or in drilling deductible upon recommendation of Minister.

(5) A corporation, association, syndicate or exploration partnership, whose principal business is production, refining or marketing of petroleum or drilling for petroleum, may, with the consent of the Governor in Council, upon the recommendation of the Minister of Mines and Resources,

(a) deduct, in computing its income for the purpose of the said Act for the year of expenditure, all expenditures, and

(b) deduct, from the taxes otherwise payable under Part I of the said Act for the year of expenditure, thirty per cent of all expenditures,

other than geological or geophysical expenditures, made in connection with

(c) the testing of a significant geological structure by a deep test oil well that was spudded in during 1950 and that proved unproductive, or

(d) the testing of a significant stratigraphic trap by a group of test wells that were spudded in during 1950 and drilled to an aggregate depth of twenty-five thousand feet and all of which wells proved unproductive,

if, in the opinion of the Governor in Council,

(e) drilling the deep test well or group of test wells was desirable in order to extend the petroleum resources of Canada, and

(f) the taxpayer could not reasonably be expected to drill the deep test well or group of test wells unless permitted to make those deductions.

Corporation, association, etc., contributing to another corporation in the petroleum business.

(6) Where a corporation, association, syndicate or exploration partnership whose principal business is production, refining or marketing of petroleum or exploration or drilling for petroleum is a shareholder or partner in or member of another corporation, association, syndicate or exploration partnership whose principal business is production, refining or marketing of petroleum or exploration or drilling for petroleum, and has paid money thereto, either by way of subscription of capital or otherwise that is expended as described by subsection five, the Minister may direct that it shall, to the extent of that payment, be deemed, for the purpose of subsection five, to have, itself, made the expenditure and in any such case no deduction

may be made by reason of subsection five, by the corporation, association, syndicate or exploration partnership that made the expenditure.

Election as to deduction under either subsection (1) or (5).

(7) Where a corporation has incurred expenditures, the deduction of which from income is authorized under both subsections one and five, it shall not be entitled to make a deduction under both subsections but is entitled to elect to deduct the expenditures under either subsection.

Expenses deductible under s. 8 of R. S, ch. 97, s. 16 of ch. 63, 1947; s. 16 of ch. 53, 1947-48 or this section deemed not otherwise deductible.

(8) Where expenses are or have been, under section eight of the *Income War Tax Act*, section sixteen of chapter sixty-three of the statutes of 1947, section sixteen of chapter fifty-three of the statutes of 1947-48 or this section, deductible from, or in computing, a taxpayer's income or where any amount is or has been deductible in respect of expenses under any of those provisions from taxes otherwise payable, it is hereby declared that no amount in respect of the same expenses is or has been deductible under any other authority in computing the income or from the income of that taxpayer or any other taxpayer for that taxation year or any other taxation year.

185.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 185.

An Act to amend The Prairie Farm Assistance Act, 1939.

First reading, November 17, 1949.

THE MINISTER OF AGRICULTURE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph..
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

48116

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 185.

An Act to amend The Prairie Farm Assistance Act, 1939.

1939, c. 50; 1940, c. 38; 1940-41, c. 24; 1942-43, c. 5; 1947, c. 43; 1947-48, c. 24.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section seven of *The Prairie Farm Assistance Act, 1939*, chapter fifty of the statutes of 1939, as enacted by section three of chapter twenty-four of the statutes of 1947-48, is repealed and the following substituted therefor:

Blocks ineligible for award.

"**7.** Notwithstanding anything contained in this Act

(a) where a rectangular block of sections of land within an eligible township having an area of not less than one-sixth of the township and a side that lies along the boundary of an ineligible area is determined by the Board to have an average yield of more than ten bushels of wheat per acre, such block of sections of land shall be ineligible for award;

Blocks eligible.

(b) where a rectangular block of sections of land within an ineligible township having an area of not less than one-sixth of the township and a side that lies along the boundary of an eligible township is determined by the Board to have an average yield of eight bushels of wheat or less per acre, such block of sections of land shall be eligible for award as though it were a complete township;

Idem.

(c) where the Board has determined that an area is eligible for award and a rectangular block of sections of land outside such area having an area of not less than one-half a township is determined by the Board to have an average yield of eight bushels of wheat or less per acre, such block of sections of land shall be eligible for award as though it were a complete township."

Coming into force.

2. This Act shall be deemed to have come into force on the first day of August, nineteen hundred and forty-nine.

EXPLANATORY NOTES.

1. *(a)* This amendment will reduce the area taken out of payment at present in an eligible area when contiguous to one ineligible, from a rectangular block of nine sections having an average yield of fourteen bushels, to a rectangular block of six sections having an average yield of more than ten bushels.

(b) This amendment will reduce the size of an eligible area within an ineligible township and contiguous to a one that is eligible from a rectangular block of nine sections having an average yield of ten bushels of wheat or less per acre to one of six sections having an average yield of eight bushels or less.

(c) This is a new paragraph. The effect of this amendment will be to bring into payment any half township outside areas already established on a legal township basis but not contiguous to them.

2. This section brings the amendments into force for the current crop year.

194.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 194.

An Act to encourage and to assist in the construction of a Trans-Canada Highway.

First reading, November 22, 1949.

THE MINISTER OF RECONSTRUCTION AND SUPPLY.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44633

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 194.

An Act to encourage and to assist in the construction of a Trans-Canada Highway.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Trans-Canada Highway Act.*

Definitions. "highway". "Minister". "province".

2. In this Act

(a) "highway" includes culverts, bridges and grade separations;

(b) "Minister" means the Minister of Reconstruction and Supply; and

(c) "province" means a province of Canada but does not include the Northwest Territories or the Yukon Territory.

Agreements with provinces.

3. (1) With the approval of the Governor in Council the Minister may enter into an agreement with any province providing for the payment by Canada to the province of contributions in respect of the cost to the province of the construction of a highway within the province as part of a trans-Canada highway.

Terms of agreement.

(2) An agreement made under subsection one shall prescribe the location, standards and the time and method of the construction of the highway and shall include terms and conditions for

(a) the calling of tenders and the review by the Minister of tenders and specifications,

(b) the inspection by the Minister of the highway during construction,

(c) the method of determining the cost of construction,

(d) the amount of the contribution,

(e) the examination, inspection and audit of all construction costs and accounts, and

(f) such other terms and conditions as the Minister may consider necessary or desirable.

Contributions to provinces.

4. (1) The Minister of Finance may, in accordance with an agreement made with a province under section three, pay to the province out of unappropriated moneys in the Consolidated Revenue Fund the contributions required by the agreement to be paid by Canada.

Limitation.

(2) The contributions paid to a province under this section shall not exceed fifty per centum of the cost to the province of the construction of the highway as determined by the Governor in Council.

No expenditures after seven years from commencement of Act

(3) No contributions or payments shall be made under this Act in respect of construction costs incurred after the expiration of the period of seven years next following the commencement of this Act.

Contributions in respect of highways previously constructed.

5. Where a province has prior to the commencement of this Act constructed a highway that in the opinion of the Governor in Council may properly be included as part of a trans-Canada highway, the Governor in Council may authorize the Minister of Finance to pay to the province out of unappropriated moneys in the Consolidated Revenue Fund a contribution in respect of the cost to the province of the construction of the highway in such amount and payable at such times and in such manner as the Governor in Council may determine, but not exceeding fifty per centum of the cost of construction as determined by the Governor in Council.

Temporary employees.

6. (1) With the approval of the Governor in Council the Minister may employ temporary engineers, technical officers and other employees for the purposes of this Act.

Salaries.

Expenses

(2) The salaries and expenses of persons employed under this section shall be fixed by the Governor in Council and shall be paid out of moneys appropriated by Parliament for that purpose.

Aggregate limited to $150,000,000.

7. The aggregate of all expenditures under sections four, five and six shall not exceed one hundred and fifty million dollars.

National Parks.

8. The Minister of Mines and Resources may out of moneys appropriated by Parliament provide for the construction of such highways within the National Parks as form part of a trans-Canada highway.

Report to Parliament.

9. The Minister shall annually lay before Parliament a report of all proceedings under this Act for the preceding fiscal year.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

195

BILL E6.

An Act to amend The Surplus Crown Assets Act.

Read a first time, Monday, 14th November, 1949.

Honourable Senator ROBERTSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

49698

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL E[6].

An Act to amend The Surplus Crown Assets Act.

1944-45, c. 21.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section two of *The Surplus Crown Assets Act,* chapter twenty-one of the statutes of 1944–45, is repealed and the following substituted therefor:

Definitions. "Board".

"2. In this Act,

(a) "Board" means the Board of Directors of the corporation;

"corporation".

(b) "corporation" means the corporation established by this Act;

"government department".

1932-33, c. 33.

1937, c. 43.

(c) "government department" means a department of the Government of Canada or a board, commission, corporation or other body that is an agent of His Majesty in right of Canada but does not include the National Railways as defined in *The Canadian National-Canadian Pacific Act, 1933,* the Canadian Broadcasting Corporation, the Bank of Canada, the Industrial Development Bank, Trans-Canada Air Lines or any corporation incorporated under *The Trans-Canada Air Lines Act, 1937;*

"Minister".

(d) "Minister" means the Minister of Trade and Commerce;

"surplus Crown assets".

(e) "surplus Crown assets" means the property that is included in a report made to the Minister under section three and has not subsequently been deleted from the report with the authority of the Minister or disposed of pursuant to this Act."

2. Section three of the said Act is repealed and the following substituted therefor:

Explanatory Notes.

1. The purpose of the Bill is to revise *The Surplus Crown Assets Act* to provide that Crown assets which are surplus to Government requirements are, with certain exceptions, to be reported surplus to the Minister of Trade and Commerce for disposal under his direction by a single Government agency now known as War Assets Corporation and to be known as Crown Assets Disposal Corporation.

Proposed paragraphs *(b)*, *(c)*, *(d)* and *(e)* of section 2 of the Act will replace the present paragraphs *(b)*, *(c)*, *(d)* and *(f)* which read as follows:

"*(b)* "committee" means the Crown Assets Allocation Committee established pursuant to this Act;

(c) "corporation" means the War Assets Corporation established pursuant to this Act;

(d) "government department" means a department, commission or board created by or pursuant to the authority of Parliament, and includes any agency of the Government of Canada designated by the Governor in Council as a government department for the purposes of this Act."

(f) "surplus Crown assets" means property that has been

(i) included in a report made to the Minister under section three; or

(ii) declared by the Governor in Council to be unnecessary to satisfy the requirements of the government department by which it is kept, administered or controlled; and

has not been subsequently deleted from the report with the consent of the Minister or disposed of pursuant to the provisions of this Act."

2. In the interests of clarity, proposed subsection (1) of section 3 of the Act will replace present subsection (1) which reads as follows:

Reports by departments.

"**3.** (1) Except as provided in subsection two of this section, whenever a government department determines that property of His Majesty in right of Canada in its custody or under its control or administration is surplus to its requirements, it shall make a report of such property to the Minister.

Exceptions.

(2) The following property need not be included in a report made under subsection one, except to such extent as may be specified by order of the Governor in Council:

(a) agricultural or dairy products or livestock or livestock products, other than those in the custody or under the control or administration of the Department of National Defence;

(b) personal property acquired or produced by a board, commission, corporation or other body for disposal pursuant to an Act of Parliament or order of the Governor in Council;

(c) lands situated in the Yukon Territory or the Northwest Territories and under the control, management or administration of the Minister of Mines and Resources;

(d) lands under the control, management or administration of the Minister of Mines and Resources on the thirty-first day of December, nineteen hundred and forty-nine, or by virtue of the *Indian Act*, *The National Parks Act* or *The Canada Forestry Act;*

R.S., c. 98. 1930 (1st Sess.) c. 33.

1949 (2nd Sess.) c.

(e) lands under the control, management or administration of the Minister of Transport, other than those acquired pursuant to the Acts mentioned in section two of *The War Appropriation Act, No. 2, 1944;*

1944-45, c. 16.

(f) lands authorized to be disposed of under *The Veterans' Land Act, 1942*, *the Soldier Settlement Act*, *The Central Mortgage and Housing Corporation Act* or the *Housing Acts* as defined in *The Central Mortgage and Housing Corporation Act.*

1942-43, c. 33. R.S., c. 188. 1945, (2nd Sess.) c. 15.

No disposal except under this Act.

(3) Notwithstanding any Act or Order in Council enacted or passed before this Act comes into force, no government department shall dispose of any surplus Crown assets except in accordance with this Act."

Repeal.

3. Sections five, six, seven and eight of the said Act are repealed.

"(1) Every government department shall, from time to time, after considering in relation to its immediate or known future needs all property of any kind whatsoever that is in its custody or control or administered by it, make a report to the Minister of all such property that is unnecessary to satisfy its immediate or known future requirements."

This language does not leave sufficient departmental discretion in regard to potential requirements.

Proposed new subsection (2) will replace present subsection (3) which reads as follows:

"(3) Notwithstanding the provisions of subsection one of this section, no government department except the Department of National Defence and the Department of Munitions and Supply, is required to include agricultural or dairy products or livestock or livestock products in a report made pursuant to subsection one."

Order in Council P.C. 6204 of August 11, 1944, made under this Act and applying to Crown lands, will be revised in terms of this Bill when enacted.

Proposed subsection (3) is a re-enactment of present subsection (2) except that the concluding words of the latter "or in accordance with general or specific authority of the Governor in Council" have been deleted in harmony with the new definition of "surplus Crown assets".

3. The functions of the Crown Assets Allocation Committee have diminished to the point where they are no longer necessary, having regard to the powers of the Board of Directors of the corporation acting under direction of the Minister. The sections proposed to be repealed read as follows:

"**5.** The Minister, with the approval of the Governor in Council, may

(a) establish a committee to be known as the Crown Assets Allocation Committee;

(b) appoint one of the members of the committee to be chairman and fix the salary, if any, to be paid him;

(c) authorize payment to any member of the committee who is not in the public service of Canada of a fee for each meeting of the committee that he attends; and

(d) authorize payment to each member of the committee of actual disbursements for expenses necessarily incurred in connection with the discharge of his duties under this Act.

Re-numbering.

4. (1) Section nine of the said Act is re-numbered as section five.

(2) Paragraph *(d)* of section five of the said Act, as re-numbered by this section, is repealed and the following substituted therefor:

Transfer from one department to another.

"*(d)* approve the transfer of surplus Crown assets from one government department to another, subject to such terms and conditions as he may consider desirable;"

(3) Paragraph *(e)* of section five of the said Act, as re-numbered by this section, is repealed and the following substituted therefor:

Authority to department to dispose of assets.

"*(e)* authorize a government department to dispose of surplus Crown assets in such manner, upon such terms and subject to such conditions as he may consider desirable;"

Repeal and re-lettering.

(4) Paragraph *(i)* of section five of the said Act, as re-numbered by this section, is repealed and paragraphs *(j)* and *(k)* of the said section are respectively re-lettered as paragraphs *(i)* and *(j)*.

6. (1) A member of the committee shall be appointed for a term of one year subject to removal without cause by the Governor in Council during the term; and a member may, upon the expiration of his term, be re-appointed.

(2) The committee shall be responsible to, and subject to the direction and control of, the Minister.

(3) The chairman shall call meetings of the committee to be held at such times and places as he may decide.

(4) The committee shall, immediately after every meeting, make a report to the Minister with reference to the proceedings thereof.

(5) Every member of the committee shall, before acting as such, take before a justice of the peace or commissioner for taking affidavits, and file with the secretary of the committee, an oath of fidelity and secrecy in the form set out in the Schedule to this Act.

7. The committee shall advise the Minister on matters relating to the use, disposal of or dealing with surplus Crown assets or otherwise arising out of this Act, which are referred to it by the Minister, and in particular without limiting the foregoing, it shall

(a) consider questions relating to surplus Crown assets referred to it by the Minister and recommend to the Minister whether the corporation should sell or otherwise dispose of any such assets or whether they should be dealt with or disposed of in some other way;

(b) consider representations made by any government department, provincial government, municipality or public body with respect to surplus Crown assets and make recommendations to the Minister in connection therewith; and

(c) exercise and perform such duties and make such investigations and reports as the Governor in Council or the Minister may from time to time direct.

8. (1) A secretary and such other officers, clerks and employees as are necessary to assist the committee in the performance of the duties imposed on it by this Act shall be appointed or employed in the manner authorized by law.

(2) The Minister may, with the approval of the Governor in Council, temporarily employ such persons of technical or professional attainment as he may deem necessary; and the salaries of such persons may be fixed or varied by the Minister with the approval of the Governor in Council.

(3) Every person appointed or employed as provided in this section shall, before entering upon his duties, take before a justice of the peace or commissioner for taking affidavits, and file with the Minister, an oath of fidelity and secrecy in the form set out in the Schedule to this Act."

4. Present paragraph *(d)* reads as follows:

"*(d)* approve the transfer of surplus Crown assets from one government department to another."

The proposed amendment will enable special terms and conditions in proper cases, as may be necessary if the transfer is by a Crown company or agency.

Present paragraph *(e)* reads as follows:

"*(e)* empower a government department to sell surplus Crown assets upon such terms and subject to such conditions as he may consider desirable."

The proposed amendment is necessary as some surplus assets are not saleable.

Present paragraph *(i)*, which will be unnecessary in view of clause 7, reads as follows:

"*(i)* direct the corporation to do any of the things authorized by paragraphs *(a)* to *(d)* inclusive of this section."

Re-numbering.

5. (1) Section ten of the said Act is re-numbered as section six.

(2) Subsection four of section six of the said Act, as re-numbered by this section, is repealed and the following substituted therefor:

Head office.

"(4) The head office of the corporation shall be at Ottawa or in such other place as the Minister may from time to time determine."

Change of name.

(3) After the commencement of this Act War Assets Corporation shall be known as Crown Assets Disposal Corporation.

Re-numbering.

6. Section eleven of the said Act is re-numbered as section seven.

7. Section twelve of the said Act is repealed and the following substituted therefor:

Delegation of Minister's powers to corporation.

"**8.** (1) The Minister may authorize the corporation to exercise or perform any or all of the functions, powers or duties of the Minister under section five.

Powers of corporation.

(2) Subject to specific or general instructions of the Minister, the corporation may

(a) convert surplus Crown assets to basic materials;

(b) purchase, lease or otherwise acquire real or personal property for the purpose of its operations and sell, lease or otherwise dispose of such property; and

(c) do such other acts and things as the Board may deem incidental or conducive to the attainment of its objects or the exercise of its powers."

Re-numbering.

8. Sections thirteen to eighteen of the said Act are re-numbered as sections nine to fourteen respectively.

Repeal.

9. Section nineteen of the said Act is repealed.

5. The effect of proposed subclause (2) is to change the head office of the corporation from Montreal to Ottawa.

Subclause (3) is substantive and self-explanatory.

6. This clause is self-explanatory.

7. Present section 12 of the Act reads as follows:

"**12.** (1) Subject to general or specific instructions given by the Minister, the corporation may, when so directed by the Minister,

(a) sell, exchange, lease, lend or otherwise dispose of or deal with surplus Crown assets either gratuitiously or for a consideration and upon such terms and subject to such conditions as the Board may consider desirable;

(b) hold, manage, operate, finish, assemble, store, transport, repair, maintain and service surplus Crown assets;

(c) restore to its original condition any property that has been made available to His Majesty and settle any claim in connection therewith;

(d) convert surplus Crown assets back to basic materials; and

(e) do such other acts and things as the Board may deem incidental or conducive to the attainment of its objects or the exercise of its powers.

(2) If authorized by the Minister, the corporation may purchase, lease or otherwise acquire real or personal property required for the purpose of its operations; and sell, lease, or otherwise dispose of the same."

Subsection (1) has been clarified to remove any confusion due to its lack of reference to section 9 from which the Minister derives powers that are subject to authorization by the Governor in Council, and to enable the Minister to have the Corporation perform under his direction such of those authorized powers as he deems advisable.

Proposed subsection (2) re-enacts the above paragraphs *(d)* and *(e)* and above subsection (2).

8. This clause is self-explanatory.

9. Present section 19 is spent. It provides as follows:

"**19.** (1) The custody, administration and control of all property and assets belonging to His Majesty kept, administered or controlled by War Assets Corporation Limited, a company the incorporation of which was procured by the Minister pursuant to an Order in Council passed on the twenty-ninth day of November, nineteen hundred and forty-three, are hereby transferred to the corporation on the day the corporation is established.

(2) The corporation shall, upon the day the corporation is established, take possession of all property and assets of and assume all the obligations and liabilities of or incurred by the said War Assets Corporation Limited.

(3) The Charter of War Assets Corporation Limited is hereby cancelled and the company dissolved on the day the corporation is established."

Re-numbering.

10. Sections twenty, twenty-one and twenty-two of the said Act are re-numbered as sections fifteen, sixteen and seventeen respectively.

Re-numbering.

11. (1) Section twenty-three of the said Act is re-numbered as section eighteen.

(2) Paragraph *(a)* of section eighteen of the said Act, as re-numbered by this section, is repealed and the following substituted therefor:

"*(a)* make such orders as he may deem necessary or desirable with reference to the organization, administration or management of the corporation and confer on the corporation additional powers and duties;"

Re-numbering.

12. Section twenty-four of the said Act is re-numbered as section nineteen.

Repeal.

13. Section twenty-five of the said Act is repealed.

New Schedule.

14. The Schedule to the said Act is repealed and the Schedule to this Act substituted therefor.

Coming into force.

15. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

10. This clause is self-explanatory.

11. The change effected by subclause (2) merely omits reference to the Crown Assets Allocation Committee in present paragraph *(a)* which reads as follows:

"*(a)* make such orders as he may deem necessary or desirable with reference to the organization, administration or management of the committee or corporation and to confer on the committee or corporation additional powers and duties."

12. This clause is self-explanatory.

13. This clause is self-explanatory.

14. This clause re-enacts the present Schedule without change except to refer to the corporation by its new name and to omit references to the Crown Assets Allocation Committee.

15. The purpose of bringing the amending Act into force by proclamation is to allow the *Canada Forestry Act* (referred to in clause 2) to be first enacted during this session.

SCHEDULE.

Oath of Fidelity and Secrecy of Employee of Crown Assets Disposal Corporation:

I,....., solemnly and sincerely swear that I will faithfully and honestly fulfil the duties which devolve upon me and shall not divulge any knowledge or information obtained by me in the course of my employment to any one not legally entitled thereto unless expressly authorized by my superior officers.

Oath of Fidelity and Secrecy of Director or Officer of Crown Assets Disposal Corporation:

I,....., do solemnly swear that I will faithfully, truly and to the best of my judgment, skill and ability execute and perform the duties required of me as a Director or Officer, as the case may be, of Crown Assets Disposal Corporation.

I further solemnly swear that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the corporation, nor will I allow any such person to inspect or have access to any books, documents or records belonging to or in the possession of the corporation and relating to its business.

199.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 199.

An Act to amend the Criminal Code. (Discrimination).

First reading, November 23, 1949.

MR. STEWART
(Winnipeg North).

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50183

1st Session, 21st Parliament, 13 George VI, 1949.

R.S., c. 36
1930, c. 11;
1931, c. 28;
1932, cc. 7, 8, 9, 28;
1932-33, cc. 25, 53;
1934, cc. 11, 47;
1935, cc. 36, 56;
1936, c. 29;
1938, c. 44;
1939, c. 30;
1943-44, c. 23;
1944-45, c. 35;
1946, cc. 5, 20;
1947, cc. 31, 55;
197-48, cc. 39, 40.

THE HOUSE OF COMMONS OF CANADA.

BILL 199.

An Act to amend the Criminal Code. (Discrimination).

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (1) The *Criminal Code*, chapter thirty-six of the Revised Statutes of Canada, 1927, is amended by inserting therein immediately after section five hundred and two A, the following:

«**502B.** (1) Any employer, including any agency of the Crown, an individual, firm, partnership, corporation, association or municipality, who employs, at any one time, three or more persons, or any employment agency or person acting for or on behalf of an employer, who

(a) discriminates against any person or class of persons in respect of terms, conditions or privileges of employment, or refuses to employ or discharges any such person or class of persons because of his or its race, colour, creed, religion, ethnic or national origin or ancestry;

(b) by writing, printing, word of mouth, or any other medium, disseminates, circulates for use, or causes to be disseminated, circulated or used any statement, advertisement or other form of publication respecting the employment or any form of application for employment, which expresses or implies, directly or indirectly, any limitation, specification or preference as regards applicants as to race, colour, creed, religion, ethnic or national origin or ancestry, or makes any enquiry or record of an applicant or employee as to his race, colour, creed, religion, ethnic or national origin or ancestry; or

(c) refuses to employ, discharges from his employment or otherwise discriminates against any person because such person has opposed by word or act the doing by the employer of any of the acts by this section declared

unlawful or because such person has laid an information against the employer or otherwise participated in any prosecution relating to a violation of this section;

is guilty of an offence punishable on indictment or on summary conviction before two justices, and liable on conviction, if an individual, to a fine not exceeding one hundred dollars or to three months' imprisonment, with or without hard labour, and, if a firm, partnership, association or corporation or an employment agency or a municipal corporation, to a fine not exceeding one thousand dollars.

(2) The provisions of subsection one of this section shall not apply to

(a) an exclusively social, fraternal or educational association or corporation if such association or corporation is not organized nor operated for private gain or profit;

(b) a religious association or corporation or any association or corporation operated or controlled by a religious association or corporation, or operated primarily for the benefit of a particular religious or ethnic group; and

(c) an employer of persons for his own domestic, household service.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

200

BILL D6.

An Act to amend the Customs Act.

Read a first time, Monday, 14th November, 1949.

Honourable Senator ROBERTSON.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STMTIONERY
1949

49702

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL D[6].

An Act to amend the Customs Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

R.S., c. 42; 1928, c. 16; 1930 (2nd Sess.), c. 2; 1931, cc. 29, 55; 1932-33, cc. 7, 38; 1934, c. 48; 1936, cc. 19, 30; 1937, c. 24; 1947, c. 4; 1947-48, c. 41.

1. Section thirty-five of the *Customs Act*, chapter forty-two of the Revised Statutes of Canada, 1927, as enacted by section two of chapter forty-one of the statutes of 1947-48, is amended by adding thereto, immediately after subsection four thereof, the following subsection:—

Governor in Council may order that import duties be disregarded.

"(5) The Governor in Council may order that import duties of a country of export shall be disregarded, in whole or in part, in estimating the value for duty of goods of any kind imported into Canada from a country specified in the order."

2. Section one hundred and thirty-four A of the said Act, as enacted by section four of chapter twenty-nine of the statutes of 1931, is repealed and the following substituted therefor:—

Power to conduct inquiry.

"**134A.** The Deputy Minister or any other officer designated by the Minister may conduct any inquiry or investigation in matters relating to the Customs and, for the purpose of such inquiry or investigation, any such officer shall have all the powers and authority of a commissioner appointed under Part I of the *Inquiries Act*." R.S., c. 99.

Explanatory Notes.

1. The section to be amended reads as follows:—

"**35.** (1) Whenever any duty *ad valorem* is imposed on any goods imported into Canada, the value for duty shall be the fair market value of such or the like goods when sold for home consumption in the ordinary course of trade under fully competitive conditions, in like quantities and under comparable conditions of sale at the time when and place whence such goods were exported by the vendor abroad to the purchaser in Canada; or, except as otherwise provided in this Act, the price at which the goods were sold by the vendor abroad to the purchaser in Canada, exclusive of all charges thereon after their shipment from the place whence exported direct to Canada, whichever may be greater.

(2) When the fair market value of any goods is not ascertainable under subsection one, the value for duty of such goods shall be the nearest ascertainable equivalent of such value.

(3) When neither the fair market value nor the equivalent of such value can be ascertained, the value for duty shall be the actual cost of production of similar goods at date of shipment to Canada, plus a reasonable addition for administration, selling cost and profit.

(4) The value for duty shall not include the amount of any internal tax applicable within the country of origin or export from which the imported goods have been exempted or have been or will be relieved by means of refund or drawback."

Import duties of the country of export normally form part of the fair market value of goods exported to Canada and are included in the value for duty. In certain countries, however, such duties are abnormally high where for revenue purposes they are combined with excise duties. The proposed amendment will obviate the necessity of collecting duty upon a valuation which is in the circumstances unreasonable.

2. The section to be repealed at present reads as follows:—

"**134A.** (1) *The Deputy Minister of National Revenue for Customs and Excise, assistant commissioner of customs, any inspector of customs ports, any collector of customs, and the chief of the preventive service and any divisional chief of the preventive service,* and any other officer designated by the Minister, may conduct any inquiry or investigation in matters relating to the Customs and *may summon before him any person and may examine him and require him to give evidence orally or in writing, on oath or on solemn affirmation if he is entitled to affirm in civil matters, or by statutory declaration, on any matter pertinent to such inquiry or investigation, and any person thus authorized to conduct an inquiry or investigation may administer such oath or affirmation.*

3. Section one hundred and seventy-three of the said Act is repealed and the following substituted therefor:—

Deputy Minister or other officer to report his opinion to Minister.

"**173.** After the expiration of the thirty days referred to in section one hundred and seventy-two, or sooner, if the person so called upon to furnish evidence so desires, the Deputy Minister or such other officer as the Minister may designate may consider and weigh the circumstances of the case, and report his opinion and recommendation thereon to the Minister."

4. Section one hundred and seventy-nine of the said Act is repealed and the following substituted therefor:—

"judge".

"**179.** (1) In this section

(a) "judge" means

(i) in the province of Quebec, a judge of the Superior Court for the district in which the vessel, vehicle, goods or thing, in respect of which an application for an order is made, was seized;

(ii) in the province of Newfoundland, a judge of the Supreme Court of Newfoundland;

(iii) in the Yukon Territory, a judge of the Territorial Court;

(iv) in the Northwest Territories, a stipendiary magistrate;

(v) in any other province of Canada, the judge of the county or district court for the county or district in which such vessel, vehicle, goods or thing was seized; and

(2) Any officer authorized to conduct any such inquiry or investigation may for the purpose thereof issue a subpoena or other request or summons, requiring and commanding any person therein named to appear at the time and place mentioned therein, and then and there to testify to all matters within his knowledge relative to the subject matter of such investigation, and to bring with him and produce any document, book, or paper, which he has in his possession or under his control relative to any such matter as aforesaid; and any such person may be summoned from any part of Canada by virtue of such subpoena, request or summons.

(3) Reasonable travelling expenses shall be paid to any person so summoned at the time of service of the subpoena, request or summons.

(4) Every person who—

(a) being required to attend in the manner in this section provided, fails, without valid excuse, to attend accordingly; or

(b) being commanded to produce any document, book or paper, in his possession or under his control, fails to produce the same; or

(c) refuses to be sworn or to affirm, or to declare, as the case may be; or

(d) refuses to answer any proper question put to him by such officer;

shall, on summary conviction before any police or stipendiary magistrate, or judge of a superior or county court, having jurisdiction in the county or district in which such person resides, or in which the place is at which he was so required to attend, be liable to a penalty not exceeding four hundred dollars and not less than fifty dollars."

The office of Assistant Commissioner of Customs has been abolished, as has that of the Chief of the Preventive Service and any divisional chief. The object of the amendment is to avoid the necessity of periodically asking Parliament to bring the list of departmental officers up to date. Similarly, the specific powers given by the section as it stands are simply the powers of a commissioner appointed under the *Inquiries Act.* Compare the *Excise Tax Act,* section 116.

3. The section to be repealed at present reads as follows:—

"**173.** After the expiration of the *said* thirty days, or sooner, if the person so called upon to furnish evidence so desires, the Deputy Minister *of National Revenue for Customs and Excise or Assistant Commissioner of Customs* may consider and weigh the circumstances of the case, and report his opinion and recommendation thereon to the Minister."

The office of Assistant Commissioner of Customs has been abolished.

4. The section to be repealed at present reads as follows:—

"**179.** If notice of intent to claim has been given and the value of the goods or thing seized does not, in the opinion of the prosecuting officer, exceed one hundred dollars, such officer shall, if he chooses to proceed under this section, forthwith cause the goods to be valued by a competent appraiser, and, if such appraiser certifies them not to exceed the said value, a summary information in writing may be exhibited in the name of the collector at or nearest to the place of seizure, or in the name of any officer authorized thereto by the Minister, before two justices of the peace, charging the articles seized as forfeited under some particular Act and section thereof to be therein referred to, and praying condemnation thereof; and the justices shall thereupon issue a general notice for all persons claiming interest in the seizure to appear at a certain time and place to claim the articles seized and answer the information, and stating that otherwise such articles will be condemned.

2. A copy of the notice shall, at least eight days before the time of appearance, be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel, if any, in which they were seized, if there remaining, or at two public places nearest the place of seizure.

3. If any person appears to answer the information, the justices shall hear and determine the matter in a summary manner and acquit or condemn the articles, but if no person appears, judgment of condemnation shall be given; and the justices on condemnation shall issue a warrant to the collector to sell the goods.

4. Such two justices shall be deemed a court, and each of them a judge thereof for the purposes of this Act."

"court of appeal"

(b) "court of appeal" means, in the province in which a judge's order is given, the court designated in paragraph seven of subsection one of section two of the *Criminal Code* as the court of appeal for that province.

R.S., c. 36.

Person who claims interest in vessel, etc., may apply to judge for order.

(2) Where any vessel, vehicle, goods or thing has been seized as forfeited under this Act, any person (other than the person accused of an offence resulting in such seizure or the person in whose possession the vessel, vehicle, goods or thing was when seized) who claims an interest in them as owner, mortgagee, lien-holder or holder of any like interest may, within thirty days after such seizure, apply by notice in writing to a judge for an order declaring his interest.

Time of hearing.

(3) The judge shall fix a day not less than thirty days after the date of the filing of the application for the hearing thereof.

Notice to Deputy Minister.

(4) The claimant shall serve notice of the application and of the hearing upon the Deputy Minister at least fifteen clear days before the day fixed for the hearing.

Conditions upon which judge may grant order to protect claimant's interest.

(5) Where, upon the hearing of an application, it is made to appear to the satisfaction of the judge

(a) that the claimant is innocent of any complicity in the offence resulting in such seizure or of any collusion with the offender in relation thereto, and

(b) that the claimant exercised all reasonable care in respect of the person permitted to obtain the possession of such vessel, vehicle, goods or thing to satisfy himself that it was not likely to be used contrary to the provisions of this Act or, if a mortgagee or lien-holder, he exercised such care with respect to the mortgagor or lien-giver,

the claimant shall be entitled to an order that his interest be not affected by such seizure.

Appeal.

(6) The claimant or the Crown may appeal to the court of appeal from an order of a judge given under subsection five and the appeal shall be asserted, heard and decided according to the ordinary procedure governing appeals to the court of appeal from orders or judgments of a judge."

The *Customs Act*, like other fiscal statutes, provides for the forfeiture of vehicles etc. used in the carriage of contraband goods without regard to ownership. In 1934 a section was inserted in the *Excise Act* which enabled an innocent owner,mortgagee or lien-holder to apply to a judge for an order "that his interest be not affected by such seizure". (*Excise Act, 1934*, Section 169A.) It is deemed advisable to insert a similar provision in the *Customs Act* and, in doing so, to make some simple rules of procedure (the *Excise Act* leaves the judge in effect to make his own) and to provide for an appeal.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 210.

An Act to amend The Industrial Development Bank Act.

First reading, November 26th, 1949.

THE MINISTER OF FINANCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50363

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 210.

An Act to amend The Industrial Development Bank Act.

1944-45, c. 44.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section three of *The Industrial Development Bank Act*, chapter forty-four of the statutes of 1944-45, is amended by adding thereto the following subsection:—

Proceedings in name of Bank.

"(3) Actions, suits and other legal proceedings in respect of any right or obligation acquired or incurred by the Bank may be brought or taken by or against the Bank in the name of the Bank in the same manner as if the right or obligation had been acquired or incurred on its own behalf."

2. Subsections one and two of section fifteen of the said Act are repealed and the following substituted therefor:—

Loans, investments and guarantees.

"**15.** (1) Subject to section fourteen, where in the opinion of the Board

(a) a person is engaged or about to engage in an industrial enterprise in Canada,

(b) credit or other financial resources would not otherwise be available on reasonable terms and conditions, and

(c) the amount invested or to be invested in the industrial enterprise by persons other than the Bank and the character of that investment are such as to afford the Bank reasonable protection,

the Bank may lend or guarantee loans of money to that person, and where that person is a corporation,

(i) enter into underwriting agreements in respect of the whole or any part of any issue of stock, bonds or debentures of the corporation, and

(ii) purchase or otherwise acquire with a view to resale thereof the whole or any part of any issue of stock, bonds or debentures of the corporation

Explanatory Notes.

1. New. Section three now provides that the Bank is an Agent of the Crown. The new provision makes it clear that actions may be taken by or against the Bank in respect of its ordinary operations in its own name rather than by proceedings instituted in the name of the Attorney General of Canada or by Petition of Right against the Crown.

2. Subsections one and two of section 15 now read:

"**15.** (1) Subject to section fourteen of this Act, if in the opinion of the Board, credit or other financial resources would not otherwise be available on reasonable terms and conditions to a person engaged in or about to engage in an industrial enterprise in Canada and if in the opinion of the Board the amount of capital invested or to be invested by the said person in the industrial enterprise, or where the said person is a corporation, the amount of capital invested or to be invested in the said corporation by the purchase by persons other than the Bank of capital stock therein, is such as to afford the Bank reasonable protection, the Bank may

(a) lend or guarantee loans of money to the said person;

(b) where the said person is a corporation, enter into underwriting agreements in respect of the whole or any part of any issue of stock, bonds or debentures of the corporation;

(c) where the said person is a corporation, purchase or otherwise acquire with a view to resale thereof whole or any part of any issue of stock, bonds or debentures of the corporation from the corporation or from any person with whom the Bank has entered into an underwriting agreement in respect of the said issue and may subsequently sell or otherwise dispose of the said stock, bonds or debentures.

(2) Notwithstanding anything contained in subsection one of this section, the aggregate of the amounts of the loans or liabilities of the Bank, and of the expenditures by the Bank for securities held by it, specified in the next succeeding subsection, shall not at any time exceed *fifteen* million dollars."

Although the Bank is authorized to lend money to persons engaged or about to engage in an industrial enterprise, it is often difficult for applicants to establish objectively to the

from the corporation or from any person with whom the Bank has entered into an underwriting agreement in respect of the said issue and may subsequently sell or otherwise dispose of the said stock, bonds or debentures.

Limitation on commitments exceeding $200,000.

(2) Notwithstanding subsection one, the aggregate of the amounts of the loans or liabilities of the Bank, and of the expenditures by the Bank for securities held by it, specified in subsection three, shall not at any time exceed twenty-five million dollars."

3. Subsection one of section twenty-two is repealed and the following substituted therefor:—

Power to acquire and hold real property mortgaged as collateral security.

"**22.** (1) The Bank may acquire and hold an absolute title in or to real or immoveable property mortgaged or hypothecated to it as collateral security for the repayment of a loan made or guaranteed by it, either by obtaining a release of the equity of redemption in the mortgaged property or by procuring foreclosure of the mortgage or by purchase at a judicial sale of the hypothecated property or by any means whereby, as between individuals, an equity of redemption can, by law, be barred or a transfer of title can be effected, and may purchase and acquire any prior mortgage, hypothec or charge on such property."

Bank that their business is in fact an industrial enterprise within the meaning of the Act. The amendment permits the Bank to make credit available if the Board is satisfied that the applicant is about to undertake an enterprise and that the enterprise is an industrial enterprise. It also permits the Bank to make a loan where money has been invested by some other person in the enterprise so long as the Board is satisfied that the amount invested by others affords reasonable protection to the Bank.

Sub-clause two increases the aggregate permissible of the loans, liabilities and expenditures there specified to twenty-five million dollars.

3. Subsection one of section 22 now reads:—

"**22.** (1) The Bank may acquire and hold an absolute title in or to real or immovable property mortgaged to it as collateral security for the repayment of a loan made or guaranteed by it, either by obtaining a release of the equity of redemption in the mortgaged property or by procuring foreclosure of the mortgage or by other means whereby, as between individuals, an equity of redemption can be, by law, barred or a transfer of title can, by law, be effected, and may purchase and acquire any prior mortage or charge on such property."

The amendments make the provision clear in its application to hypothecs in the Province of Quebec.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 211.

An Act respecting the Department of Resources and Development.

First reading, November 26th, 1949.

THE PRIME MINISTER.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50048

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 211.

An Act respecting the Department of Resources and Development.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Department of Resources and Development Act.*

Definitions. "Department".

"Minister".

2. In this Act

(a) "Department" means the Department of Resources and Development; and

(b) "Minister" means the Minister of Resources and Development.

Department constituted.

3. (1) There shall be a department of the Government of Canada which shall be called the Department of Resources and Development over which the Minister of Resources and Development for the time being appointed by commission under the Great Seal of Canada shall preside.

Management.

(2) The Minister shall have the management and direction of the Department and shall hold office during pleasure.

Deputy Minister.

4. (1) The Governor in Council may appoint an officer who shall be called the Deputy Minister of Resources and Development who shall be the deputy head of the Department and who shall hold office during pleasure.

Other officers, clerks and employees.

(2) Such other officers, clerks and employees as are necessary for the proper conduct of the business of the Department shall be appointed or employed in the manner authorized by law.

Transfer of members of staff.

(3) Notwithstanding subsection two, the Governor in Council may, by order, designate persons who, prior to the commencement of this Act, were members of the staff of the Department of Mines and Resources or the Department of

Reconstruction and Supply, to be members of the staff of the Department, and, upon such designation, such members shall be deemed to have been transferred to theDepartment on the date of the commencement of this Act, but no person shall by reason only of such transfer be eligible to be certified as permanent by the Civil Service Commission.

Duties, powers and functions.

5. The duties, powers and functions of the Minister shall extend to and include all matters over which the Parliament of Canada has jurisdiction relating to

(a) the forest resources of Canada;

(b) irrigation projects not by law assigned to any other Department of the Government of Canada and water-power developments;

(c) the National Parks;

(d) the archaeology, ethnology, and fauna and flora of Canada;

(e) tourist information and services;

(f) housing; and

(g) the trans-Canada Highway.

Territories and Crown lands.

6. The Minister shall have the control and management of

(a) the affairs of the Northwest Territories, and of the Yukon Territory;

(b) all lands belonging to His Majesty in right of Canada except lands specially under the control and management of any other Minister, department or agency of the Government of Canada.

Minister may formulate plans.

7. (1) The Minister may formulate plans for public works and improvements, housing, community development, research and the conservation and development of the resources of Canada and, with the authority of the Governor in Council and in co-operation with other departments and agencies of the Government of Canada, provide for carrying out such plans.

Co-operation with provinces and municipalities.

(2) The Minister may co-operate with the provinces and with municipalities in carrying out any development programmes.

Consultation with producers, industry, etc.

(3) In carrying out his duties and functions under this section the Minister may consult with and inaugurate conferences of representatives of producers, industry, science, labour and provincial and municipal authorities.

Victoria Memorial Museum.

8. The Minister shall have the control, management and administration of the Victoria Memorial Museum and shall collect, classify and arrange for exhibition in the Museum of such specimens as are necessary to afford complete and exact knowledge of the geology, mineralogy, palaeontology, archaeology, ethnology and fauna and flora of Canada.

Department, Minister and Deputy Minister substituted.

9. (1) Without restricting the generality of sections five, six, seven and eight, the Acts to be administered by the Minister shall include the Acts set out in the Schedule to this Act and wherever the Department of Interior, the Minister of Interior, the Deputy Minister of Interior, the Department of Mines and Resources, the Minister of Mines and Resources, the Deputy Minister of Mines and Resources, the Department of Reconstruction and Supply, the Minister of Reconstruction and Supply or the Deputy Minister of Reconstruction and Supply is mentioned or referred to in any of those Acts or in any order, rule or regulation thereunder, there shall in each and every such case be substituted the Department of Resources and Development, the Minister of Resources and Development and the Deputy Minister of Resources and Development, respectively.

Powers under contracts, etc.

(2) Whenever under any contract, lease or other document

(a) any power, authority or function in relation to any matter, other than Indian affairs, immigration, colonization, mines, minerals, explosives or technical surveys as defined in *The Department of Mines and Technical Surveys Act*, is vested in or exercisable by the Minister of Mines and Resources or the Deputy Minister of Mines and Resources, the Minister of Interior or the Deputy Minister of Interior, the power, authority or function shall be vested in and shall or may be exercised by the Minister of Resources and Development and the Deputy Minister of Resources and Development, respectively, or by such other Minister or Deputy Minister as the Governor in Council may designate; and

(b) any power, authority or function is vested in or exercisable by any officer of the Department of Mines and Resources, other than the Deputy Minister of Mines and Resources, the power, authority or function shall be vested in and shall or may be exercised by the appropriate officer in the Department of Resources and Development, the Department of Mines and Technical Surveys or the Department of Citizenship and Immigration or by such other officer thereof as the Governor in Council may designate.

1944-45, c.21

(3) A reference in *The Surplus Crown Assets Act* to lands under the control, management or administration of the Minister of Mines and Resources includes lands under the control, management or administration of the Minister of Resources and Development.

Appropriations based on 1949-50 Estimates.

10. The provisions made by any *Appropriation Act* for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, based on Estimates 1949-50 to defray expenses of the public service of Canada

within the Department of Mines and Resources and the Department of Reconstruction and Supply, shall apply to such similar or other as well as like classifications of the public service within the Department of Resources and Development as the Governor in Council may determine.

Repeal. 1936, c. 33. R.S., c. 83 1944-45, c.18 1945, (2nd Sess.), c.16.

11. *The Department of Mines and Resources Act*, the *Geology and Mines Act*, *The Department of Reconstruction Act, 1944*, and sections one to eight of *The Department of Reconstruction and Supply Act, 1945*, are repealed.

Annual report.

12. The Minister shall submit to Parliament within thirty days after the commencement of the first session of Parliament in each year, a report showing the operations of the Department during the year then last preceding.

Coming into force.

13. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

SCHEDULE.

Title	Session	Chapter
Dominion Forest Reserves and Parks Act	R.S., 1927	78
Seed Grain Act	R.S., 1927	87
Irrigation Act	R.S., 1927	104
Dominion Lands Act	R.S., 1927	113
Land Titles Act	R.S., 1927	118
Manitoba Supplementary Provisions Act	R.S., 1927	124
Migratory Birds Convention Act	R.S., 1927	130
Northwest Game Act	R.S., 1927	141
Northwest Territories Act	R.S., 1927	142
Reclamation Act	R.S., 1927	175
Dominion Water Power Act	R.S., 1927	210
Railway Belt Water Act	R.S., 1927	211
Yukon Act	R.S., 1927	215
Yukon Placer Mining Act	R.S., 1927	216
Yukon Quartz Mining Act	R.S., 1927	217
The National Parks Act	1930	33
The Refunds (Natural Resources) Act	1932	35
The Game Export Act	1940–41	17
The National Housing Act, 1944	1944–45	46
The Eastern Rocky Mountain Forest Conservation Act	1947	59
The Canada Forestry Act	1949	.....
The Trans-Canada Highway Act	1949	.....

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 212.

An Act respecting the Department of Mines and Technical Surveys.

First reading, November 26th, 1949.

THE PRIME MINISTER.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50044

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 212.

An Act respecting the Department of Mines and Technical Surveys.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Department of Mines and Technical Surveys Act.*

Definitions.

"Department".

"Minister".

"Technical Surveys".

2. In this Act

(a) "Department" means the Department of Mines and Technical Surveys;

(b) "Minister" means the Minister of Mines and Technical Surveys; and

(c) "technical surveys" means geographical, geological, geodetic, topographical and hydrographic surveys.

Department established.

3. (1) There shall be a department of the Government of Canada which shall be called the Department of Mines and Technical Surveys over which the Minister of Mines and Technical Surveys for the time being appointed by commission under the Great Seal of Canada shall preside.

Management.

(2) The Minister shall have the management and direction of the Department and shall hold office during pleasure.

Deputy Minister.

4. (1) The Governor in Council may appoint an officer who shall be called the Deputy Minister of Mines and Technical Surveys who shall be the deputy head of the Department and who shall hold office during pleasure.

Other officers, clerks and employees.

(2) Such other officers, clerks and employees as are necessary for the proper conduct of the business of the Department shall be appointed or employed in the manner authorized by law.

Transfer of members of staff.

(3) Notwithstanding subsection two, the Governor in Council may, by order, designate persons who, prior to the commencement of this Act, were members of the staff of the

Department of Mines and Resources or the Department of Reconstruction and Supply, to be members of the staff of the Department, and, upon such designation, such members shall be deemed to have been transferred to the Department on the date of the commencement of this Act, but no person shall by reason only of such transfer be eligible to be certified as permanent by the Civil Service Commission.

Duties, powers and functions of Minister.

5. The duties, powers and functions of the Minister shall extend to and include all matters over which the Parliament of Canada has jurisdiction relating to mines, minerals, explosives and technical surveys.

Further duties.

6. The Minister shall

(a) collect and publish full statistics of the mineral production and of the mining and metallurgical industries of Canada, and such data regarding the economic minerals of Canada as relate to the processes and activities connected with their utilization, and collect and preserve all available records of mines and mining works in Canada;

(b) make detailed investigations of mining camps and areas containing economic minerals or deposits of other economic substances, for the purpose of determining the mode of occurrence, and the extent and character of the ore-bodies and deposits of the economic minerals or other economic substances;

(c) make a full and scientific examination and survey of the geological structure and mineralogy of Canada;

(d) make such chemical, mechanical, metallurgical and other researches and investigations as are necessary or desirable to carry out the purposes and provisions of this Act and particularly to aid the mining and metallurgical industry of Canada;

(e) have the control, management and administration of any astronomical observatories maintained by the Government of Canada;

(f) collect and prepare for exhibition such specimens of the different ores and associated rocks and minerals of Canada and other materials as are necessary to afford a knowledge of the geology and mineralogy and the mining and metallurgical resources and industries of Canada; and

(g) prepare and publish such maps, plans, sections, diagrams and drawings as are necessary to illustrate and elucidate any reports of investigations and surveys made pursuant to this Act.

Surveys.

7. The Minister may, for the purpose of obtaining a basis for the representation of the mineral and mining resources and of the geographical and geological features

of any part of Canada, cause such measurements, observations, investigations and physiographic, exploratory and reconnaissance surveys to be made as are necessary for or in connection with the preparation of maps, sketches, plans, sections or diagrams.

Distribution of specimens and publications.

8. The Minister may cause distribution to be made of duplicate specimens to scientific, literary and educational institutions in Canada and other countries, and also authorize the distribution or sale of the publications, maps and other documents issued by the Department.

Department, Minister and Deputy Minister substituted.

9. (1) Wherever in any Act of the Parliament of Canada or in any order, rule or regulation thereunder the Department of Mines, the Minister of Mines or the Deputy Minister of Mines is mentioned or referred to, there shall in each and every such case be substituted the Department of Mines and Technical Surveys, the Minister of Mines and Technical Surveys and the Deputy Minister of Mines and Technical Surveys, respectively.

Idem.

(2) Wherever the Department of Interior, the Minister of Interior or the Deputy Minister of Interior or the Department of Mines and Resources, the Minister of Mines and Resources or the Deputy Minister of Mines and Resources is mentioned or referred to in the *Dominion Land Surveys Act*, there shall in each and every such case be substituted the Department of Mines and Technical Surveys, the Minister of Mines and Technical Surveys and the Deputy Minister of Mines and Technical Surveys, respectively.

R.S., c. 117.

Idem.

(3) Wherever the Department of Mines and Resources, the Minister of Mines and Resources or the Deputy Minister of Mines and Resources is mentioned or referred to in *The Explosives Act, 1946*, or *The Emergency Gold Mining Assistance Act*, there shall in each and every such case be substituted the Department of Mines and Technical Surveys, the Minister of Mines and Technical Surveys and the Deputy Minister of Mines and Technical Surveys, respectively.

1946, c. 7. 1947-48, c. 15.

Powers under contracts, etc.

(4) Whenever in any contract, lease or other document any power, authority or function in relation to mines, minerals, explosives or technical surveys is vested in or exercisable by the Minister of Mines and Resources or the Deputy Minister of Mines and Resources, the Minister of Mines or the Deputy Minister of Mines, the Minister of Interior or the Deputy Minister of Interior, the power, authority or function shall be vested in and shall or may be exercised by the Minister of Mines and Technical Surveys and the Deputy Minister of Mines and Technical Surveys, respectively, or by such other Minister or Deputy Minister as the Governor in Council may designate.

Appropriations based on 1949-50 Estimates.

10. The provisions made by any *Appropriation Act* for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, based on Estimates 1949-50 to defray expenses of the public service of Canada within the Department of Mines and Resources, and the Department of Reconstruction and Supply, shall apply to such similar or other as well as like classifications of the public service within the Department of Mines and Technical Surveys as the Governor in Council may determine.

Annual report.

11. The Minister shall submit to Parliament within thirty days after the commencement of the first session of Parliament in each year a report showing the operations of the Department during the year then last preceding.

Coming into force.

12. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 213.

An Act respecting the Department of Citizenship and Immigration.

First reading, November 26th, 1949.

THE PRIME MINISTER.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50052

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 213.

An Act respecting the Department of Citizenship and Immigration.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Department of Citizenship and Immigration Act.*

Definitions. "Department". "Minister".

2. In this Act

(a) "Department" means the Department of Citizenship and Immigration; and

(b) "Minister" means the Minister of Citizenship and Immigration.

Department constituted.

3. (1) There shall be a department of the Government of Canada which shall be called the Department of Citizenship and Immigration over which the Minister of Citizenship and Immigration for the time being appointed by commission under the Great Seal of Canada shall preside.

Management.

(2) The Minister shall have the management and direction of the Department and shall hold office during pleasure.

Deputy Minister.

4. (1) The Governor in Council may appoint an officer who shall be called the Deputy Minister of Citizenship and Immigration who shall be the deputy head of the Department and who shall hold office during pleasure.

Other officers, clerks and employees.

(2) Such other officers, clerks and employees as are necessary for the proper conduct of the business of the Department shall be appointed or employed in the manner authorized by law.

Transfer of members of staff.

(3) Notwithstanding subsection two, the Governor in Council may by order designate persons who, prior to the commencement of this Act, were members of the staff of the Department of Mines and Resources or the Department of the Secretary of State, to be members of the staff of the Department, and, upon such designation, such members shall be deemed to have been transferred to the Department on the date of the commencement of this Act, but no person shall by reason only of such transfer be eligible to be certified as permanent by the Civil Service Commission.

Duties, powers and functions of Minister.

5. The duties, powers and functions of the Minister shall extend to and include all matters over which the Parliament of Canada has jurisdiction relating to naturalization and citizenship, Indian affairs, immigration and colonization and not by law assigned to any other Department of the Government of Canada.

Department, Minister and Deputy Minister substituted.

6. (1) Whenever the Department of Immigration and Colonization, the Minister of Immigration and Colonization, the Deputy Minister of Immigration and Colonization, the Department of Indian Affairs, the Superintendent General of Indian Affairs or the Deputy Superintendent General of Indian Affairs is mentioned or referred to in any Act of the Parliament of Canada or any order, rule or regulation made thereunder, there shall in each and every such case be substituted the Department of Citizenship and Immigration, the Minister of Citizenship and Immigration and the Deputy Minister of Citizenship and Immigration, respectively.

Idem.

(2) Whenever the Department of Mines and Resources, the Minister of Mines and Resources or the Deputy Minister of Mines and Resources is mentioned or referred to in the *Immigration Act*, the *Immigration Aid Societies Act*, the *Indian Act* or any order, rule or regulation made thereunder, there shall in each and every such case be substituted the Department of Citizenship and Immigration, the Minister of Citizenship and Immigration and the Deputy Minister of Citizenship and Immigration, respectively.

R.S., c. 93.
R.S., c. 94.
R.S., c. 98.

Idem.

(3) Whenever the Department of the Secretary of State, the Secretary of State of Canada or the Under Secretary of State of Canada is mentioned or referred to in the *Canadian Citizenship Act* or any order, rule or regulation made thereunder, there shall in each and every such case be substituted the Department of Citizenship and Immigration, the Minister of Citizenship and Immigration and the Deputy Minister of Citizenship and Immigration, respectively.

Powers under contracts, etc.

(4) Whenever under any contract, lease or other document any power, authority or function in relation to Indian affairs, immigration or colonization is vested in or exercisable by the Minister of Mines and Resources or the Deputy Minister of Mines and Resources, the Superintendent

General of Indian Affairs or the Deputy Superintendent General of Indian Affairs, the Minister of Immigration and Colonization or the Deputy Minister of Immigration and Colonization, the power, authority or function shall be vested in and shall or may be exercized by the Minister of Citizenship and Immigration and the Deputy Minister of Citizenship and Immigration, respectively, or by such other Minister or Deputy Minister as the Governor in Council may designate.

Appropriations based on 1949-50 Estimates.

7. The provisions made by any *Appropriation Act* for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, based on Estimates 1949-50 to defray expenses of the public service of Canada within the Department of Mines and Resources and the Department of the Secretary of State, shall apply to such similar or other as well as like classifications of the public service within the Department of Citizenship and Immigration as the Governor in Council may determine.

Annual report.

8. The Minister shall submit to Parliament within thirty days of the commencement of the first session of Parliament in each year a report showing the operations of the Department during the year then last preceding.

Coming into force.

9. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 214.

An Act to amend the Salaries Act.

First reading, November 26th, 1949.

THE PRIME MINISTER.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50036

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 214.

R.S., c. 182; 1930, c. 40; 1931, c. 12; 1939, (2nd Sess.), c. 7; 1940, c. 40; 1944-45, c. 24; 1947-48, c. 68; 1949 (1st Sess.), c. 6.

An Act to amend the Salaries Act.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Salaries of ministers.

1. Section four of the *Salaries Act*, chapter one hundred and eighty-two of the Revised Statutes of Canada, 1927, as enacted by section one of chapter twenty-four of the statutes of 1944-45, is amended

(a) by repealing the following:

"The Minister of Mines and Resources.....	10,000
The Minister of Munitions and Supply....	10,000
The Minister of National War Services....	10,000
The Minister of Reconstruction.....	10,000"

(b) by adding thereto the following:

"The Minister of Resources and Development	10,000
The Minister of Mines and Technical Surveys	10,000
The Minister of Citizenship and Immigration	10,000"

Coming into force.

2. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 215.

An Act to amend The Dominion-Provincial Tax Rental Agreements Act, 1947.

First reading, November 26th, 1949.

THE MINISTER OF FINANCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

49942

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 215.

An Act to amend The Dominion-Provincial Tax Rental Agreements Act, 1947.

1947, c. 58.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (1) Subparagraph (i) of paragraph *(c)* of subsection two of section seven of *The Dominion-Provincial Tax Rental Agreements Act, 1947*, chapter fifty-eight of the statutes of 1947, is amended by adding thereto the following:—

"if the Government of the Province has not entered into such an agreement, that portion of the taxes on net income of the corporation levied by the Province that does not exceed the amount that would have been paid if the rate at which the taxes were levied were the rate that might, under the terms of any such agreement, be levied on the net income of the corporation, or"

(2) Subsection four of section seven of the said Act is repealed and the following substituted therefor:—

Certain distribution and generation not included.

"(4) For the purposes of this section distribution to or generation for distribution to the public by a corporation of electrical energy, gas or steam does not include distribution or generation for distribution to,

(a) another corporation controlled by the first mentioned corporation;

(b) another corporation that controls the first mentioned corporation; or

(c) another corporation that is controlled by persons who control the first mentioned corporation

except to the extent that, in the opinion of the Minister of National Revenue, any of the electrical energy, gas or steam is distributed by that or any other corporation otherwise than to a corporation controlled by it, or that it controls, or that is controlled by the same persons who control it."

Explanatory Notes.

Section 7 of this Act, which is the only section amended by the Bill, provides for payment to the government of a province of half of the income tax collected under the Income War Tax Act or the Income Tax Act on income derived by a corporation from the distribution to or generation for distribution to the public of electrical energy, gas or steam in the Province where this is the main business of a corporation. Provision is made for the deduction from the payment to the province of certain provincial taxes imposed on such corporations.

1. The effect of this amendment is that income tax imposed by the government of a province with which no taxation agreement has been entered into will no longer be required to be deducted except to the extent that it exceeds the tax that might have been levied in accordance with such an agreement. A corporation income tax now levied by a province which has entered into an agreement is not required to be deducted.

Paragraph *(c)* which describes the provincial taxes to be deducted now reads:—

> "*(c)* the amount of all taxes and fees paid by the corporation to the Government of the Province or to a municipality in the Province during the said taxation year that in the opinion of the Minister of National Revenue are attributable to the distribution to or generation for distribution to the public by the corporation of electrical energy, gas or steam, and of all taxes or fees imposed on the use or consumption of electrical energy, gas or steam collected by the corporation during the taxation year on behalf of the said Government or of a municipality which in the opinion of the said Minister are not part of a sales tax of general application: Provided that there shall not be required to be deducted under this paragraph any amount in respect of
>
> (i) taxes on net income or gross revenues or receipts of the corporation levied by the Province or a municipality in accordance with the terms of an agreement entered into under section three of this Act between the Government of the Province and the Government of Canada, or
>
> (ii) any other taxes or fees (not including taxes on net income or gross revenues or receipts of the corporation or on use or consumption aforesaid collected as aforesaid) that may be levied by a province or municipality under the terms of any agreement entered into under the said section three between the Government of any Province and the Government of Canada."

(2) The amendment consists of the vertical lined words. Where electrical energy, gas or steam is distributed to a controlled subsidiary and is distributed by that subsidiary to the public it will be considered to be distributed to the public.

(3) These amendments are necessary for the administration of the section, to permit the correct amounts payable to the provinces to be calculated, and to bring certain provisions into effect for Newfoundland.

(3) Section seven of the said Act is further amended by adding thereto the following subsections:—

Annual return.

"(7) Every corporation engaged in the distribution or generation of electrical energy, gas or steam shall make a return to the Minister of National Revenue in such form as he may prescribe for the purpose of obtaining information required for the administration of this section, within six months after the end of each fiscal year of the corporation.

Special return.

(8) The Minister of National Revenue may require any corporation mentioned in subsection seven to make a special return in such form and containing such information in its possession as he may require for the purpose of the administration of this section.

Signature to return.

(9) Any return made by a corporation under this section shall be signed by the president, secretary, treasurer or chief agent having personal knowledge of the affairs of the corporation.

Penalty for failure to make return.

(10) Where any return required to be made by a corporation under subsection seven is not made in the prescribed form within the time therein fixed or any special return required under subsection eight is not made by the corporation in the prescribed form within ninety days after notice has been given to the corporation by the Minister of National Revenue that the return is required, the corporation is liable to a penalty of ten dollars for each day thereafter during which it does not deliver the return or five hundred dollars, whichever is less, and the penalty may be recovered as a debt due to the Crown.

Newfoundland.

(11) For the purpose of this section an agreement entered into on behalf of the Government of Canada with the Government of the Province of Newfoundland under the Terms of Union of Newfoundland with Canada of a like nature to the agreements authorized by section three shall be deemed to be an agreement entered into under the terms of section three."

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 216.

An Act to encourage the Construction and Conversion of Vessels in Canada.

First reading, November 28, 1949.

MINISTER OF TRANSPORT.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

44135

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 216.

An Act to encourage the Construction and Conversion of Vessels in Canada.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Canadian Vessel Construction Assistance Act.*

Definitions.

"capital cost".

"conversion cost".

"conversion or major alteration".

"vessel". 1934, c. 44.

Other words and expressions. 1947-48, c. 52.

2. In this Act

(a) "capital cost" means capital cost as determined by the Canadian Maritime Commission;

(b) "conversion cost" means the cost of a conversion or major alteration as determined by the Canadian Maritime Commission;

(c) "conversion or major alteration" means a conversion or major alteration made in Canada by a taxpayer in accordance with plans approved in writing by the Canadian Maritime Commission for the purpose of this Act;

(d) "vessel" means a vessel as defined in the *Canada Shipping Act, 1934;* and

(e) other words and expressions have the same meaning as in *The Income Tax Act.*

Deduction in respect of capital cost of vessels for purposes of *The Income Tax Act.*

3. (1) Where a taxpayer owns a vessel that was constructed by or for him in Canada and is registered in Canada and the construction thereof was commenced after a day to be fixed by proclamation of the Governor in Council, in computing his income for a taxation year for the purposes of *The Income Tax Act* he may, notwithstanding anything in that Act or the regulations thereunder, in lieu of a deduction under paragraph *(a)* of subsection one of section eleven of that Act and the regulations under that paragraph,

and so long as the title to the vessel vests and remains in him, deduct such part of the capital cost to him of the vessel as he may elect, not exceeding the lesser of

(a) thirty-three and one-third per centum of the capital cost to him of the vessel, or

(b) the undepreciated capital cost to him of the vessel as of the end of the taxation year (before making any deduction under this section for the taxation year).

Deduction in respect of conversion cost.

(2) Where a taxpayer owns a vessel that is registered in Canada, conversion or major alteration of which was commenced after a day to be fixed by proclamation of the Governor in Council, in computing his income for a taxation year for the purposes of *The Income Tax Act* he may, so long as the title to the vessel vests and remains in him, notwithstanding anything in that Act or the regulations thereunder, in lieu of a deduction under that Act in respect of the conversion cost but in addition to a deduction of other capital costs of the vessel under that Act, deduct such part of the conversion cost to him of the vessel as he may elect, not exceeding the lesser of

(a) thirty-three and one-third per centum of the conversion cost to him, or

(b) the undepreciated conversion cost to him of the vessel as of the end of the taxation year (before making any deduction under this section for the taxation year).

Application of *The Income Tax Act.*

(3) For the purposes of *The Income Tax Act*

(a) a vessel in respect of which an allowance has been made under subsection one shall be deemed to be a prescribed class within the meaning of section twenty of that Act;

(b) a vessel in respect of which an allowance has been made under subsection two shall, to the extent of the conversion cost, be deemed to be a prescribed class within the meaning of section twenty of that Act; and

(c) an allowance under this section shall be deemed to have been made under paragraph *(a)* of subsection one of section eleven of that Act.

S.20 of *The Income Tax Act* not applicable in certain cases. R.S., c. 97. 1947-48, c. 52.

4. (1) Where a vessel in respect of which an allowance has been made under section three, or in respect of which "special depreciation", "extra depreciation" or allowances in lieu of depreciation were allowed for the purposes of the *Income War Tax Act* or *The Income Tax Act,* is disposed of, subsection one of section twenty of *The Income Tax Act* does not apply in respect of the proceeds of disposition to the extent that they are used for replacement under conditions satisfactory to the Canadian Maritime Commission.

(2) Where a vessel in respect of which an allowance has been made under subsection two of section three is disposed of, the portion of the proceeds of disposition that is attributable to the conversion cost shall be determined by the Canadian Maritime Commission.

Application of *The Income Tax Act*.

5. Except as modified by this Act all the provisions of *The Income Tax Act* and the regulations thereunder apply to a taxpayer to whom this Act applies.

Governor in Council may exclude vessels.

6. The Governor in Council may exclude any class of vessel from the operation of this Act.

Reserve for expenses of quadrennial surveys, etc.

7. Notwithstanding paragraph *(e)* of subsection one of section twelve of *The Income Tax Act* a taxpayer may, in computing his income for a taxation year for the purposes of that Act, deduct such amount as the Governor in Council may by regulation allow as a reserve for expenses to be incurred by reason of quadrennial or other special surveys required under the *Canada Shipping Act, 1934*, or the regulations thereunder, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport for the purposes of the *Canada Shipping Act, 1934*.

Coming into force.

8. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 217.

An Act to assist Producers of Coal in the Atlantic Maritime Provinces.

First reading, November 29, 1949.

THE MINISTER OF TRADE AND COMMERCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
49044 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA

BILL 217.

An Act to assist Producers of Coal in the Atlantic Maritime Provinces.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Maritime Coal Production Assistance Act.*

Definitions.

2. In this Act,

"coal producer".

(a) "coal producer" means the operator of a coal mine engaged in the production or in the production and processing of coal in the Atlantic Maritime Provinces;

"loan".

(b) "loan" means a loan made pursuant to this Act;

"project".

(c) "project" means an undertaking designed to increase the efficiency of the operations of a coal producer by means of mechanization;

"Minister".

(d) "Minister" means the Minister of Trade and Commerce.

Loans to producers.

3. (1) Subject to the provisions of this Act and with the approval of the Governor in Council, the Minister out of unappropriated moneys in the Consolidated Revenue Fund may, in accordance with an agreement between the Minister and a coal producer, make a loan to the coal producer for the purpose of carrying out a project, but no loan shall exceed two-thirds of the cost, as determined by the Minister, of the project in respect of which it is made.

Conditions of loans.

(2) No agreement shall be entered into under this Act unless the Minister is satisfied

(a) that the project is in the public interest and completely and efficiently planned in its economic, engineering and operating aspects;

(b) that the project when completed will substantially increase the efficiency of coal production;

(c) that the coal producer is able to finance the cost of the project in excess of the amount of the loan provided for by the agreement, and will efficiently operate the plant after completion of the project; and

(d) that the coal producer is following sound and reasonable policies as to dividends and will repay the loan and interest as provided by the agreement.

Terms of repayment.

4. (1) A loan shall bear interest at a rate fixed by the Governor in Council based on the average rate of interest return that the Minister of Finance determines is yielded by bonds of the Government of Canada of a term comparable with that of the loan or, if there are no such bonds outstanding, that would in the opinion of the Minister of Finance be yielded by such bonds, and shall be repaid by semi-annual payments at a rate of not less than thirty cents per net ton of coal produced by the mines in respect of which the loan was made.

When payments to commence.

(2) The semi-annual payments mentioned in subsection one shall commence in the year after the last instalment of the loan is made or the date fixed in the agreement for the completion of the project, whichever is the earliest; and the loan shall be repaid within fifteen years after the first payment is due.

Security.

(3) A loan shall be secured by a first charge or mortgage in favour of His Majesty on the mine and equipment in respect of which the loan is made or on other property of the coal producer or by such other security as the Minister may approve.

Depreciation allowance.

R.S., c. 97.

5. (1) A coal producer to whom a loan is made for the purpose of carrying out a project, in computing his income for a taxation year for the purposes of *The Income Tax Act* may, notwithstanding anything in that Act or the regulations thereunder, in addition to a deduction under paragraph *(a)* of subsection one of section eleven of that Act and the regulations under that paragraph, deduct in respect of the capital cost to him of the project, as determined by the Dominion Coal Board, the principal amount of the loan repaid in the taxation year, but not exceeding the undepreciated capital cost to him of the project as of the end of the taxation year (after making the deduction first mentioned in this subsection).

Allowance deemed to have been made under Income Tax Act.

(2) For the purposes of *The Income Tax Act*

(a) an allowance under this section shall be deemed to have been made under paragraph *(a)* of subsection one of section eleven of that Act; and

(b) the capital cost of the project shall be deemed to be a prescribed class within the meaning of section twenty of that Act.

(3) Unless the context otherwise requires words and expressions in this section have the same meaning as in *The Income Tax Act*.

Aggregate amounts of loans.

6. The aggregate principal amount of loans made to coal producers under this Act shall not exceed ten million dollars and the aggregate principal amount of loans made under this Act to any one coal producer shall not exceed seven and one-half million dollars.

Limitation.

7. No agreements shall be made under section three after the thirty-first day of October, nineteen hundred and fifty-nine.

Regulations.

8. The Governor in Council may make regulations

(a) prescribing the terms and conditions of agreements made under this Act between coal producers and the Minister;

(b) prescribing the conditions under which and the manner in which instalments of a loan may be advanced to a coal producer; and

(c) generally for carrying out the purposes and provisions of this Act.

Annual Report.

9. The Minister shall annually prepare a report with respect to operations under this Act during the twelve-month period ending on the thirty-first day of March and the report shall be laid before Parliament within three months after it is prepared or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session thereof.

Coming into force.

10. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 218.

An Act to amend The Veterans' Land Act, 1942.

First reading, November 29, 1949.

THE MINISTER OF VETERANS AFFAIRS.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

48602

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 218.

An Act to amend The Veterans' Land Act, 1942.

1942-43, c. 33; 1945 (2nd Sess.), c. 34; 1946, c. 70; 1949 (1st Sess.), c. 6.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Subparagraph (iii) of paragraph *(d)* of section two of *The Veterans' Land Act, 1942*, chapter thirty-three of the statutes of 1942-43, as enacted by section one of chapter thirty-four of the statutes of 1945, is repealed and the following substituted therefor:

"(iii) who, wherever he may have served, is by reason of disability attributable to or incurred during such service in receipt of a pension;"

2. Section eight of the said Act is repealed and the following substituted therefor:

Determination of cost to Director.

"**8.** The Director shall for the purposes of this Act determine the cost to the Director of the land and improvements thereon, building materials, livestock and farm equipment to be sold to a veteran under this Act, which shall not be less than the amount actually expended therefor."

3. The said Act is further amended by adding thereto, immediately after section nine thereof, the following section:

Director may sell all or part of property sold to a veteran.

"**9A.** (1) Notwithstanding anything in this Act, where the Director has by a contract made under this Act sold property to a veteran certified by the Director to be qualified to participate in the benefits of this Act, the Director, with the consent of the veteran, may in accordance with section nine or twenty-one sell to another veteran certified by the Director to be qualified to participate in the benefits of this Act or may sell or otherwise dispose of to any other person,

1. Subparagraph (iii) of paragraph *(d)* now reads as follows:

"who, wherever he may have served, is by reason of disability incurred as a result of such service in receipt of a pension;"

The purpose of the amendment is to bring the qualification into conformity with the 1946 amendment to the *Pension Act* which provided that a pension may be paid if the disability was "attributable to or was incurred during" military service.

2. Section 8 of the Act now reads as follows:

"**8.** (1) The Director shall calculate in each case of sale the cost price of any land acquired under the provisions of this Act.

(2) In calculating the cost to the Director of any land, the Director shall take into account not only the cost of the land but also the cost of improvements, if any, effected or to be effected by the Director."

Doubts prevail as to the exact meaning of the section. The purpose of the amendment is to ensure that the Director has power to fix the cost to him of land and chattels in all cases and thereby enable him to sell the property to a veteran at that amount.

It will be noted that the amendment provides that the Director shall not set a cost that will be less than the amount he has actually expended for the property.

3. Section 9A is an entirely new section and is intended to authorize the Director to work out in a practical way some of the problems being faced by veterans. As the Act stands at present there is no provision to take care of a veteran who has been established under a land contract and finds that for some good reason it is necessary for him to leave the locality in which he resides and take up residence in another place. Neither does the Act now allow the Director or a veteran to sell any part of the property under contract, and many cases arise where it would be an advantage both to the Director and to the veteran to do so.

One of the main principles of the amendment is that the original contract remains in force, but its subject-matter may be wholly or partly changed. For example, the land concerned may be in Ottawa and it is necessary for the veteran to leave Ottawa and go to another city to live. The amendment would enable the Director, with the consent of the veteran, to sell all the land covered by the contract and use the proceeds to purchase land in the other city to be substituted therefor. There may however, be only one such complete substitution. If the Ottawa land is being sold to a qualified veteran, he will be dealt with in the ordinary way under section 9 of the Act, and the assistance available to that veteran under that section will

all or any part of the land, improvements, building materials, livestock or farm equipment that was sold by such contract to the first-mentioned veteran.

How proceeds shall be used.

(2) Where the property sold pursuant to subsection one consists of land, improvements or building materials, the Director shall use the proceeds for one or more of the following purposes:

(a) to purchase for the veteran other or additional lands, which shall for the purposes of the contract be substituted for any lands so sold;

(b) to effect improvements to the land retained by the veteran or to such other or additional lands; or

(c) to reduce the amount owing under the contract or to reduce the cost to the Director as provided in this section.

Application of surplus.

(3) Where a surplus remains after the expenditures, if any, have been made under paragraphs *(a)* and *(b)* of subsection two, (hereinafter called the "surplus"),

(a) if the ten-year period mentioned in subsection four of section nine has expired, the surplus shall be applied in reduction of the amount owing under the contract, and

(b) if the ten-year period mentioned in subsection four of section nine has not expired, the Director shall determine what portion, if any, of the surplus shall be applied in reduction of the amount owing under the contract, and the remainder of the surplus shall be applied in reduction of the cost to the Director.

Reduction of cost to Director.

(4) Where under this section the surplus or any portion thereof is applied in reduction of the cost to the Director,

(a) an amount that bears the same proportion to such surplus or portion as the contract sale price bears to the cost to the Director of the land, improvements and building materials, or

(b) seventy-six and two-thirds per centum of such surplus or portion

whichever is the lesser, shall be applied in reduction of the amount owing under the contract, and for the purposes of subsection four of section nine the total outstanding cost to the Director shall be reduced by the amount of such surplus or portion.

Balance of surplus paid to veteran.

(5) Where by the application of the surplus in accordance with subsections three and four the amount owing under the contract is paid in full and a balance of the surplus remains, such balance shall be paid to the veteran.

Sale of livestock or farm equipment.

(6) Where the property sold pursuant to subsection one consists of livestock or farm equipment, the Director may use the proceeds to purchase for the veteran other or additional livestock or farm equipment, which shall for the purposes of the contract be substituted for the livestock or farm equipment so sold.

be used to purchase for the first veteran the land required by him in the other city, any differences in cost of the respective parcels of land being taken care of pursuant to section 9.

The amendment will also allow the Director, with the consent of the veteran, to sell parts of land under a sale contract and use the proceeds in the manner described in paragraphs *(a)*, *(b)* and *(c)* of subsection (2).

It may sometimes happen that a very small part of land under a sale contract can be sold for a considerable sum of money and much more than the cost to the Director of the whole property. Some of the proceeds can be used for the purposes set out in paragraphs *(a)*, *(b)* and *(c)* aforesaid, and there would still be moneys available called the "surplus". That surplus would then be disposed of pursuant to paragraphs *(a)* and *(b)* of subsection (3).

In ss. (4) is found the formula which is applied to reduce the amount owing on the contract when any of the surplus moneys are applied in reduction of the cost to the Director.

Ss. (5) provides for the immediate payment to the veteran of any balance of the surplus that remains after the contract is paid in full.

Ss. (6) provides that moneys derived from the sale of livestock or farm equipment may be used for the purchase of other or additional livestock or farm equipment which would be substituted for that which was sold.

Acquisition of veterans' lands by His Majesty.

(7) Where all or any part of the land sold by the Director to a veteran by a contract made under this Act is acquired by His Majesty in right of Canada for public purposes, the compensation money or purchase price shall be ascertained as though the Director were not an agent of His Majesty and shall for the purposes of this section be deemed to be proceeds of the sale of the land.

Definitions. "land"

(8) For the purposes of this section

(a) "land" includes mines, minerals and timber and any rights in respect thereof;

"proceeds"

(b) "proceeds" in the case of a contract for the sale of land, improvements or building materials to a veteran certified by the Director to be qualified to participate in the benefits of this Act, means an amount equal to the cost to the Director of such land, improvements or building materials determined for the purposes of such contract under section eight plus any amount, other than the ten per centum of such cost, paid by the veteran under paragraph *(b)* of subsection one or paragraph *(c)* of subsection three of section nine; in the case of a contract for the sale of livestock or farm equipment to such a veteran, means an amount equal to the amount that the veteran would be required to pay under subsection four of section nine for an immediate transfer thereof; and in the case of a sale or other disposition of property to any other person means the amount received;

Insurance money.

(c) any money received by the Director under a contract of insurance on property sold to a veteran shall be deemed to be proceeds of the sale of the property; and

"commercial fishing equipment"

(d) where the contract with a veteran was made under subsection two of section nine, the words "commercial fishing equipment" shall be substituted for the words "livestock or farm equipment".

New contract where contract terminated before coming into force of this Act if veteran repays benefits received.

(9) Where a contract made between the Director and a veteran under section nine or twenty-one was rescinded or otherwise terminated before the amendment of this Act in nineteen hundred and forty-nine and the veteran repays to the Director all moneys received under section nineteen plus the amount of other benefits received under this Act, as determined pursuant to section ten of *The War Service Grants Act, 1944*, re-pays the re-establishment credit, if any, made available to him under that Act, and is otherwise qualified to participate in the benefits of this Act, the Director may contract with the veteran for the sale to him of land and improvements thereon, building materials, livestock and farm equipment for such sale price and upon such terms as the Governor in Council may approve.

Application of proceeds of sales made before coming into force of this Act.

(10) Where the Director before the amendment of this Act in nineteen hundred and forty-nine, with the consent of the veteran, sold or otherwise disposed of part only of the property that was sold by the Director to the veteran by a

Ss. (7) is designed to take care of situations which arise by reason of the Crown requiring all or part of the land in a contract for public purposes. It means that if the Director and the veteran and the Crown can agree on compensation money, that money will be regarded as purchase price and treated in all respects as if it were a sale made pursuant to this section.

Paras. *(a)* and *(b)* of ss. (8) contain definitions. Para. *(c)* provides that insurance moneys received by the Director shall be used in the same manner as the proceeds of the sale of the subject matter of the insurance contract would have been used. Para. *(d)* is comparable to ss. (2) of s. 9 in that commercial fishing equipment is regarded as "livestock and farm equipment" for the purposes of this section.

Ss. (9) is intended to allow a review to be made of any contracts between the Director and veterans that have been terminated before section 9A comes into force. On repayment to the Director by a veteran so concerned of any moneys received by him under s. 19, plus the value of any benefits the veteran has already derived from the terminated contract, as determined by the Minister pursuant to section 10 of *The War Services Grants Act, 1944* and repays any re-establishment credit he may have received, the Director may enter into a new contract with that veteran for the sale to him of land and other property at a price and upon such terms as the Governor in Council may approve.

Ss. (10) is intended to take care of sales of part of property under a contract with a veteran which were made prior to the coming into force of this section and where the contract is not rescinded. These situations can be reviewed by the Director at the request of the veteran and adjustments made as prescribed in the new section.

contract made under this Act and the contract was not rescinded or otherwise terminated, the proceeds may, at the request of the veteran, be applied as prescribed in this section.

Only one complete substitution of lands authorized.

(11) Where substantially all the land that was sold to a veteran by a contract made under this Act is sold or otherwise disposed of under this section and other lands are substituted therefor, no sale or other disposition under this section of the substituted lands shall be made if the sale or other disposition would substantially dispose of the substituted lands."

4. Subsection one of section sixteen of the said Act is repealed and the following substituted therefor:

Provincial advisory board.

"**16.** (1) There shall be a provincial advisory board in each province appointed by the Governor in Council, comprised of three members; the chairman shall be a judge of a county or district court of the province in which such board operates, or in the province of Quebec a judge of sessions of the peace, and one member shall be nominated by the Canadian Legion."

5. Section seventeen of the said Act is amended by adding thereto, immediately after subsection one thereof, the following subsection:

Termination of contract by agreement.

"(1a) The Director may by agreement with the veteran and without giving the notice required by subsection three rescind any contract made with a veteran under this Act."

6. Section eighteen of the said Act is repealed and the following substituted therefor:

Disposal of property.

"**18.** The Director may dispose of any property to a veteran, or with the approval of the Minister to any other person, for cash at a price not less than the cost to the Director of that property."

7. Section nineteen of the said Act is repealed and the following substituted therefor:

Surplus on re-sale to be paid to veteran.

"**19.** (1) Where a contract made by the Director with a veteran is rescinded or otherwise terminated and any property that was sold by the contract is re-sold by the Director for more than the amount owing under the contract, the surplus shall be paid by the Director to the veteran.

How surplus calculated.

(2) For the purposes of subsection one the amount owing under the contract is the aggregate of

(a) the amount that the veteran would have been required to pay for a transfer or conveyance at the date of the rescission or other termination of the contract;

(11) The purpose of this amendment is to restrict a veteran to one change of his establishment.

4. Ss. (1) of s. 16 of the Act now reads as follows:

"**16.** (1) There shall be a provincial advisory board in each province appointed by the Governor in Council, comprised of three members, the chairman of which shall be a county or district court judge of the province in which such board operates and one member shall be nominated by the Canadian Legion."

The section is inappropriate in so far as the Province of Quebec is concerned. The judiciary of that Province does not include a judge of the county or district court. It is proposed to remedy this defect in the section by providing that for Quebec a judge of sessions of the peace may be appointed.

5. This amendment is proposed for the purpose of relieving the Director of the necessity of going through the formal procedure of rescinding a contract if the veteran so agrees and executes an appropriate release of his interest in the contract.

6. Section 18 now reads as follows:

"**18.** In the event of the rescission of any such contract or agreement by the Director he may, subject to the provisions of section sixteen, hold, sell, lease, exchange or otherwise dispose of such property to a veteran or with the approval of the Minister to any other person."

It will be noted that this section applies only to properties that have reverted to the Director by rescission of contracts. It is now proposed to give power to the Director to sell for cash at a price not less than the cost to him any property. If the sale is to be made to a non-veteran, the approval of the Minister is necessary.

7. Section 19 now reads as follows:

"**19.** (1) Whenever, under the provisions of this Act, any property is resold by the Director, any surplus in excess of the balance of the cost price outstanding, together with interest at three and one-half per centum on the said balance, plus the expenses of taking over and reselling the property, shall be paid by the Director to the veteran.

(2) If the veteran's agreement is rescinded and in the opinion of the Director no surplus will be realized upon resale over and above the balance of the cost price outstanding and interest at three and one-half per centum and expenses of taking over and reselling the property and it is established to the satisfaction of the Director that—

(a) the property did not deteriorate in value due to wilful neglect by the veteran during his occupancy, and

(b) failure of the veteran to observe the terms of his agreement was due to his physical disability, or ill-health of his family, or general unfitness to farm, as a consequence whereof the veteran is in necessitous circumstances,

the Director may report the circumstances to the Minister and the Governor in Council, upon the recommendation of the Minister, may refund to the veteran his initial down payment in whole or in part."

(b) the amount of any refund made to the veteran pursuant to subsection three of this section;

(c) taxes and costs of insurance and repairs paid or incurred with respect to such property by the Director since the date of rescission or other termination;

(d) costs incurred by the Director since the date of the rescission or other termination in taking over, maintaining and reselling the property; and

(e) interest at the rate of three and one-half per centum per annum on so much of the amounts set out in paragraphs *(a)* to *(d)* as consist of principal;

minus any income derived by the Director from the property since the date of the rescission or other termination.

Refunding of initial down payment.

(3) Where the contract between the Director and a veteran was rescinded or otherwise terminated and it is established to the satisfaction of the Director that

(a) the property described therein did not deteriorate in value owing to wilful neglect by the veteran during his occupancy, and

(b) failure of the veteran to observe the terms of his contract was due to his physical disability, or ill-health of his family, or his general unfitness to farm, or the unsuitability of the property, and that as a consequence thereof the veteran is in necessitous circumstances,

the Director may, with the approval of the Governor in Council, refund to the veteran his initial down payment in whole or in part."

8. Section twenty-one of the said Act is repealed and the following substituted therefor:

Sale to be made at price approved by G. in C.

"**21.** (1) If the Director deems that any property acquired by him cannot or ought not to be sold subject, whether as to sale price or otherwise, to the provisions of sections nine, nine A or eighteen, he shall report to the Minister the circumstances, with a statement of the cost of such property, and shall recommend another sale price or other terms of sale, whereafter any sale of such property may be made for such sale price, or upon such terms, as the Governor in Council may approve, and for the purposes of sections nine, nine A and nineteen the "cost to the Director" shall be deemed to be the sale price so approved.

Prior contracts not invalid.

(2) Any contract for the sale of land made by the Director in accordance with an Order of the Governor in Council prior to the amendment of this Act in nineteen hundred and forty-nine is hereby ratified, and for the purposes of sections nine and nineteen the "cost to the Director" of the land shall be deemed to be the cost price to the Director of the land as stated in the contract."

It will be observed that ss. (1) of this section deals with the disposition of any surplus that may arise from the resale by the Director of any property. Administrative experience has disclosed certain ambiguities and deficiencies in the subsection which are sought to be overcome by the amendment. This amendment proposes that the surplus be computed in the manner set out in ss. (2).

In ss. (3) of the amendment it is proposed to take care of cases where the veteran has failed not on his own personal account, but on account of the unsuitability of the property.

8. Section 21 now reads as follows:

> "**21.** If the Director deems that any land or other property acquired by him cannot or ought not to be sold subject, whether as to sale price or otherwise, to the provisions of section nine, he shall report to the Minister the circumstances, with a statement of the cost of such property and shall recommend another sale price or other terms of sale, whereafter any sale of such property shall be made for such sale price, or upon such terms, to any person as the Governor in Council may approve."

The proposed amendment has two purposes. The first is a change consequential upon the introduction of the new sections 9A and 18. The second is to make sure that when property is sold pursuant to those sections the terms of sections 9, 9A, and 19 shall apply, thereby making the "cost to the Director" to be the sale price mentioned in the contract. At present, where property is sold pursuant to section 21 at less than the actual cost and it becomes necessary to accept prepayment before ten years have expired, the Director must collect the amount of the original cost and not the price at which it was sold. Likewise, where property has been sold under section 21, reverts to the Director, and is resold, the surplus for the purposes of section 19 must now be estimated on the actual cost and not the price mentioned in the contract.

Ss. (2) is intended to validate, if doubtful, any contracts entered into by the Director with veterans pursuant to authority given by Order in Council.

9. Section twenty-three of the said Act is repealed and the following substituted therefor:

No benefits to veteran indebted to Director of Soldier Settlement.

"**23.** Except with the approval of the Minister, sales, advances or grants authorized by this Act shall not be made to persons indebted to the Director of Soldier Settlement.

Transfer to a veteran of part of the property sold.

"**23A.** Notwithstanding anything in this Act, the Director may transfer or convey to a veteran any part of the property sold to a veteran by a contract made under this Act if, at the date of the contract, the remainder of the property could have been sold to the veteran under section nine for the sale price stated in the contract, and the value of the property so transferred or conveyed, as of the date of the contract, does not exceed the greater of the following amounts, namely,

(a) the entire cost price of the land, improvements and building materials in excess of six thousand dollars paid by the veteran pursuant to paragraph *(b)* of subsection one of section nine; or

(b) the value of the entire property sold by the contract, as of the date it was acquired by the Director, minus the cost to the Director of such property."

10. Subsection six of section thirty-three of the said Act is repealed and the following substituted therefor:

No officer, agent or employee to purchase, acquire or sell land which the Director is authorized to deal with, or act as agent, or take commission.

"(6) No officer, agent or employee of or under the Director shall directly or indirectly, in his own name or in that of any other person, except by or under the authority of the Director, purchase, acquire or sell any land or other property of such character as the Director is authorized to purchase, acquire or sell under this Act from or to any veteran who is indebted to the Director or whose application for an advance or to purchase any property from the Director is pending, nor shall such officer, agent or employee act as an agent or otherwise of any person in purchasing, acquiring or selling or otherwise as aforesaid, nor receive any commission or compensation in connection therewith, and any officer, agent, or employee violating the provisions of this subsection shall in addition to any criminal liability incurred pursuant to the provisions of this Act, be liable to summary dismissal on the order of the Director and the liability to or imposition of such penalty shall not affect the right which any person may have to bring against him any civil action."

9. Section 23 now reads as follows:

"**23.** Save with the approval of the Minister, loans or advances authorized by this Act shall not be made to persons who obtained loans or advances under the provisions of the Soldier Settlement Act, and who are indebted to the Director of Soldier Settlement."

The purpose of the amendment is to make certain that the benefits of this Act are not available without the approval of the Minister to persons who may be indebted to the Director of Soldier Settlement on any account.

Section 23A is new, and its purpose is to enable the Director, in proper cases, to release to the veteran part of the property covered by a sale contract where the remaining property would have sufficed at the time of the contract to permit of the giving of the financial assistance. It was surplus to the requirements of the Act as security for the debt created.

10. It will be noted that this amendment merely corrects a typographical error in the present Act by substituting the word "or" for the word "of".

11. Subsection five of section thirty-five of the said Act is repealed and the following substituted therefor:

Grant not in addition to other grant or sale.

"(5) A veteran who has received a grant under this section is not entitled to enter into a contract with the Director under section nine or section thirteen and a veteran who has entered into a contract with the Director under section nine or section thirteen is not entitled to a grant under this section unless, in either case, all disbursements made under this Act on behalf or in respect of the veteran together with interest thereon at the rate of three and one-half per centum per annum are repaid to the Director."

11. Ss. (5) of section 35 now reads as follows:

"**35.** (5) A veteran who has received a grant under this section shall not be entitled to enter into a contract with the Director under section nine or section thirteen of this Act, and a veteran who has entered into a contract with the Director under section nine or section thirteen of this Act shall not be entitled to a grant under this section."

The amendment removes the absolute prohibition contained in the subsection and gives the Director authority to make a new contract with a veteran where the Director is reimbursed in the amount of all expenditures previously made under the Act with respect to that veteran.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 219.

An Act to amend The Emergency Gold Mining Assistance Act.

First reading, December 1, 1949.

THE MINISTER OF MINES AND RESOURCES.

OTTAWA
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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

48362

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA

BILL 219.

An Act to amend The Emergency Gold Mining Assistance Act.

1947-48, c. 7; 1947-48, c. 48; 1949, c. 6.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Section three of *The Emergency Gold Mining Assistance Act*, chapter fifteen of the statutes of 1947-48, is amended by adding thereto, immediately after subsection two thereof, the following subsection:

Minimum assistance.

"(2a) Where a designated year does not include any part of the first year of production and the number of ounces of gold produced from the mine and sold in the designated year is, owing to causes beyond the control of the person engaged in operating the mine, less than the number of ounces of gold produced from the mine in the base year, the sum that may be paid under this section in respect of gold produced from the mine and sold in the designated year is, notwithstanding subsection two, an amount equal to the product of the rate of assistance for the mine for that designated year multiplied by one-third of the number of ounces of gold produced from the mine and sold in that designated year."

(2) Section three of the said Act is further amended by adding thereto the following subsections:

Minimum assistance.

"(4) Where a designated year includes a part or all of the first year of production and the number of ounces of gold produced from the mine and sold in the part of the designated year remaining after the end of the first year of production is, owing to causes beyond the control of the person engaged in operating the mine, less than the number obtained by dividing the number of ounces of gold produced from the mine in the base year by three hundred and sixty-five and multiplying the quotient by

Explanatory Notes

The Emergency Gold Mining Assistance Act provides for payments to gold mines to assist them in defraying part of their post-war increase in cost of production during the designated years 1948, 1949, and 1950. The rate of assistance for each designated year is half the amount by which each mine's average cost of production per ounce of gold for the year exceeds $18. In the case of old mines, the rate of assistance applies to the number of ounces by which production in the designated year exceeds two-thirds of production in the base year, which is the twelve-month period ending 30th June, 1947. In the case of new mines, the rate of assistance applies to the entire production in the part of the designated year that is also part of the first year of production, and to the number of ounces by which production in the remaining part of the designated year exceeds two-thirds of production in the corresponding part of the base year, which for new mines is the first year of production.

Under the Act as at present a decreasing amount of assistance is payable as the production of a mine during the designated year diminishes from that of the base year, no assistance being payable when the designated year's production has fallen to two-thirds that of the base year.

The proposed subsections (2a) and (4) of section 3 provide that in such cases the rate of assistance shall apply to one-third of production in the designated year. Subsection (2a) relates to old mines. Subsection (4) relates to new mines and provides that the rate of assistance will apply to all the gold produced in that part of the designated year that is part of the first year of production.

the number of the days remaining in the designated year after the end of the first year of production, the sum that may be paid under this section in respect of gold produced from the mine and sold in the designated year is, notwithstanding subsection three, an amount equal to the product of

(a) the rate of assistance for the mine for that designated year

multiplied by the total of

(b) the number of ounces of gold produced from the mine and sold in that part of the designated year that is also part of the first year of production, and

(c) one-third of the number of ounces of gold produced from the mine and sold in the part of the designated year remaining after the end of the first year of production.

"(5) Notwithstanding anything in this section, the sum that may be paid in respect of gold produced from a mine and sold in the designated year nineteen hundred and fifty shall be the amount calculated as prescribed in subsection two, two a, three or four, as the case may be, less the amount obtained by multiplying the number of ounces to which the rate of assistance is applied by three dollars and fifty cents."

2. Section six of the said Act is amended by adding thereto, immediately after paragraph *(e)* of subsection one thereof, the following paragraph:

"*(ee)* prescribing in any case where gold is produced from a mine in bullion, during any period for which it is necessary to compute the number of ounces of gold produced from the mine for the purposes of this Act, from concentrates produced from the mine prior to that period, the time when the gold shall be deemed to have been produced and the manner in which the cost of production thereof shall be calculated, the conditions upon and the manner in which this Act shall apply in respect thereof, and defining the expression "concentrates" for the purposes of this paragraph, and the regulations made under this paragraph shall operate retrospectively to such date as may be fixed by regulation;"

Coming into force.

3. This Act shall be deemed to have come into force on the fifteenth day of June, nineteen hundred and forty-eight.

The proposed subsection (5) of section 3 reduces the total amount of assistance payable to any mine during the designated year 1950 by an amount equal to $3.50 for each ounce of gold to which the rate of assistance under the Act applies.

Some mines reduce all or part of the ore mined and processed by them to gold concentrates in one period and in a later period process such concentrates to produce gold bullion. Under the Act as at present assistance is payable only in respect of gold contained in bullion produced during a designated year and sold as prescribed, with the result that, in the case of mines which carry concentrates from one year to another year for final treatment for bullion production, the cost of production per ounce of bullion produced is artificially high in the year in which the concentrates are produced and artificially low in the year in which the bullion is produced from the concentrates carried forward, since the cost of producing bullion from concentrates is a small fraction of the total cost of producing bullion from ore in the mine.

The proposed paragraph *(ee)* of subsection (1) of section 6 enables the Governor in Council to make regulations, where a mine during one period produces gold in concentrates, and does not produce bullion from such concentrates until a later period, prescribing when the bullion so produced shall be deemed to have been produced, and the manner in which the cost of production thereof shall be calculated.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

22D

BILL Z6.

An Act to amend The Government Employees Compensation Act, 1947.

Read a first time, Tuesday, 29th November, 1949.

Honourable Senator ROBERTSON.

OTTAWA
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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

50937

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL Z[6].

An Act to amend The Government Employees Compensation Act, 1947.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Repeal of section 4.

1. Section four of *The Government Employees Compensation Act, 1947*, chapter eighteen of the statutes of 1947, is repealed.

Explanatory Notes.

The purpose of the Bill is to provide for determination of compensation for injuries to Government Employees in Prince Edward Island according to The Workmen's Compensation Act of Prince Edward Island which was enacted on March 23, 1949.

Section four of *The Government Employees Compensation Act, 1947,* reads as follows:—

"**4.** (1) Where an employee is caused personal injury or is killed by accident arising out of and in the course of his employment, or is disabled or his death is caused by an industrial disease due to the nature of his employment, while employed in the province of Prince Edward Island, such accident or industrial disease shall be deemed for the purposes of this Act to have occurred or been contracted, as the case may be, in the province of New Brunswick, and the right to and the amount of the compensation shall be determined under the law of the province of New Brunswick by such court, board, officers or other authority as the Governor in Council shall from time to time appoint.

(2) Any compensation awarded to any employee or the dependents of any deceased employee under this section shall be paid to such employee or dependents or to such person as the court, board, officers or other authority awarding such compensation directs, and the said court, board, officers or other authority shall have like jurisdiction respecting the awarding of compensation under this section as the Workmen's Compensation Board of the province of New Brunswick has under the Workmen's Compensation Act of that province.

(3) An appeal shall lie from the decision of any board, officers or other authority determining the right to and the amount of compensation payable under this section to a judge of the Supreme Court of Judicature of Prince Edward Island sitting without a jury whose decision shall be final, but no appeal shall lie from the decision of a judge in the first instance.

(4) The board, officers or other authority appointed under this section may be paid such remuneration and expenses as the Governor in Council may fix, and such remuneration and expenses may be paid by the Minister of Finance out of any unappropriated moneys in the Consolidated Revenue Fund of Canada."

221.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 221.

An Act to amend the Customs Tariff.

First reading, December 5, 1949.

THE MINISTER OF FINANCE.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

51200

R.S. c. 44; 1928, c. 17; 1929, c. 39; 1930 (1st Sess.), c. 13; 1930 (2nd Sess.), c. 3; 1931, c. 30; 1932, c. 41; 1932-33, cc. 6, 37; 1934, cc. 32, 49; 1935, c. 28; 1936, c. 31; 1937, cc. 25, 26; 1939 (1st Sess.), c. 41; 1939 (2nd Sess.), c. 2; 1940, c. 29; 1940-41, c. 13; 1942-43, c. 23; 1943-44, c. 7; 1944-45, c. 36; 1946, c. 45; 1947-48, cc. 6, 42.

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 221.

An Act to amend the Customs Tariff.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Schedule C amended.

1. Schedule C to the *Customs Tariff*, chapter forty-four of the Revised Statutes of Canada, 1927, as amended, is further amended by repealing items 1215 and 1216 thereof and by substituting therefor the following items:—

"1215	Used or second hand automobiles and motor vehicles of all kinds, manufactured prior to the calendar year in which importation into Canada is sought to be made. Provided, that this Item does not affect in any manner automobiles and motor vehicles,— *(a)* Imported under Tariff Items 702, 705*a*, 706, 707 or 708, or under tourists' or travellers' vehicle permits; *(b)* Imported by a bona fide settler on a first arrival but not entitled to entry free of duty under Tariff Item 705*a*; *(c)* Bona fide purchased on or before the first day of June, one thousand nine hundred and thirty-one, by consumers for their own use and not for resale; *(d)* Forfeited or confiscated for any offence under the Customs laws, or the laws of any province of Canada; *(e)* Left by bequest; *(f)* Exempted from the provisions of this Item by a regulation of the Governor in Council in any particular case or class of cases.
"1216	Used or second-hand aeroplanes and aircraft of all kinds. Provided, that this Item does not affect in any manner aeroplanes and aircraft,— *(a)* Imported under Tariff Items 707 or 708, or engaged solely in international traffic, or brought in by non-resident tourists for temporary use under permit issued by the Department of National Revenue; *(b)* Bona fide purchased on or before the twenty-second day of March, one thousand nine hundred and thirty-three, by consumers for their own use and not for resale; *(c)* Forfeited or confiscated for any offence under the Customs laws, the Air Regulations or the laws of any province of Canada; *(d)* Imported by the Department of National Defence for military purposes; *(e)* Exempted from the provisions of this Item by a regulation of the Governor in Council in any particular case or class of cases."

Explanatory Notes.

The present prohibition on the importation of second hand motor vehicles and aircraft has been found in practice to create hardship in some, and to be a handicap to production in other, cases. In Schedule C of the *Customs Tariff* there is no existing authority under which relief can be granted. The proposed amendment authorizes the Governor in Council to permit the importation in certain cases or classes of cases, of which the following are typical examples:—

Automobiles acquired by Canadians returning to Canada after a substantial period of residence in a foreign country; gifts of automobiles to religious institutions or clergy engaged in religious or welfare work; trucks and aircraft imported as part of the equipment of United States firms engaged in exploratory or development work in the Alberta oil fields; special type aircraft not available in Canada for use in prospecting or in the transportation of supplies to remote areas.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 222.

An Act to amend The Canadian Red Cross Society Act.

AS PASSED BY THE HOUSE OF COMMONS,
9th DECEMBER, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

51453

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 222.

An Act to amend The Canadian Red Cross Society Act.

1909, c. 68; 1926, c. 5; 1931, c. 24; 1937, c. 7.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Repeal of ss. (2) of sec. 5.

1. Subsection two of section five of *The Canadian Red Cross Society Act*, chapter sixty-eight of the statutes of 1909, as enacted by section one of chapter twenty-four of the statutes of 1931, is repealed.

2. (1) Subsection one of section six of the said Act, as enacted by section one of chapter seven of the statutes of 1937, is repealed and the following substituted therefor:

Central Council.

"**6.** (1) The governing body of the Society shall be a Central Council, consisting of not more than sixty members appointed or elected in such manner as may be determined from time to time by the Central Council."

(2) Subsection three of section six of the said Act, as enacted by section one of chapter seven of the statutes of 1937, is repealed and the following substituted therefor:

Executive Committee.

"(3) There shall be an Executive Committee consisting of such number of persons as may, from time to time, be determined by the Central Council; the members of the Executive Committee shall be appointed or elected by the Central Council from its members and five members of the Executive Committee shall be a quorum."

Quorum.

3. The said Act is further amended by adding thereto the following section:

French name.

"**9.** The name of the Society in the French language shall be 'La Societe canadienne de la Croix-Rouge'."

Explanatory Notes.

The purpose of this Bill is to amend the Canadian Red Cross Society Act in order to allow for the expansion of the Society in Canada.

1. This amendment will remove the limitation on the value of real estate which can be held by the Society. This is required because of the rise in real estate values and also because of the extension of the services of the Society, such as the establishment of outpost hospitals and blood transfusion services across Canada.

Subsection 2 of section 5 now reads as follows:

"(2) The annual value of the real estate held in Canada by or in trust for the Society shall not exceed one hundred thousand dollars."

2. (1) This amendment is required generally to give increased representation on the governing body of the Society to the various provincial Divisions, including the new province of Newfoundland. Subsection (1) of section 6 now reads as follows:

"6. (1) The governing body of the Society shall be a Central Council, consisting of not more than forty members appointed or elected in such manner as may be determined from time to time by the Central Council."

(2) The purpose of this amendment is to remove the limitation on the number of members of the Executive Committee in view of the increase in the maximum number of members of the Central Council. Subsection (3) of section 6 now reads as follows:

"(3) There shall be an Executive Committee consisting of not less than seven and not more than eighteen persons appointed or elected by the Central Council from its members. Five members of the Executive shall be a quorum."

3. This amendment is required to sanction the use of "La Société canadienne de la Croix Rouge" as the name of the Canadian Red Cross Society in the French language.

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

223

BILL J5.

An Act respecting National Defence.

Read a first time, Wednesday, 2nd November, 1949.

Honourable Senator ROBERTSON.

OTTAWA
EDMOND CLOUTIER. C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45641—A

NATIONAL DEFENCE ACT

ARRANGEMENT AND CONTENTS

PAGE

Short title 1
Interpretation 1

FIRST DIVISION

ORGANIZATION FOR DEFENCE

PART I—Department of National Defence—
Provision for Department 5
Minister 5
Deputy Minister 5
Civilian employees 6
Judge Advocate General 6
Property 6
Equipment 6
Inventions 7
Regulations 8

PART II—The Canadian Forces—
Constitution 9
Units and other elements 10
Chiefs of Staff 10
Powers of command 11
Enrolment 11
Attachment and secondment 12
Promotion 13
Redress of grievances 13
Release 13
Active service 13
Service 14
Pay and allowances 15
Supply and issue of equipment 15
Public property 15
Non-public property 15
Service estates 17
Presumption of death 17
Personal effects of absentees 17
Boards of inquiry 17
Cadet organizations 18
Educational institutions 18
Service associations 18
Exercise of authority 19
Notification of orders 19
Validity of documents 19

PART III—The Defence Research Board 21

SECOND DIVISION

CODE OF SERVICE DISCIPLINE

PAGE

PART IV—Disciplinary Jurisdiction of the Services—

Application 23
Persons in Canadian Forces 24
Persons accompanying Canadian Forces 25
Spies for the enemy 25
Released persons serving sentence 25
Persons under special engagement 26
Women 26
Plea in bar of trial 26
Place of commission of offence 26
Place of trial 27
Period of liability under Code of Service Discipline 27
Limitations with respect to certain offences 27
Jurisdiction of civil courts 27

PART V—Service Offences and Punishments—

Responsibility for offences 28
Misconduct of commanders in presence of enemy 28
Misconduct of any person in presence of enemy 29
Security 29
Prisoners of war 30
Miscellaneous operational offences 30
Spies for the enemy 31
Mutiny 31
Seditious offences 31
Insubordination 31
Desertion 32
Absence without leave 33
Disgraceful conduct 34
Offences in relation to service arrest and custody 35
Offences in relation to vessels 36
Offences in relation to aircraft 36
Offences in relation to vehicles 37
Offences in relation to property 38
Offences in relation to service tribunals 40
Offences in relation to billeting 41
Offences in relation to enrolment 41
Miscellaneous offences 41
Conduct to the prejudice of good order and discipline 42
Offences punishable by ordinary law 43
Conviction of cognate offence 44
Punishments 44
Less punishment 45
Death 45
Imprisonment 45
Dismissal with disgrace 46
Detention 47
Reduction in rank 47
Forfeiture of seniority 47
Dismissal from ship 47
Fine 48
Minor punishments 48
Sentences 48
Incarceration under more than one sentence 48
Ignorance of law 48
Civil defences 48
Insanity as a defence 49

PART VI—Arrest—

Authority to arrest 50
Action following arrest 51
Limitations in respect of custody 52

PAGE

PART VII—Service Tribunals—
Application ... 53
Investigation and preliminary disposition of charges ... 53
Summary trials by commanding officer within the Royal Canadian Navy ... 53
Summary trials by commanding officer within the Canadian Army and the Royal Canadian Air Force ... 56
Summary trials by superior commander within the Canadian Army and the Royal Canadian Air Force ... 57
Convening of Courts Martial ... 58
General Courts Martial ... 59
Disciplinary Courts Martial ... 60
Standing Courts Martial ... 61
Admission to courts martial ... 61
Rules of evidence ... 61
Witnesses at courts martial ... 62
Evidence on commission ... 63
View by court martial ... 64
Objection to members of courts martial ... 64
Oaths at courts martial ... 64
Adjournment and dissolution ... 65
Amendment of charges ... 65
Decisions by courts martial ... 66
Similar offences ... 66
Pronouncement of findings and sentence ... 66
Recommendation to clemency ... 66
Decision where accused insane at trial ... 67
Decision where accused insane when offence committed ... 68
Minutes of proceedings of courts martial ... 68

PART VIII—Provisions Applicable to Findings and Sentences After Trial—
Imprisonment and detention ... 69
Punishments requiring approval ... 69
Quashing of findings ... 70
Substitution of findings ... 70
Substitution of punishments ... 71
Mitigation, commutation and remission of punishments ... 71
Conditions applicable to new punishments ... 71
Effect of new punishments ... 72
Suspension of imprisonment or detention ... 72
Committal to imprisonment or detention ... 73
Temporary removal from incarceration ... 75
Rules applicable to service convicts and service prisoners ... 75
Validity of documents ... 75
Insanity during imprisonment or detention ... 76

PART IX—Appeal, Review and Petition—
General provisions ... 77
Right to appeal ... 77
Entry of appeals ... 77
Preliminary disposition of appeals ... 78
Court Martial Appeal Board ... 78
Disposition of appeals by Court Martial Appeal Board ... 80
Rules of appeal procedure ... 81
Appeal to Supreme Court of Canada ... 81
Review after expiration of right to appeal ... 82
Petition for new trial ... 82

THIRD DIVISION

GENERAL LAWS RESPECTING DEFENCE

PART X—Miscellaneous Provisions Having General Application—
Witnesses and counsel at courts martial ... 83
Disposal by civil authorities of deserters and absentees without leave ... 84
Certificate of civil courts ... 85
Authority for committal ... 85
Manœuvres ... 86
Emergency powers in relation to property ... 86

PAGE

Exemption from tolls 87
Ships in convoy 87
Salvage 88
Government Vessels Discipline Act 88
Limitation of civil liabilities 89

PART XI—Aid of the Civil Power 91

PART XII—Offences Triable by Civil Courts—
Application 96
Offences 96

SPECIAL PROVISIONS

PART XIII—Special Provisions—
Deserters and absentees 102
Amendment to The Royal Canadian Air Force Act 102
Repeal 102
Commencement of Act 103

Explanatory Notes.

The purpose of this Bill is to embody in one statute all legislation respecting the Department of National Defence, the organization, administration and discipline of the armed forces, the organization and functions of the Defence Research Board and all other matters directly concerning defence.

The Department, including the Defence Research Board, is now established under the *Department of National Defence Act*.

The navy is now governed entirely by a Canadian statute, *The Naval Service Act, 1944*, and United Kingdom statutes no longer apply.

Organization and administration of the army are now governed by a Canadian statute, the *Militia Act*, which is still in much the same terms as when first enacted in 1868. Discipline, however, is carried out in the main under the *Army Act* of the United Kingdom, for many years made applicable in part to the Canadian Militia by reference.

Organization and administration of the air force are prescribed in a Canadian statute, *The Royal Canadian Air Force Act*, but, as in the case of the army, discipline is carried out in the main under the *Air Force Act* of the United Kingdom, made applicable in part by reference.

The *Army Act* and the *Air Force Act* of the United Kingdom are, in matters of discipline, trial and punishment, practically identical. The disciplinary provisions of *The Naval Service Act, 1944*, differ substantially from those of the army and air force legislation.

A new disciplinary code for the Canadian Forces is contained in the Bill and application by reference of United Kindgom statutes will no longer be necessary. This code applies generally to personnel of the navy, army and air force, so that if enacted it would prescribe the same offences and punishments for officers and men of all three Services for the first time.

The Bill is more than a consolidation and revision of existing legislation. It contains many new clauses deemed necessary to meet present and future requirements in respect of the defence of Canada. Certain archaic provisions of existing legislation have been discarded. Many other provisions have been adapted, modified or extended in principle to suit present day conditions.

The Bill falls into three main divisions:

(a) Parts I, II and III relating generally to organization for defence,

(b) Parts IV to IX which constitute a complete Code of Service Discipline and are so defined, and

(c) Parts X, XI and XII which contain clauses of general application relating to defence.

Part XIII contains a special provision relating to deserters in the Second World War and clauses respecting the amendment and repeal of certain existing legislation and the bringing into force of the Act.

The purpose and general content of each of the thirteen Parts of the Bill are indicated at the commencement of each Part. Opposite each clause is shown the existing legislation upon which the clause is based. Where, in respect of a clause, the word "see" appears in the Explanatory Notes, this is intended to indicate that such clause relates to the subject of the legislation mentioned in said Notes, but may depart both in form and in substance therefrom. On the other hand, where, in such Notes, reference has been made to existing legislation without the word "see," this is intended to mean that the clause in the Bill conforms substantially with existing legislation. Owing to the large number of sections of existing legislation which have some bearing upon each clause of the Bill, it is impracticable to reprint them here.

Clauses which have no counterpart in existing service legislation are indicated as being "new" clauses. In most cases, however, clauses designated as "new" represent either codification of well-established service legal principles or adaptation of principles embodied in the Criminal Code and other statutes.

Existing legislation is listed hereunder and to the right of each item there is shown the abbreviation by which it will be indicated throughout the Explanatory Notes.

Statute	Abbreviation
Department of National Defence Act, Revised Statutes of Canada, 1927, Chap 136, as amended.	DND Act
Militia Act, Revised Statutes of Canada, 1927, Chap 132, as amended.	Militia Act
The Naval Service Act, 1944, Statutes of Canada, 8 Geo VI, Chap 23, as amended.	Naval Service Act

Statute	Abbreviation
The Royal Canadian Air Force Act, Statutes of Canada, 4 Geo VI, Chap 15, as amended.	RCAF Act
Criminal Code, Revised Statutes of Canada, 1927, Chap 36, as amended.	Criminal Code
Army Act, Statutes of the United Kingdom, 44-45 Vict, Chap 58, as amended.	Army Act (UK)
Air Force Act, Statutes of the United Kingdom, 7 and 8 Geo V, Chap 51, as amended.	Air Force Act (UK)

45641—1

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL J5.

An Act respecting National Defence.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as the *National Defence Act.*

INTERPRETATION.

Definitions.

2. In this Act and in regulations made hereunder, unless the context otherwise requires,

"aircraft".

(a) "aircraft" means flying machines and guided missiles that derive their lift in flight chiefly from aerodynamic forces and flying devices that are supported chiefly by their buoyancy in air, and includes any aeroplane, balloon, kite balloon, airship, glider or kite;

"aircraft material".

(b) "aircraft material" means engines, fittings, armament, ammunition, bombs, missiles, gear, instruments and apparatus, used or intended for use in connection with aircraft or the operation thereof, and components and accessories of aircraft and substances used to provide motive power or lubrication for or in connection with aircraft or the operation thereof;

"civil court".

(c) "civil court" means a court of ordinary criminal jurisdiction and includes a court of summary jurisdiction;

"civil custody".

(d) "civil custody" means the holding under arrest or in confinement of a person by the police or other competent civil authority, and includes confinement in a penitentiary or a civil prison;

"civil prison".

(e) "civil prison" means any prison, gaol or other place in Canada in which offenders sentenced by a civil court in Canada to imprisonment for less than two years can be confined, and, if sentenced out of Canada, any prison, gaol or other place in which a person,

Cross-References to Existing Legislation

1. New

2.

(a) See Army Act (UK), Sec 190(42)
Air Force Act (UK), Sec 190(42)

(b) Army Act (UK), Sec 190(43)
Air Force Act (UK), Sec 190(43)

(c) Army Act (UK), Sec 190(31)
Air Force Act (UK), Sec 190(31)

(d) See Army Act (UK), Sec 68(2) *(c)*

(e) See Army Act (UK), Sec 68(2) *(f)*

sentenced to that term of imprisonment by a civil court having jurisdiction in the place where the sentence was passed, can for the time being be confined;

'Code of Service Discipline". *(f)* "Code of Service Discipline" means the provisions of Parts IV, V, VI, VII, VIII and IX;

"court martial". *(g)* "court martial" includes a General Court Martial, a Disciplinary Court Martial and a Standing Court Martial;

"defence establishment". *(h)* "defence establishment" means any area or structure under the control of the Minister, and the equipment and other things situate in or on any such area or structure;

"Department". *(i)* "Department" means the Department of National Defence;

"Deputy Minister". *(j)* "Deputy Minister" means the Deputy Minister of National Defence;

"detention barrack". *(k)* "detention barrack" means a place designated as such under subsection two of section one hundred and seventy-eight;

"emergency". *(l)* "emergency" means war, invasion, riot or insurrection, real or apprehended;

"enemy". *(m)* "enemy" includes armed mutineers, armed rebels, armed rioters and pirates;

"enrol". *(n)* "enrol" means to cause any person to become a member of a component of a Service of the Canadian Forces;

"equipment". *(o)* "equipment" means all movable public property or materiel, other than money, provided for the Canadian Forces or the Defence Research Board or for any other purpose under this Act, and includes any vessel, vehicle, aircraft, animal, missile, arms, ammunition, clothing, stores or provisions so provided;

"His Majesty's Canadian Ship". *(p)* "His Majesty's Canadian Ship" means any vessel of the Royal Canadian Navy commissioned as a vessel of war;

"His Majesty's Forces". *(q)* "His Majesty's Forces" means the naval, army and air forces of His Majesty wheresoever raised, and includes the Canadian Forces;

"man". *(r)* "man" means any person, other than an officer, who is enrolled in, or who pursuant to law is attached or seconded otherwise than as an officer to, the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force;

"military". *(s)* "military" shall be construed as relating to all or any of the Services of the Canadian Forces;

"Minister". *(t)* "Minister" means the Minister of National Defence;

"mutiny". *(u)* "mutiny" means collective insubordination or a combination of two or more persons in the resistance of lawful naval, army or air force authority in any of

(f) New

(g) New

(h) New
See Naval Service Act, Sec 2*(i)*

(i) DND Act, Sec 2*(a)*
Naval Service Act, Sec 2*(c)*

(j) DND Act, Sec 2*(b)*

(k) See Army Act (UK), Sec 68(2) *(e)*

(l) Militia Act, Sec 2*(c)*
RCAF Act, Sec 2*(c)*
See Naval Service Act, Sec 2*(e)*

(m) Army Act (UK), Sec 190(20)
Air Force Act (UK), Sec 190(20)

(n) New

(o) New

(p) New

(q) New
See Army Act (UK), Sec 190(7A)

(r) See Militia Act, Sec 2*(e)*
Naval Service Act, Sec 2*(g)*
RCAF Act, Sec 2*(b)*
Army Act (UK), Sec 190(6)
Air Force Act (UK), Sec 190(6)

(s) New

(t) See DND Act, Sec 2*(c)*

(u) New

His Majesty's Forces or in any forces co-operating therewith;

"non-public property".

(v) "non-public property" means,

(i) all money and property, other than issues of equipment, received for or administered by or through messes, institutes or canteens of the Canadian Forces;

(ii) all money and property contributed to or by officers, men, units or other elements of the Canadian Forces for the collective benefit and welfare of such officers, men, units or other elements;

(iii) by-products and refuse and the proceeds of the sale thereof to the extent prescribed under subsection five of section thirty-nine; and

(iv) all money and property derived from, purchased out of the proceeds of the sale of, or received in exchange for money and property described in sub-paragraphs (i), (ii) and (iii);

"officer".

(w) "officer" means,

(i) a person who holds His Majesty's commission in the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force;

(ii) a subordinate officer in the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force; or

(iii) any person who pursuant to law is attached or seconded as an officer to the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force;

"penitentiary".

(x) "penitentiary" means a penitentiary established under the *Penitentiary Act, 1939*, and includes, in respect of any punishment of imprisonment for two years or more imposed out of Canada pursuant to the Code of Service Discipline, any prison or place in which a person sentenced to imprisonment for two years or more by a civil court having jurisdiction in the place where the sentence is imposed, can for the time being be confined; and if in any such place out of Canada there is no prison or place for the confinement of persons sentenced to imprisonment for two years or more, then in that case "penitentiary" means a civil prison;

"personal equipment".

(y) "personal equipment" means all equipment issued to an officer or man for his personal wear or other personal use;

"possession".

(z) "possession" by any person, for the purpose of the Code of Service Discipline and Part XII, includes,

(i) having in his own personal possession;

(ii) knowingly having in the actual possession or custody of any other person; or

CROSS-REFERENCES TO EXISTING LEGISLATION

(v) New

(w) See Naval Service Act, Sec 2*(l)*
RCAF Act, Sec 2*(e)*
Army Act (UK), Sec 190(4)
Air Force Act (UK), Sec 190(4)

(x) New

(y) New

(z) Criminal Code, Sec 5(1)

(iii) knowingly having in any place, whether belonging to or occupied by himself or not, for the use or benefit of himself or any other person;

"public property". *(aa)* "public property" means any property of His Majesty in right of Canada;

"regulations". *(bb)* "regulations" means regulations made under this Act;

"release". *(cc)* "release" means the termination of the service of an officer or man in any manner whatsoever;

"service convict". *(dd)* "service convict" means a person who is under a sentence that includes a punishment of imprisonment for two years or more imposed upon him pursuant to the Code of Service Discipline;

"service custody". *(ee)* "service custody" means the holding under arrest or in confinement of a person by the Canadian Forces, and includes confinement in a service prison or detention barrack;

"service detainee". *(ff)* "service detainee" means a person who is under a sentence that includes a punishment of detention imposed upon him pursuant to the Code of Service Discipline;

"service offence". *(gg)* "service offence" means an offence under this Act, the *Criminal Code*, or any other Act of the Parliament of Canada, committed by a person while subject to the Code of Service Discipline;

"service prison". *(hh)* "service prison" means a place designated as such under subsection two of section one hundred and seventy-eight;

"service prisoner". *(ii)* "service prisoner" means a person who is under a sentence that includes a punishment of imprisonment for less than two years imposed upon him pursuant to the Code of Service Discipline;

"service tribunal". *(jj)* "service tribunal" means a court martial or a person presiding at a summary trial;

"summary trial". *(kk)* "summary trial" means a trial conducted by or under the authority of a commanding officer pursuant to section one hundred and thirty-five or section one hundred and thirty-six and a trial by a superior commander pursuant to section one hundred and thirty-seven;

"superior officer". *(ll)* "superior officer" means any officer or man who, in relation to any other officer or man, is by this Act, or by regulations or by custom of the service, authorized to give a lawful command to that other officer or man;

"unit". *(mm)* "unit" means an individual body of the Canadian Forces that is organized as such pursuant to section eighteen, with the personnel and equipment thereof.

CROSS-REFERENCES TO EXISTING LEGISLATION

(aa) New

(bb) See Militia Act, Sec. 2*(j)*
RCAF Act, Sec (2)*(i)*

(cc) New

(dd) New

(ee) See Army Act (UK), Sec 45(2)
Air Force Act (UK), Sec 45(2)

(ff) New

(gg) New

(hh) New

(ii) New

(jj) New

(kk) New

(ll) See Army Act (UK), Sec 190(7)
Air Force Act (UK), Sec 190(7)

(mm) See Militia Act, Sec 2*(k)*
RCAF Act, Sec 2*(j)*

PART I.

DEPARTMENT OF NATIONAL DEFENCE.

PROVISION FOR DEPARTMENT.

Formation of department.

3. There shall be a department of the Government of Canada which shall be called the Department of National Defence, over which the Minister of National Defence for the time being appointed by the Governor General by commission under the Great Seal shall preside.

MINISTER.

Duties.

4. The Minister shall have the control and management of the Canadian Forces, the Defence Research Board and of all matters relating to national defence including preparation for civil defence against enemy action, and shall be responsible for the construction and maintenance of all defence establishments and works for the defence of Canada.

Exercise of powers.

5. The Governor in Council, upon the recommendation of the Minister, may from time to time designate any other person in addition to the Minister to exercise any power or perform any duty or function that is vested in or that may be exercised or performed by the Minister under this Act.

Additional or Associate Ministers.

6. (1) The Governor General may, during an emergency, by commission under the Great Seal appoint

(a) not more than three additional Ministers of National Defence, each of whom shall exercise and perform such of the powers, duties and functions of the Minister as may be prescribed by the Governor in Council; or

(b) not more than three Associate Ministers of National Defence, each of whom shall exercise and perform such of the powers, duties and functions of the Minister as may be assigned to him by the Governor in Council or the Minister.

Term of office.

(2) Each additional or Associate Minister appointed under this section may be continued in office for not more than six months after the termination of the emergency during which he is appointed.

DEPUTY MINISTER.

Appointment.

7. (1) There shall be a Deputy Minister of National Defence who shall be appointed by the Governor in Council.

PART I

Part I provides for the organization of the Department of National Defence. The general functions of the Minister are prescribed and provision is made for the appointment of additional or Associate Ministers in an emergency. The appointment of a Deputy Minister, Associate Deputy Ministers, civilian staff and a Judge Advocate General is authorized. The Governor in Council and the Minister are empowered to make regulations in respect of the Canadian Forces and other subjects related to the defence of Canada. These powers are conferred in clause 13.

CROSS-REFERENCES TO EXISTING LEGISLATION

3. DND Act, Sec 3

4. See DND Act, Sec 4.
Militia Act, Sec 6
Naval Service Act, Sec 5

5. New

6. See DND Act, Sec 4A

7. DND Act, Sec 5(1), (2) and (3)

Associate Deputy Ministers.

(2) The Governor in Council may appoint not more than three persons to be Associate Deputy Ministers of National Defence.

Duties of Associate Deputy Ministers.

(3) Each Associate Deputy Minister of National Defence shall have the rank and status of a deputy head of a department and as such deputy head shall, under the direction of the Minister and of the Deputy Minister, perform such duties and exercise such authority as deputy of the Minister and otherwise, as may be assigned to him by the Minister.

Civilian Employees.

Appointment.

8. Such officers, clerks and employees as are necessary for carrying on the business of the Department may be appointed in the manner authorized by law.

Judge Advocate General.

Appointment.

9. The Governor in Council may appoint a barrister or advocate of not less than ten years standing to be the Judge Advocate General of the Canadian Forces.

Property.

Disposition of property.

10. (1) Any lands, buildings or equipment held by His Majesty, that are under the control of the Department for any purpose under this Act, may be leased by the Minister for a period not exceeding one year or may be leased, sold or otherwise disposed of by direction of the Governor in Council.

Municipal interest.

(2) Where any portion of the cost of any land, building or equipment sold under subsection one has been defrayed by the municipality in which it is situated, a fair proportion of the proceeds of sale, to be determined by the Governor in Council, may be returned to the municipality or expended therein for other purposes of the Department of a permanent nature.

Equipment.

Delivery of equipment for sale.

11. (1) The Governor in Council may authorize the Minister to deliver to any department or agency of the Government of Canada any equipment that has not been declared surplus and that is not immediately required for the use of the Canadian Forces or the Defence Research Board or for any other purpose under this Act, for sale to such countries on such terms as the Governor in Council may determine.

8. DND Act, Sec 5(4)

9. New

10. See Militia Act, Sec 56

11. New

Application of proceeds.

(2) The proceeds of a sale of equipment delivered under subsection one shall be paid into a special account in the Consolidated Revenue Fund and, subject to the approval of the Governor in Council, shall be used for the procurement of equipment; and payments out of the special account shall be made by the Minister of Finance on the requisition of the Minister.

Annual statement.

(3) The Minister shall within three months after the termination of each fiscal year prepare a statement of the moneys received and disbursed under this section during that year, indicating the balance, if any, remaining at the end of that year in the special account mentioned in subsection two.

Tabling in Parliament.

(4) The Minister shall forthwith lay the statement mentioned in subsection three before Parliament or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session thereof.

INVENTIONS.

Certain inventions vested in the Crown.

12. (1) All discoveries, inventions or improvements in processes, apparatus, machines or composition of matter made

(a) by an officer or man acting within the scope of his duties or employment;

(b) by an officer, servant, clerk or employee of the Department or of the Defence Research Board acting within the scope of his duties or employment; or

(c) as a result of or in the course of research conducted by any person under a grant in aid furnished with the approval of the Minister in connection with that research,

and all rights with respect thereto are vested in His Majesty.

Exception.

(2) Notwithstanding subsection one, the Minister, on behalf of His Majesty, may authorize agreements to be made with any person mentioned in paragraph *(c)* of that subsection whereby that person shall have and enjoy, exclusively or with limitations, any rights accruing to or that may accrue to or be vested in His Majesty in respect of the matters mentioned in that subsection.

Abandonment of Crown's rights.

(3) The Minister may, in any particular case, abandon any or all of the rights of His Majesty under subsections one and two upon such terms and conditions as the Minister may determine.

Bonuses.

(4) Subject to regulations made by the Governor in Council and notwithstanding the *Civil Service Act*, the Minister may authorize payment of such bonuses or gratuities as in his opinion may be warranted to any person mentioned in subsection one who has made a discovery, invention or improvement that by virtue of this section is vested in His Majesty.

12. New

REGULATIONS.

By Governor in Council.

13. (1) The Governor in Council may make regulations, not inconsistent with this Act, for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces and generally for carrying the purposes and provisions of this Act into effect.

By Minister.

(2) Subject to subsection three, the Minister may make regulations, not inconsistent with this Act or regulations made by the Governor in Council, for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces and generally for carrying the purposes and provisions of this Act into effect.

Limitation.

(3) Where in any other section of this Act there is express reference to regulations made or prescribed by the Governor in Council in respect of any matter, the Minister shall not have power to make regulations pertaining to that matter.

Publication where public affected.

14. (1) Every regulation applicable to persons not subject to the Code of Service Discipline shall be published in the *Canada Gazette* and shall take effect on the date of such publication, unless some later date is fixed by the regulation, in which case it shall take effect on the date so fixed.

Tabling in Parliament.

(2) Every regulation that, under subsection one, is required to be published in the *Canada Gazette* shall be laid before Parliament within ten days after publication thereof in the *Canada Gazette*, if Parliament is then in session or, if Parliament is not then in session, within ten days after the commencement of the next ensuing session thereof.

Publication in other cases.

(3) Regulations to which subsections one and two do not apply shall be published in such manner as the Minister may direct.

CROSS-REFERENCES TO EXISTING LEGISLATION

13. See DND Act, Sec 6
Militia Act, Sec 139
Naval Service Act, Sec 38
RCAF Act, Sec 16(1)

14. See Militia Act, Secs 140, 141
Naval Service Act, Secs 39, 40
RCAF Act, Sec 16(2)

PART II.

THE CANADIAN FORCES.

CONSTITUTION.

Services.

15. The Canadian Forces are the naval, army and air forces of His Majesty raised by Canada and consist of three Services, namely, the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force.

Regular forces.

16. (1) There shall be a component of each Service of the Canadian Forces consisting of officers and men who are enrolled for continuing, full-time military service; and those components are referred to in this Act as the regular forces.

Composition.

(2) The maximum numbers of officers and men in the regular forces shall be as from time to time authorized by the Governor in Council, and the regular forces shall include such units and other elements as are embodied therein.

Reserve forces.

(3) There shall be components of each Service of the Canadian Forces consisting of officers and men who are enrolled for other than continuing, full-time military service when not on active service; and those components are referred to in this Act as the reserve forces.

Composition.

(4) The maximum numbers of officers and men in the reserve forces shall be as from time to time authorized by the Governor in Council, and the reserve forces shall include such units and other elements as are embodied therein.

Active service forces.

(5) In an emergency, the Governor in Council may establish and, while the emergency exists, authorize the maintenance of a component of each Service of the Canadian Forces, referred to in this Act as the active service forces, consisting of

(a) officers and men of the regular forces and the reserve forces who are on active service and who are placed in the active service forces under conditions prescribed in regulations; and

(b) officers and men, not of the regular forces or the reserve forces, who are enrolled on active service in the active service forces for continuing, full-time military service.

Composition.

(6) The maximum numbers of officers and men in the active service forces shall be as from time to time authorized by the Governor in Council, and the active service forces shall include such units and other elements as are embodied therein.

Part II.

Part II constitutes the naval, army and air forces of Canada as the 'Canadian Forces', and provides for their organization and administration. The provisions of the Militia Act, The Naval Service Act, 1944, and The Royal Canadian Air Force Act have been adapted for that purpose. There are in addition several new clauses which are self-explanatory.

Cross-References to Existing Legislation

15. New

16. New
See Militia Act, Sec 22(1)

Continuation of existing constitution.

17. (1) Subject to this Act, the Naval Service, including the Naval Forces, and the Canadian Army and the Royal Canadian Air Force shall continue as constituted immediately prior to the coming into force of this Part.

Redesignation of Naval Service.

(2) On and after the coming into force of this Part, the Naval Service, including the Naval Forces, shall be designated as the Royal Canadian Navy.

UNITS AND OTHER ELEMENTS.

Organization.

18. (1) The Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force shall consist of such units and other elements as are from time to time organized by or under the authority of the Minister.

Component.

(2) A unit or other element organized under subsection one shall from time to time be embodied in such component of the Service of which it forms a part as the Minister may direct.

CHIEFS OF STAFF.

Chief of the Naval Staff.

19. (1) The Governor in Council may appoint an officer to be Chief of the Naval Staff who shall hold such rank as the Governor in Council may prescribe and who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Royal Canadian Navy.

Chief of the General Staff.

(2) The Governor in Council may appoint an officer to be Chief of the General Staff who shall hold such rank as the Governor in Council may prescribe and who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Canadian Army.

Chief of the Air Staff.

(3) The Governor in Council may appoint an officer to be Chief of the Air Staff who shall hold such rank as the Governor in Council may prescribe and who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Royal Canadian Air Force.

Responsibility and channels of communication.

(4) The Chief of the Naval Staff, the Chief of the General Staff and the Chief of the Air Staff shall, unless the Governor in Council otherwise directs, be responsible for the issue of all the orders and instructions to the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force respectively that are required to give effect to the decisions and to carry out the directions of the Government of Canada or the Minister.

CROSS-REFERENCES TO EXISTING LEGISLATION

17. New

18. See Militia Act, Sec 20(2)

19. (1), (2) and (3)
See Naval Service Act, Sec 7
Militia Act, Sec 30

19. (4) New

Powers of Command.

Authority of officers and men.

20. The authority and powers of command of officers and men shall be as prescribed in regulations.

Enrolment.

Commissioned officers.

21. (1) Commissions of officers in the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force shall be granted by His Majesty during pleasure.

Subordinate officers and men.

(2) Persons shall be enrolled as subordinate officers and men for such term of service as may be prescribed in regulations made by the Governor in Council.

Authorized ranks.

22. The respective ranks that may be held by officers and men of the Canadian Forces shall be as from time to time prescribed in regulations made by the Governor in Council.

Numbers in ranks and trade groups.

23. The maximum number of persons in each rank and trade group of the Canadian Forces shall be determined as prescribed in regulations made by the Governor in Council.

Obligation to serve.

24. The enrolment of a person in a Service of the Canadian Forces binds that person to serve in that Service until he is, in accordance with regulations, lawfully released.

Oaths on enrolment.

25. Oaths and declarations required upon enrolment shall be taken and subscribed before commissioned officers or justices of the peace and shall be in such forms as may be prescribed in regulations.

Consent to transfer.

26. Subject to subsection three of section thirty-two, no officer or man shall without his consent be transferred from the regular forces to the reserve forces or from the reserve forces to the regular forces or from the Service of the Canadian Forces in which he has been enrolled to another Service of the Canadian Forces.

Effect of receipt of pay if not enrolled.

27. (1) Where, although not enrolled or re-engaged for service, a person has received pay as an officer or man, he is, until he claims his release and is released, deemed to be an officer or man, as the case may be, of the Service and component of the Canadian Forces through which he

CROSS-REFERENCES TO EXISTING LEGISLATION

20. See Naval Service Act, Sec 10
Militia Act, Sec 40

21. See Militia Act, Secs 33, 15(1)
Naval Service Act, Secs 9(1), 11
RCAF Act, Sec 7(1)

22. See Naval Service Act, Sec 10

23. Militia Act, Sec 20(1)

24. See Militia Act, Sec 21(2)

25. See Militia Act, Sec 21(1)
Naval Service Act, Sec 9(2) and (3)

26. New

27. Army Act (UK), Sec 100

received pay and to be subject to this Act as if he were such an officer or man duly enrolled or re-engaged for service.

Effect of receipt of pay if irregularly enrolled.

(2) Where, although there has been an error or irregularity in his enrolment or re-engagement, a person has received pay as an officer or man of that Service and component of the Canadian Forces in which he was erroneously or irregularly enrolled or re-engaged, that person is deemed to be an officer or man, as the case may be, regularly enrolled or re-engaged, and is not, except as provided in subsection three, entitled to be released on the ground of the error or irregularity.

Provision for release.

(3) Where a person who, by virtue of subsection two, is deemed to be an officer or a man, claims to be released within three months, reckoned from the date on which his pay commenced, and establishes the error or irregularity in his enrolment or re-engagement, he shall, except during an emergency, be released.

Method of release.

(4) Where a person claims his release on the ground that he has not been enrolled or re-engaged or has not been regularly enrolled or re-engaged, his commanding officer shall forthwith forward his claim to the authority having power to release him and, if he is entitled to be released, he shall be released with all convenient speed.

ATTACHMENT AND SECONDMENT.

Within the Canadian Forces.

28. (1) An officer or man may be attached or seconded to another component of the Service of the Canadian Forces in which he is enrolled or to any component of any Service of the Canadian Forces, other than that in which he is enrolled, in such manner and under such conditions as are prescribed in regulations; and shall have like powers of command and punishment over officers and men of the component and Service of the Canadian Forces to which he is attached or seconded as if he were an officer or man of that component and Service of equivalent rank, relative to the rank he holds.

28. See Army Act (UK), Sec 179A(1)
Air Force Act (UK), Sec 179A(1)
The Visiting Forces (British Commonwealth) Act, Statutes of Canada, 23-24 Geo V, Chap 21, Sec 6(3)
Naval Service Act, Sec 42

Out of the Canadian Forces.

(2) An officer or man may be attached or seconded to any of His Majesty's Forces, any department or agency of government, any public or private institution, private industry or any other body in such manner and under such conditions as are prescribed in any other Act or in regulations.

Provision regarding reserve forces.

(3) No officer or man of the reserve forces who is not serving on active service shall without his consent be attached or seconded pursuant to this section.

PROMOTION.

Authority.

29. Subject to section twenty-three and to regulations, officers and men may be promoted by the Minister and such authorities of the Canadian Forces as are prescribed in regulations made by the Governor in Council.

REDRESS OF GRIEVANCES.

Procedure.

30. Except in respect of a matter that would properly be the subject of an appeal or petition under Part IX, an officer or man who considers that he has suffered any personal oppression, injustice or other ill-treatment or that he has any other cause for grievance, may as a matter of right seek redress from such superior authorities in such manner and under such conditions as shall be prescribed in regulations made by the Governor in Council.

RELEASE.

Entitlement.

31. (1) Except during an emergency, an officer or man is entitled to be released at the expiration of the term of service for which he is enrolled or re-engaged.

Effect of illegal absence.

(2) Except as may be prescribed in regulations made by the Governor in Council, any period during which an officer or man is in a state of desertion or is absent without leave shall not be reckoned toward the completion of the term of service for which that officer or man was enrolled or re-engaged.

Exception in emergency.

(3) Where the term of service for which an officer or man is enrolled or re-engaged expires during an emergency or within one year after the expiration of an emergency, he is liable to serve until the expiration of one year after the emergency has ceased to exist.

ACTIVE SERVICE.

Placing forces on active service.

32. (1) The Governor in Council may place the Canadian Forces or any Service, component, unit or other element thereof or any officer or man thereof on active service anywhere in Canada, and also beyond Canada, for the defence thereof at any time when it appears desirable so to do by reason of an emergency.

29. New

30. See Army Act (UK), Secs 42, 43
Air Forces Act (UK), Secs 42, 43

31. See Militia Act, Secs 15(2) and (3), 18
Naval Service Act, Sec 13
RCAF Act, Sec 7(2) and (3)

32. Militia Act, Sec 64
See Naval Service Act, Sec 17
RCAF Act, Sec 8
See also Militia Act, Sec 2*(g)*
Naval Service Act, Sec 2*(a)*
RCAF Act, Sec 2*(f)*

Effect on status of officers and men.

(2) An officer or man of His Majesty's Forces who is a member of, serving with, or attached or seconded to a Service, component or unit of the Canadian Forces that has been placed on active service, or who has been placed on active service, or who pursuant to law has been attached or seconded to a portion of a force that has been placed on active service, shall be deemed to be on active service for all purposes.

Transfer on active service.

(3) An officer or man on active service may for the period of such service, be transferred from the component of the Service of the Canadian Forces in which he has been enrolled to the same component of another Service of the Canadian Forces or from the reserve forces to the regular forces.

Proclamation for meeting of Parliament.

33. Whenever the Governor in Council places the Canadian Forces or any Service, component or unit thereof on active service, if Parliament is then separated by such adjournment or prorogation as will not expire within ten days, a proclamation shall be issued for the meeting of Parliament within fifteen days, and Parliament shall accordingly meet and sit upon the day appointed by such proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

SERVICE.

Liability of regular forces.

34. (1) The regular forces, all units and other elements thereof and all officers and men thereof are at all times liable to perform any lawful duty.

Liability of reserve forces.

(2) The reserve forces, all units and other elements thereof and all officers and men thereof

(a) may be ordered to drill or train for such periods as are prescribed in regulations made by the Governor in Council; and

(b) may be called out on service to perform any naval, army or air force duty other than drill or training at such times and in such manner as by regulations or otherwise are prescribed by the Governor in Council.

Exception in case of certain reserves.

(3) Nothing in subsection two shall be deemed to impose liability to serve as prescribed therein, without his consent, upon an officer or man of the reserve forces who is, by virtue of the terms of his enrolment, liable to perform duty on active service only.

Special liability of regular forces in national disaster.

35. (1) Where the Governor in Council has declared that a disaster exists or is imminent that is, or is likely to be, so serious as to be of national concern, the regular forces or any unit or other element thereof or any officer or man thereof shall be liable to perform such services in respect of the disaster, existing or imminent, as the Minister may authorize, and the performance of such services shall be deemed to be naval, army or air force duty, as the case may be.

33. Militia Act. Sec 66
Naval Service Act, Sec 19

34. See Militia Act, Secs 63, 22(2), 47, 51
RCAF Act, Sec 8
See also Militia Act, Sec 2*(h)*
Naval Service Act, Sec 2*(m)*
RCAF Act, Sec 2*(g)*

35. New

Special liability of reserve forces in national disaster.

(2) Where the Governor in Council declares that a disaster as mentioned in subsection one exists or is imminent and that the services of the reserve forces are required for the purpose of rendering assistance in respect of the disaster, existing or imminent, the Governor in Council may authorize the reserve forces or any unit or other element thereof or any officer or man thereof to be called out on service for that purpose and all officers and men while so called out shall be deemed to be performing naval, army or air force duty, as the case may be.

Exception in case of certain reserves.

(3) Nothing in subsection two shall be deemed to impose liability to serve as prescribed therein, without his consent, upon an officer or man of the reserve forces who is, by virtue of the terms of his enrolment, liable to perform duty on active service only.

PAY AND ALLOWANCES.

Rates and conditions.

36. (1) The pay and allowances of officers and men shall be at such rates and issued under such conditions as are prescribed in regulations made by the Governor in Council.

Forfeitures and deductions.

(2) The pay and allowances of officers and men shall be subject to such forfeitures and deductions as are prescribed in regulations made by the Governor in Council.

Assignments.

(3) Unless made in accordance with regulations prescribed by the Governor in Council, an assignment of pay and allowances is void.

SUPPLY AND ISSUE OF EQUIPMENT.

Authority.

37. The equipment supplied to or used by the Canadian Forces shall be of such type, pattern and design and shall be issued on such scales and in such manner as the Minister, or such authorities of the Canadian Forces as are designated by him for that purpose, may approve.

PUBLIC PROPERTY.

Liability for loss or damage.

38. The conditions under which and the extent to which an officer or man shall be liable to His Majesty in respect of loss or damage to public property shall be as prescribed in regulations.

NON-PUBLIC PROPERTY.

Non-public property of units.

39. (1) The non-public property of a unit or other element of the Canadian Forces shall vest in the officer from time to time in command of that unit or other element, and shall be used for the benefit of officers and men or for any other purpose approved by the chief of staff of the Service of the Canadian Forces in which that unit or other element is comprised, in the manner and to the extent authorized by that chief of staff.

36. See Militia Act, Secs 48, 49
Naval Service Act, Sec 6
RCAF Act, Sec 16(1) *(b)*

37. See Militia Act, Sec 42
Naval Service Act, Sec 14
RCAF Act, Sec 16(1) *(c)*

38. New

39. New

Non-public property of disbanded units.

(2) The non-public property of every disbanded unit or other disbanded element of the Canadian Forces, vested in the officer in command of that unit or other element, shall pass to and vest in the chief of staff of the Service of the Canadian Forces in which that unit or other element was comprised, and may be disposed of at his discretion and direction for the benefit of all or any officers and men or former officers and men, or their dependents, of the Service of the Canadian Forces in which that unit or other element was comprised.

Non-public property of units in altered circumstances.

(3) Where, by reason of a substantial reduction in the number of officers and men serving in a unit or other element of the Canadian Forces or by reason of a change in the location or other conditions of service of a unit or other element, the chief of staff of the Service of the Canadian Forces in which the unit or other element is comprised considers it desirable so to do, he may direct that the non-public property or any part thereof that is vested in the officer in command of that unit or other element shall pass to and be vested in the chief of staff upon the terms set out in subsection two.

Other non-public property.

(4) Non-public property acquired by contribution but not contributed to any specific unit or other element of the Canadian Forces shall vest in the chief of staff of the Service of the Canadian Forces to which that non-public property is contributed and, subject to any specific directions by the contributor as to its disposal, may be disposed of at his discretion and direction for the benefit of all or any officers and men or former officers and men, or their dependents, of that Service of the Canadian Forces.

By-products and refuse.

(5) By-products and refuse derived from rations and other consumable stores issued to the Canadian Forces for use in service kitchens, and the proceeds of the sale thereof, shall, to the extent that the Governor in Council may prescribe, be non-public property.

Alienation of non-public property.

(6) Except as authorized by the appropriate chief of staff, no gift, sale or other alienation or attempted alienation of non-public property is effectual to pass the property therein.

Liability for loss or damage.

(7) The conditions under which and the extent to which an officer or man shall be liable to make restitution or reimbursement in respect of loss or damage to non-public property resulting from his negligence or misconduct shall be as prescribed by the Minister.

Exercise of authority.

(8) A chief of staff shall exercise his authority under subsections one, two and four subject to any directions that may be given to him by the Minister for carrying the purposes and provisions of this section into effect.

Audit.

(9) Non-public property accounts shall be audited as the Minister may from time to time direct.

Special provision.

(10) The *Consolidated Revenue and Audit Act* shall not apply to non-public property.

Service Estates.

Collection, administration and distribution.

40. (1) The service estates of officers and men who die during their service in the Canadian Forces may be collected, administered and distributed in whole or in part as prescribed in regulations made by the Governor in Council.

Definition.

(2) For the purposes of this section, "service estate" means the following parts of the estate of a deceased officer or man mentioned in subsection one,

(a) service pay and allowances;

(b) all other emoluments emanating from His Majesty that, at the date of death, are due or otherwise payable;

(c) personal equipment that the deceased person is, under regulations, permitted to retain; and

(d) personal belongings, including cash, found on the deceased person or in camp, quarters or otherwise in the care or custody of the Canadian Forces.

Presumption of Death.

Authority to issue certificate.

41. Where an officer or man disappears under circumstances that, in the opinion of the Minister or such other authorities as he may designate, raise beyond reasonable doubt a presumption that he is dead, the Minister or any such other authority may issue a certificate declaring that such officer or man is deemed to be dead and stating the date upon which his death is presumed to have occurred, and such officer or man shall thenceforth, for the purposes of this Act and the regulations and in relation to his status and service in the Canadian Forces, be deemed to have died on that date.

Personal Effects of Absentees.

Disposal.

42. The personal belongings and decorations of an officer or man, who is absent without leave, that are found in camp, quarters or otherwise in the care or custody of the Canadian Forces shall vest in His Majesty and shall be disposed of in accordance with regulations made by the Governor in Council.

Boards of Inquiry.

Convening.

43. The Minister, and such other authorities as he may prescribe or appoint for that purpose, may, where it is expedient that he or any such other authority should be informed on any matter connected with the government,

40. See DND Act, Sec 7

41. New

42. See Naval Service Act, Sec 71

43. See Militia Act, Sec 93(1)

discipline, administration or functions of the Canadian Forces or affecting any officer or man, convene a board of inquiry for the purpose of investigating and reporting on that matter.

CADET ORGANIZATIONS.

Formation.

44. (1) The Minister may authorize the formation of cadet organizations under the joint or several control and supervision of the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force, to consist of boys not less than twelve years of age and who have not attained the age of nineteen years.

Conditions of service.

(2) The cadet organizations mentioned in subsection one shall be trained for such periods, administered in such manner, provided with equipment and accommodation under such conditions and shall be subject to the authority and command of such officers as the Minister may direct.

Not part of the forces.

(3) The cadet organizations mentioned in subsection one shall not be comprised in the Canadian Forces.

EDUCATIONAL INSTITUTIONS.

Establishment.

45. (1) The Governor in Council, and such other authorities as are prescribed or appointed by the Governor in Council for that purpose, may in the interests of national defence establish institutions for the training and education of officers and men, officers and employees of the Department and of the Defence Research Board, candidates for enrolment in the Canadian Forces or for employment in the Department or by the Defence Research Board and other persons whose attendance has been authorized by or on behalf of the Minister.

Administration.

(2) The institutions mentioned in subsection one shall be governed and administered in the manner prescribed by the Minister.

SERVICE ASSOCIATIONS.

Establishment.

46. (1) The Governor in Council may establish associations and organizations for purposes designed to further the defence of Canada.

Equipment.

(2) The Minister may authorize the provision of accommodation, equipment and facilities for the training, practice and use of the associations and organizations mentioned in subsection one and other associations and organizations designed to further the defence of Canada, whether or not the members of such associations and organizations are officers or men.

CROSS-REFERENCES TO EXISTING LEGISLATION

44. Militia Act, Secs 59 to 62
Naval Service Act, Secs 28A, 28B
RCAF Act, Secs 15A, 15B

45. See Naval Service Act, Secs 24 to 28
The Royal Military College Act, Statutes of Canada, 18-19 Geo V, Chap 7

46. New
See Militia Act, Sec 57

Exercise of Authority.

Conditions applicable.

47. Any power or jurisdiction given to, and any act or thing to be done by, to or before any officer or man may be exercised by, or done by, to or before any other officer or man for the time being authorized in that behalf by regulations or according to the custom of the service.

Method of signifying orders.

48. Orders made under this Act may be signified by an order, instruction or letter under the hand of any officer whom the authority who made such orders has authorized to issue orders on his behalf; and any order, instruction or letter purporting to be signed by any officer appearing therein so to be authorized is evidence of his being so authorized.

Notification of Orders.

By exhibition.

49. (1) All orders and instructions issued to the Canadian Forces shall be held to be sufficiently notified to any person whom they may concern by their publication, in the manner prescribed in regulations made by the Governor in Council, in the unit or other element in which that person is serving.

By mail.

(2) All orders and instructions relating to or in any way affecting an officer or man of the reserve forces, other than an officer or man who is serving with a unit or other element, when sent to him by registered mail, addressed to his last known place of abode or business, shall be held to be sufficiently notified.

Validity of Documents.

Authenticity of documents.

50. A commission, appointment, warrant, order or instruction in writing purported to be granted, made or issued under this Act is evidence of its authenticity without proof of the signature or seal affixed thereto or the authority of the person granting, making or issuing it.

Signature on commissions.

51. (1) The Governor General may cause his signature to be affixed to a commission granted to an officer of the Canadian Forces by stamping the signature on the commission with a stamp approved by him and used for the purpose by his authority.

Validity.

(2) A signature affixed in accordance with subsection one is as valid and effectual as if it were in the handwriting of the Governor General, and neither its authenticity nor the authority of the person by whom it was affixed shall be called in question except on behalf of His Majesty.

CROSS-REFERENCES TO EXISTING LEGISLATION

47. Army Act (UK), Sec 171
Air Force Act (UK), Sec 171

48. See Army Act (UK), Sec 172(1)
Air Force Act (UK), Sec 172(1)

49. New
See Militia Act, Secs 136 to 138
Naval Service Act, Sec 31

50. Militia Act, Sec 100
Naval Service Act, Sec 32

51. Militia Act, Sec 34

Validity of bonds.

52. Every bond to His Majesty entered into by any person before a judge or justice of the peace, or officer of the Canadian Forces, for the purpose of securing the payment of a sum of money or the performance of a duty or act required or authorized by this Act or by regulations, is valid and may be enforced accordingly.

CROSS-REFERENCES TO EXISTING LEGISLATION

52. Militia Act, Sec 128

Part III

THE DEFENCE RESEARCH BOARD.

Defence Research Board and its functions.

53. (1) There shall be a Defence Research Board which shall carry out such duties in connection with research relating to the defence of Canada and development of or improvements in equipment as the Minister may assign to it, and shall advise the Minister on all matters relating to scientific, technical, and other research and development that in its opinion may affect national defence.

Constitution.

(2) The Defence Research Board shall consist of a Chairman and a Vice Chairman, appointed by the Governor in Council, the persons who from time to time hold the offices of Chief of the Naval Staff, Chief of the General Staff, Chief of the Air Staff, President of the Honorary Advisory Council for Scientific and Industrial Research, and Deputy Minister of National Defence, and such additional members representative of universities, industry and other research interests as the Governor in Council appoints.

Chairman and Vice Chairman—tenure and salary.

(3) The Chairman and Vice Chairman shall hold office during pleasure, and shall be paid such salaries as the Governor in Council determines.

Other members—tenure and remuneration.

(4) The members of the Defence Research Board, other than the Chairman, Vice Chairman or the exofficio members, shall hold office for a period not exceeding three years but shall be eligible for re-appointment, and shall be paid such remuneration, if any, as the Governor in Council determines.

Expenses of members.

(5) Each member shall be paid his travelling and other expenses incurred in connection with the work of the Defence Research Board.

Duties of Chairman.

(6) The Chairman shall be the chief executive officer of the Defence Research Board and, under the direction of the Minister and in accordance with policies approved by the Board, shall oversee and direct the officers, clerks and employees of the Board, have general control of the business of the Board, have supervision over the work directed to be carried out by the Board, be charged with the organization, administration and operation of the defence establishments of the Board and perform such other duties as the Minister may assign to him.

Duties of Vice Chairman.

(7) The Vice Chairman shall perform such duties as may be assigned to him under the by-laws made by the Defence Research Board.

Status of Chairman.

(8) The Chairman shall have a status equivalent to that of a chief of staff of a Service of the Canadian Forces.

PART III

This Part contains, in amplified form, provisions for the Defence Research Board now contained in section 8 of the Department of National Defence Act as enacted by Statutes of Canada, 1947, Chapter 5.

Powers of the Defence Research Board.

54. The Defence Research Board may, with the approval of the Minister,

(a) notwithstanding the *Civil Service Act* or any other section of this Act or any other statute or law, appoint and employ the professional, scientific, technical, clerical and other employees required to carry out efficiently the duties of the Board, prescribe their duties and, subject to the approval of the Governor in Council, prescribe their terms of appointment and service and fix their remuneration;

(b) make by-laws or rules for the regulation of its proceedings and for the performance of its functions;

(c) enter into contracts in the name of His Majesty for research and investigations with respect only to matters relating to defence; and

(d) make grants in aid of research and investigations with respect only to matters relating to defence and establish scholarships for the education or training of persons to qualify them to engage in such research and investigations.

Expenses of the Defence Research Board.

55. (1) All expenses of the Defence Research Board shall be paid out of moneys appropriated by Parliament for the purpose or received by the Board through the conduct of its operations, bequests, donations or otherwise and shall be paid by the Minister of Finance on the requisition of the Minister.

Scholarships and grants in aid.

(2) The Minister may request the Minister of Finance to allocate any portion of the moneys appropriated by Parliament for the purposes of the Defence Research Board for scholarships or grants in aid of research and investigations, and thereupon the Minister of Finance shall hold that portion of the moneys in trust and may at any time on the requisition of the Minister disburse that portion of the moneys for scholarships or grants in aid of research and investigations.

Moneys not required.

(3) Any moneys allocated by the Minister of Finance under this section that, in the opinion of the Minister, are not required for the purpose for which they were allocated shall cease to be held in trust.

PART IV

DISCIPLINARY JURISDICTION OF THE SERVICES.

APPLICATION.

Persons subject.

56. (1) The following persons, and no others, are subject to the Code of Service Discipline,

(a) an officer or man of the regular forces;

(b) an officer or man of the active service forces;

(c) an officer or man of the reserve forces when he is

(i) undergoing drill or training whether in uniform or not,

(ii) in uniform,

(iii) on duty,

(iv) called out under subsection two of section thirty-five to render assistance in a disaster,

(v) called out under Part XI in aid of the civil power,

(vi) on service,

(vii) on active service,

(viii) in or on any vessel, vehicle or aircraft of the Canadian Forces or in or on any defence establishment or work for defence,

(ix) serving with any unit or other element of the regular forces or the active service forces, or

(x) present, whether in uniform or not, at any drill or training of a unit or other element of the Canadian Forces;

(d) subject to such exceptions, adaptations, and modifications as the Governor in Council may by regulations prescribe, a person who pursuant to law is attached or seconded as an officer or man to a Service of the Canadian Forces;

(e) a person, not otherwise subject to the Code of Service Discipline, who is serving in the position of an officer or man of any force raised and maintained out of Canada by His Majesty in right of Canada and commanded by an officer of the Canadian Forces;

(f) a person, not otherwise subject to the Code of Service Discipline, who accompanies any unit or other element of the Canadian Forces that is on service or active service in any place;

(g) subject to such exceptions, adaptations and modifications as the Governor in Council may by regulations prescribe, a person attending an institution established under section forty-five;

Part IV

For convenience, this Part and Parts V to IX inclusive, relating to discipline within the armed forces, are designated as the "Code of Service Discipline". The purpose of Part IV is to establish the classes of persons who are subject to that Code and the circumstances in which they are so subject. It also contains certain provisions relating to the jurisdiction of service tribunals generally.

Cross-References to Existing Legislation

56. See Militia Act, Secs 69(2), 71(1) and(2)
Naval Service Act, Secs 47, 91
RCAF Act, Sec 6
Army Act (UK), Secs 158, 175, 176, 176A, 178
Air Force Act (UK), Sec 158

(h) an alleged spy for the enemy;

(i) a service convict, service prisoner or service detainee, not otherwise subject to the Code of Service Discipline, who is committed to undergo his punishment in a service prison or detention barrack, as the case may be;

(j) a person, not otherwise subject to the Code of Service Discipline, while serving with a Service of the Canadian Forces under an engagement with the Minister whereby he agreed to be subject to that Code.

Continuing liability.

(2) Every person subject to the Code of Service Discipline under subsection one at the time of the alleged commission by him of a service offence shall continue to be liable to be charged, dealt with and tried in respect of that offence under the Code of Service Discipline notwithstanding that he may have, since the commission of that offence, ceased to be a person mentioned in subsection one.

Retention of status.

(3) Every person who, since the alleged commission by him of a service offence, has ceased to be a person mentioned in subsection one, shall for the purposes of the Code of Service Discipline be deemed, for the period during which under that Code he is liable to be charged, dealt with and tried, to have the status and rank that he held immediately prior to the time when he ceased to be a person mentioned in subsection one.

Persons in Canadian Forces.

An officer or man to be tried by own Service.

(4) Subject to subsections five and six, every officer or man who is alleged to have committed a service offence may be charged, dealt with and tried only within the Service of the Canadian Forces in which he is enrolled.

Attachment and secondment.

(5) Every officer or man who, while attached or seconded to a Service of the Canadian Forces other than the Service in which he is enrolled, is alleged to have committed a service offence, may be charged, dealt with and tried either within that other Service, as if he were an officer or man thereof, or within the Service in which he is enrolled.

When on vessel or aircraft of other Service.

(6) Every officer or man who, while embarked on any vessel or aircraft of a Service of the Canadian Forces other than the Service in which he is enrolled, is alleged to have committed a service offence, may be charged, dealt with and tried either within that other Service, as if he were an officer or man thereof, or within the Service in which he is enrolled.

Forces raised out of Canada.

(7) Every person serving in the circumstances set forth in paragraph *(e)* of subsection one who, while so serving, is alleged to have committed a service offence, may be charged, dealt with and tried within that Service of the Canadian Forces in which his commanding officer is serving.

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Persons Accompanying Canadian Forces.

Dealt with by Service accompanied.

(8) Every person mentioned in paragraph *(f)* of subsection one who, while accompanying any unit or other element of the Canadian Forces, is alleged to have committed a service offence, may be charged, dealt with and tried within the Service in which is comprised the unit or other element of the Canadian Forces that he accompanies, and for that purpose shall be treated as a man, unless he holds from the commanding officer of the unit or other element of the Canadian Forces that he so accompanies or from any other officer prescribed by the Minister for that purpose, a certificate, revocable at the pleasure of the officer who issued it or of any other officer of equal or higher rank, entitling such person to be treated on the footing of an officer, in which case he shall be treated as an officer in respect of any offence alleged to have been committed by him while holding that certificate.

Command.

(9) Every person mentioned in subsection eight shall, for the purpose of the Code of Service Discipline, be deemed to be under the command of the commanding officer of the unit or other element of the Service of the Canadian Forces that such person accompanies.

Spies for the Enemy.

Dealt with by Service having custody.

(10) Every person mentioned in paragraph *(h)* of subsection one may be charged, dealt with and tried within the Service of the Canadian Forces in which he is at any time held in custody and shall, for the purposes of the Code of Service Discipline, be deemed to be under the command of the commanding officer of such unit or other element of that Service as may be holding him in custody from time to time.

Released Persons Serving Sentence.

Dealt with by Service having custody.

(11) Every person mentioned in paragraph *(i)* of subsection one who is alleged to have committed, during the currency of his imprisonment or detention, a service offence, may be charged, dealt with and tried within the Service of the Canadian Forces which controls or administers the service prison or detention barrack to which he has been committed, and shall, for the purposes of the Code of Service Discipline, be deemed to be under the command of the commanding officer of that service prison or detention barrack, as the case may be.

Persons Under Special Engagement.

Dealt with by Service in which engaged.

(12) Every person mentioned in paragraph *(j)* of subsection one who, while serving with a Service of the Canadian Forces, is alleged to have committed a service offence, may be charged, dealt with and tried within that Service and for that purpose he shall be treated as a man, unless the terms of the agreement under which he was engaged entitle him to be treated as an officer, in which case he shall be treated as an officer.

Command.

(13) Every person mentioned in subsection twelve shall, for the purposes of the Code of Service Discipline, be deemed to be under the command of the commanding officer of the unit or other element of the Service of the Canadian Forces in which that person is serving.

Women.

Application.

(14) The Code of Service Discipline applies to females enrolled in the Canadian Forces in the same manner and to the same extent as it applies to males, subject to such limitations and modifications as may be prescribed in regulations.

PLEA IN BAR OF TRIAL.

Autrefois acquit and autrefois convict.

57. (1) Every person, in respect of whom a charge of having committed a service offence has been dismissed, or who has been found guilty or not guilty either by a service tribunal or a civil court on a charge of having committed any such offence, shall not be tried or tried again by a service tribunal under this Act in respect of that offence or any other offence of which he might have been found guilty on that charge by a service tribunal or a civil court.

Exception.

(2) Nothing in subsection one shall affect the validity of a new trial ordered under sections one hundred and ninety-one or one hundred and ninety-nine.

Effect of other offences admitted at previous trial.

(3) Every person who under section one hundred and sixty-three has been sentenced in respect of a service offence admitted by him shall not be tried by a service tribunal under this Act in respect of that offence.

PLACE OF COMMISSION OF OFFENCE.

No limitation.

58. Subject to section sixty-one, every person alleged to have committed a service offence may be charged, dealt with and tried under the Code of Service Discipline, whether the alleged offence was committed in Canada or out of Canada.

57. See Army Act (UK), Secs 46(7), 157, 162(6)
Air Force Act (UK), Secs 46(7), 157, 162(6)

58. See Naval Service Act, Sec 90
Army Act (UK), Sec 159
Air Force Act (UK), Sec 159

PLACE OF TRIAL.

No limitation.

59. Every person alleged to have committed a service offence may be charged, dealt with and tried under the Code of Service Discipline, either in Canada or out of Canada.

PERIOD OF LIABILITY UNDER CODE OF SERVICE DISCIPLINE.

Time bar.

60. (1) Except in respect of the service offences mentioned in subsection two, no person shall be liable to be tried by a service tribunal unless his trial begins before the expiration of a period of three years from the day upon which the service offence was committed.

Exceptions.

(2) Every person, subject to the Code of Service Discipline at the time of the alleged commission by him of a service offence of mutiny, desertion or absence without leave or a service offence for which the highest punishment that may be imposed is death, shall continue to be liable to be charged, dealt with and tried at any time under the Code of Service Discipline.

LIMITATIONS WITH RESPECT TO CERTAIN OFFENCES.

Murder, rape or manslaughter.

61. A service tribunal shall not try any person charged with an offence of murder, rape or manslaughter, committed in Canada.

JURISDICTION OF CIVIL COURTS.

No interference with civil juridiction.

62. (1) Nothing in the Code of Service Discipline affects the jurisdiction of any civil court to try a person for any offence triable by that court.

Civil sentence modified by service punishment.

(2) Where a person, sentenced by a service tribunal in respect of a conviction on a charge of having committed a service offence, is afterwards tried by a civil court for the same offence or for any other offence of which he might have been found guilty on that charge, the civil court shall in awarding punishment take into account any punishment imposed by the service tribunal for the service offence.

Remission in certain cases.

(3) Where a civil court that tries a person in the circumstances set out in subsection two either acquits or convicts the person of an offence, the unexpired term of any punishment of imprisonment for more than two years, imprisonment for less than two years or detention, imposed by the service tribunal in respect of that offence, shall be deemed to be wholly remitted as of the date of the acquittal or conviction by that civil court.

CROSS-REFERENCES TO EXISTING LEGISLATION

59. See Army Act (UK), Sec 159
Air Force Act (UK), Sec 159

60. See Militia Act, Sec 71(3)
Naval Service Act, Secs 91, 99
Army Act (UK), Secs 158(1), 161
Air Force Act (UK), Secs 158(1), 161

61. See Army Act (UK), Sec 41 (Proviso)
Air Force Act (UK), Sec 41 (Proviso)

62. (1) and (2).
See Naval Service Act, Sec 121
Army Act (UK), Secs 41A, 162(1) and (2)
Air Force Act (UK), Secs 41A, 162(1) and (2)

62. (3). New

Part V.

SERVICE OFFENCES AND PUNISHMENTS.

Responsibility for Offences.

Parties to offences.

63. (1) Every person is a party to and guilty of an offence who

(a) actually commits it;

(b) does or omits an act for the purpose of aiding any person to commit the offence;

(c) abets any person in commission of the offence; or

(d) counsels or procures any person to commit the offence.

Intent to commit offence.

(2) Every person who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended, whether under the circumstances it was possible to commit such offence or not.

Misconduct of Commanders in Presence of Enemy.

Offences by commanders when in action.

64. Every officer in command of a vessel, aircraft, defence establishment, unit or other element of the Canadian Forces who

(a) when under orders to carry out an operation of war or on coming into contact with an enemy that it is his duty to engage, does not use his utmost exertion to bring the officers and men under his command or his vessel, aircraft, or his other equipment into action;

(b) being in action, does not, during the action, in his own person and according to his rank, encourage his officers and men to fight courageously;

(c) when capable of making a successful defence, surrenders his vessel, aircraft, defence establishment, equipment, unit or other element of the Canadian Forces to the enemy;

(d) being in action, improperly withdraws from the action;

(e) improperly fails to pursue an enemy or to consolidate a position gained;

(f) improperly fails to relieve or assist a known friend to the utmost of his power; or

(g) when in action, improperly forsakes his station,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, if he acted from cowardice is liable to suffer death or less punishment, and in any other case is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Part V

This Part prescribes service offences applicable to all three Services, with the maximum punishments considered appropriate for each offence. Where practicable, the principles embodied in the Criminal Code have been followed. The Part contains a scale and description of service punishments, with details of the circumstances in which specific punishments may be imposed. It concludes with provisions which make available to persons accused of having committed service offences, the same grounds of defence as are available to persons tried in the civil courts.

Cross-References to Existing Legislation

63. Criminal Code, Secs 69(1), 72(1)

64. See Naval Service Act, Secs 49, 50
Army Act (UK), Sec 4(1)
Air Force Act (UK), Sec 4(1) and (10)

Misconduct of any Person in Presence of Enemy.

Offences by any person in presence of enemy.

65. Every person who

(a) improperly delays or discourages any action against the enemy;

(b) goes over to the enemy;

(c) when ordered to carry out an operation of war, fails to use his utmost exertion to carry the orders into effect;

(d) improperly abandons or delivers up any defence establishment, garrison, place, equipment, post or guard;

(e) assists the enemy with equipment;

(f) casts away or abandons any equipment in the presence of the enemy;

(g) improperly does or omits to do anything that results in the capture by the enemy of persons or the capture or destruction by the enemy of equipment;

(h) when on watch in the presence or vicinity of the enemy, leaves his post before he is regularly relieved or sleeps or is drunk;

(i) behaves before the enemy in such manner as to show cowardice; or

(j) knowingly does or omits to do anything with intent to imperil the success of His Majesty's Forces or of any forces co-operating therewith,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, and in any other case, if the offence was committed in action, is liable to suffer death or less punishment or, if the offence was committed otherwise than in action, to imprisonment for life or to less punishment.

Security.

Offences related to security.

66. Every person who

(a) improperly holds communication with or gives intelligence to the enemy;

(b) without due authority discloses in any manner whatsoever any information relating to the number, position, equipment, movements, preparations for movements, operations or preparations for operations of any of His Majesty's Forces or of any forces co-operating therewith;

(c) makes known the parole, watchword, password, countersign or identification signal to any person not entitled to receive it;

(d) gives a parole, watchword, password, countersign or identification signal different from that which he received;

CROSS-REFERENCES TO EXISTING LEGISLATION

65. See Naval Service Act, Secs 51, 52, 54
Army Act (UK), Secs 4, 5, 6
Air Force Act (UK), Secs 4, 5, 6

66. See Naval Service Act, Secs 54, 55
Army Act (UK), Secs 4, 5, 6, 36
Air Force Act (UK), Secs 4, 5, 6, 36

(e) without due authority alters or interferes with any identification or other signal;
(f) improperly occasions false alarms;
(g) when acting as sentry or lookout, leaves his post before he is regularly relieved or sleeps or is drunk;
(h) forces a safeguard or forces or strikes a sentinel; or
(i) knowingly does or omits to do anything with intent to prejudice the security of His Majesty's Forces or of any forces co-operating therewith,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, and in any other case is liable to imprisonment for life or to less punishment.

PRISONERS OF WAR.

Offences related to prisoners of war.

67. Every person who
(a) by want of due precaution, or through disobedience of orders or wilful neglect of duty, is taken prisoner;
(b) having been taken prisoner, fails to rejoin His Majesty's service when able to do so; or
(c) having been made a prisoner of war, serves with or aids the enemy,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, and in any other case is liable to imprisonment for life or to less punishment.

MISCELLANEOUS OPERATIONAL OFFENCES.

Offences related to operations.

68. Every person who
(a) does violence to any person bringing equipment to His Majesty's Forces or to any forces co-operating therewith;
(b) irregularly detains or appropriates to the unit or other element of the Canadian Forces with which he is serving any equipment being conveyed to any other unit or element of His Majesty's Forces or of any forces co-operating therewith;
(c) without orders from his superior officer, improperly destroys or damages any property;
(d) breaks into any house or other place in search of plunder; or
(e) commits any offence against the property or person of any inhabitant or resident of a country in which he is serving,

is guilty of an offence and on conviction, if he committed any such offence on active service, is liable to imprisonment for life or to less punishment, and in any other case is liable to dismissal with disgrace from His Majesty's service or to less punishment.

67. See Army Act (UK), Secs 4, 5
Air Force Act (UK), Secs 4, 5

68. See Army Act (UK), Secs 5, 6
Air Force Act (UK), Secs 5, 6

Spies for the Enemy.

Penalty.

69. Every person who is a spy for the enemy is guilty of an offence and on conviction is liable to suffer death or less punishment.

Mutiny.

Mutiny with violence.

70. Every person who joins in a mutiny that is accompanied by violence is guilty of an offence and on conviction is liable to suffer death or less punishment.

Mutiny without violence.

71. Every person who joins in a mutiny that is not accompanied by violence is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment and, in the case of a ringleader of the mutiny, to suffer death or less punishment.

Offences related to mutiny.

72. Every person who

(a) causes or conspires with any other person to cause a mutiny;

(b) endeavours to persuade any person to join in a mutiny;

(c) being present, does not use his utmost endeavours to suppress a mutiny; or

(d) being aware of an actual or intended mutiny, does not without delay inform his superior officer thereof,

is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Seditious Offences.

Advocating governmental change by force.

73. Every person who publishes or circulates any writing, printing or document in which is advocated, or who teaches or advocates, the use, without the authority of law, of force as a means of accomplishing any governmental change within Canada is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Insubordination.

Disobedience of lawful command.

74. Every person who disobeys a lawful command of a superior officer is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

CROSS-REFERENCES TO EXISTING LEGISLATION

69. See Naval Service Act, Sec 53

70. See Naval Service Act, Sec 57
Army Act (UK), Sec 7(3)
Air Force Act (UK), Sec 7(3)

71. See Naval Service Act, Sec 58
Army Act (UK), Sec 7(3)
Air Force Act (UK), Sec 7(3)

72. See Naval Service Act, Secs 59, 61, 62
Army Act (UK), Sec 7
Air Force Act (UK), Sec 7

73. See Criminal Code, Sec 133(4)

74. See Naval Service Act, Sec 64
Army Act (UK), Sec 9
Air Force Act (UK), Sec 9(1) and (2)

Striking or offering violence to a superior officer.

75. Every person who strikes or attempts to strike, or draws or lifts up a weapon against, or uses, attempts to use, or offers violence against a superior officer, is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Insubordinate behavior.

76. Every person who uses threatening or insulting language to or behaves with contempt toward a superior officer is guilty of an offence and on conviction is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Quarrels and disturbances.

77. Every person who quarrels or fights with any other person who is subject to the Code of Service Discipline, or who uses provoking speeches or gestures toward a person so subject tending to cause a quarrel or disturbance, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Disorders.

78. Every person who

(a) being concerned in a quarrel, fray or disorder, refuses to obey an officer, though of inferior rank, who orders him into arrest, or strikes or uses or offers violence to any such officer;

(b) strikes or uses or offers violence to any other person in whose custody he is placed, whether or not such other person is his superior officer and whether or not such other person is subject to the Code of Service Discipline;

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, station, camp, quarters or ship,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Desertion.

Offence.

79. (1) Every person who deserts or attempts to desert is guilty of an offence and on conviction, if he committed the offence on active service or under orders for active service, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for a term not exceeding five years or to less punishment.

Definition.

(2) A person deserts who

(a) being on or having been warned for active service or other important service, is absent without due authority with the intention of avoiding that service;

(b) having been warned that his vessel is under sailing orders, is absent without due authority, with the intention of missing that vessel;

CROSS-REFERENCES TO EXISTING LEGISLATION

75. See Naval Service Act, Sec 63
Army Act (UK), Sec 8
Air Force Act (UK), Sec 8

76. See Naval Service Act, Sec 64
Army Act (UK), Sec 8(2)
Air Force Act (UK), Sec 8(2)

77. See Naval Service Act, Sec 65

78. Army Act (UK), Sec 10
Air Force Act (UK), Sec 10

79. (1) See Naval Service Act, Secs 66, 67
Army Act (UK), Sec 12(1)
Air Force Act (UK), Sec 12(1)

79. (2) New

(c) absents himself without due authority from his unit or formation or from the place where his duty requires him to be, with the intention of not returning to that unit, formation or place;

(d) is absent without due authority from his unit or formation or from the place where his duty requires him to be and at any time during such absence forms the intention of not returning to that unit, formation or place; or

(e) while absent with due authority from his unit or formation or the place where his duty requires him to be, with the intention of not returning to that unit, formation or place, does any act, or omits to do anything, the natural and probable consequence of which act or omission is to preclude his return to that unit, formation or place at the time required.

Presumption of desertion.

(3) A person who has been absent without authority for a continuous period of six months or more shall, unless the contrary is proved, be presumed to have had the intention of not returning to his unit or formation or the place where his duty requires him to be.

Connivance at desertion.

80. Every person who

(a) being aware of the desertion or intended desertion of a person from any of His Majesty's Forces, does not without reasonable excuse inform his superior officer forthwith; or

(b) fails to take any steps in his power to cause the apprehension of a person known by him to be a deserter,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

ABSENCE WITHOUT LEAVE.

Offence.

81. (1) Every person who absents himself without leave is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Definition.

(2) A person absents himself without leave who

(a) without authority leaves his unit or formation or the place where his duty requires him to be;

(b) without authority is absent from his unit or formation or the place where his duty requires him to be; or

(c) having been authorized to be absent from his unit or formation or the place where his duty required him to be, fails to return to that unit, formation or place at the expiration of the period for which his absence was authorized.

79. (3) New

80. See Army Act (UK), Sec 14(2)
Air Force Act (UK), Sec 14(2)

81. See Naval Service Act, Act Secs 69, 70
Army Act (UK), Sec 15
Air Force Act (UK), Sec 15

False statement in respect of leave.

82. Every person who knowingly makes a false statement in respect of prolongation of leave of absence is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Disgraceful Conduct.

Scandalous conduct by officers.

83. Every officer who behaves in a scandalous manner unbecoming an officer is guilty of an offence and on conviction shall suffer dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service.

Cruel or disgraceful conduct.

84. Every person who behaves in a cruel or disgraceful manner is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding five years or to less punishment.

Traitorous utterances.

85. Every person who uses traitorous or disloyal words regarding His Majesty is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding seven years or to less punishment.

Abuse of inferiors.

86. Every person who strikes or otherwise ill-treats any person who by reason of rank or appointment is subordinate to him is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

False accusations or or statements.

87. Every person who

(a) makes a false accusation against an officer or man, knowing such accusation to be false; or

(b) when seeking redress under section thirty, knowingly makes a false statement affecting the character of an officer or man or knowingly, in respect of the redress so sought, suppresses any material facts,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Drunkenness.

88. Drunkenness, whether on duty or not on duty, is an offence and every person convicted thereof is liable to imprisonment for less than two years or to less punishment, except that, where the offence is committed by a man who is neither on active service nor on duty, no punishment of imprisonment, and no punishment of detention for a term in excess of ninety days, shall be imposed.

Malingering or maiming.

89. Every person who

(a) malingers or feigns or produces disease or infirmity;

(b) produces, aggravates, or delays the cure of, disease or infirmity by misconduct or wilful disobedience of orders; or

CROSS-REFERENCES TO EXISTING LEGISLATION

82. See Army Act (UK), Sec 27(4)
Air Force Act (UK), Sec 27(4)

83. See Naval Service Act, Sec 73
Army Act (UK), Sec 16
Air Force Act (UK), Sec 16

84. See Naval Service Act, Secs 72, 73
Army Act (UK), Sec 18(5)
Air Force Act (UK), Sec 18(5)

85. Army Act (UK), Sec 35
Air Force Act (UK), Sec 35

86. See Army Act (UK), Sec 37(1)
Air Force Act (UK), Sec 37(1)

87. See Army Act (UK), Sec 27(1) and (2)
Air Force Act (UK), Sec 27 (1) and (2)

88. See Naval Service Act, Sec 72
Army Act (UK), Sec 19
Air Force Act (UK), Sec 19

89. See Naval Service Act, Sec 80
Army Act (UK), Sec 18(1), (2) and (3)
Air Force Act (UK), Sec 18 (1), (2) and (3)

(c) wilfully maims or injures himself or any other person who is a member of His Majesty's Forces or of any forces co-operating therewith, whether at the instance of that person or not, with intent thereby to render himself or that other person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service,

is guilty of an offence and on conviction, if he commits the offence on active service or when under orders for active service, or in respect of a person on active service or under orders for active service, is liable to imprisonment for life or to less punishment, and in any other case, is liable to imprisonment for a term not exceeding five years or to less punishment.

Offences in Relation to Service Arrest and Custody.

Ill-treatment of person in custody.

90. Every person who unnecessarily detains any other person in arrest or confinement without bringing him to trial, or fails to bring that other person's case before the proper authority for investigation, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Negligent or wilful interference with lawful custody.

91. Every person who

(a) without proper authority sets free or authorizes or otherwise facilitates the setting free of any person in custody;

(b) negligently or wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard or keep in custody; or

(c) assists any person in escaping or attempting to escape from custody,

is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for a term not exceeding seven years or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Escape from custody.

92. Every person who, being in arrest or confinement or in prison or otherwise in lawful custody, escapes, or attempts to escape, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Obstruction—service police duties.

93. Every person who

(a) resists or wilfully obstructs an officer or man in carrying out any duty, performed by such officer or man with due authority, pertaining to the arrest, custody or confinement of a person subject to the Code of Service Discipline; or

90. See Army Act (UK), Sec 21(1)
Air Force Act (UK), Sec 21(1)

91. See Army Act (UK), Sec 20
Air Force Act (UK), Sec 20

92. See Army Act (UK), Sec 22
Air Force Act (UK), Sec 22

93. See Army Act (UK), Sec 6(3) *(c)*
Air Force Act (UK), Sec 6(3) *(c)*

(b) when called upon, refuses or neglects to assist an officer or man in the performance of any such duty,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Obstruction of civil power.

94. Every person who neglects or refuses to deliver over an officer or man to the civil power, pursuant to a warrant in that behalf, or to assist in the lawful apprehension of an officer or man accused of an offence punishable by a civil court is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Offences in Relation to Vessels.

Losing, stranding or hazarding vessels.

95. Every person who wilfully or negligently or through other default loses, strands or hazards, or suffers to be lost, stranded or hazarded any of His Majesty's Canadian Ships or other vessels of the Canadian Forces is guilty of an offence and on conviction is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Offences in relation to convoys.

96. Every officer who, while serving in one of His Majesty's Canadian Ships involved in the convoying and protection of vessels,

(a) fails to perform his duty promptly and diligently;

(b) fails to defend the vessels and goods under convoy;

(c) refuses to fight in the defence of the vessels in his convoy if they are attacked; or

(d) cowardly abandons or exposes the vessels in his convoy to hazards,

is guilty of an offence and on conviction is liable to suffer death or less punishment.

Offences in Relation to Aircraft.

Wrongful acts in relation to aircraft, etc.

97. Every person who

(a) in the use of or in relation to any aircraft or aircraft material, wilfully or negligently or by neglect of or contrary to regulations, orders or instructions, does any act or omits to do anything, which act or omission causes or is likely to cause loss of life or bodily injury to any person;

(b) wilfully or negligently or by neglect of or contrary to regulations, orders or instructions, does any act or omits to do anything, which act or omission results or is likely to result in damage to or destruction or loss of any of His Majesty's aircraft or aircraft material, or of aircraft or aircraft material of any forces co-operating with His Majesty's Forces; or

94. See Army Act (UK), Sec 39
Air Force Act (UK), Sec 39

95. See Naval Service Act, Sec 74

96. See Naval Service Act, Sec 75

97. See Army Act (UK), Sec 39A(1) *(a)*, *(b)*, *(e)* and *(f)*
Air Force Act (UK), Sec 39A(1) *(a)*, *(b)*, *(e)* and *(f)*

(c) during a state of war wilfully or negligently causes the sequestration by or under the authority of a neutral state or the destruction in a neutral state of any of His Majesty's aircraft, or aircraft of any forces co-operating with His Majesty's Forces,

is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Inaccurate certificate.

98. Every person who signs any certificate in relation to an aircraft or aircraft material without ensuring the accuracy thereof is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Low flying.

99. Every person who flies an aircraft at a height less than the minimum height authorized in the circumstances is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Disobedience of captain's orders.

100. (1) Every person who, when in an aircraft, disobeys any lawful command given by the captain of the aircraft in relation to the flying or handling of the aircraft or affecting the safety of the aircraft, whether or not the captain is subject to the Code of Service Discipline, is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Command in aircraft.

(2) For the purposes of this section

(a) every person whatever his rank shall when he is in an aircraft be under the command, as respects all matters relating to the flying or handling of the aircraft or affecting the safety of the aircraft, of the captain of the aircraft, whether or not the latter is subject to the Code of Service Discipline; and

(b) if the aircraft is a glider and is being towed by another aircraft, the captain of the glider shall so long as his glider is being towed be under the command, as respects all matters relating to the flying or handling of the glider or affecting the safety of the glider, of the captain of the towing aircraft, whether or not the latter is subject to the Code of Service Discipline.

Offences in Relation to Vehicles.

Negligent or furious driving.

101. Every person who

(a) having the charge of a vehicle of the Canadian Forces, by wanton or furious driving or racing or other wilful misconduct or by wilful neglect, does or causes to be done any bodily injury to any person or damage to any property;

98. See Army Act (UK), Sec 39A(2) *(a)*
Air Force Act (UK), Sec 39A(2) *(a)*

99. See Army Act (UK), Sec 39A(2) *(b)*
Air Force Act (UK), Sec 39A (2) *(b)*

100. See Army Act (UK), Sec 39A(3)
Air Force Act (UK), Sec 39A(3)

101. New
See Criminal Code, Sec 285(1), (6) and (4)

(b) drives a vehicle of the Canadian Forces on a street, road, highway or any other place, whether public or private, recklessly or in a manner that is dangerous to any person or property having regard to all the circumstances of the case; or

(c) drives a vehicle of the Canadian Forces while intoxicated or under the influence of a drug or narcotic,

is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding five years or to less punishment.

Unauthorized use.

102. Every person who

(a) uses a vehicle of the Canadian Forces for an unauthorized purpose;

(b) without due authority uses a vehicle of the Canadian Forces for any purpose; or

(c) uses a vehicle of the Canadian Forces contrary to any regulation, order or instruction,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Offences in Relation to Property.

Arson.

103. Every person who unlawfully sets fire to any equipment, defence establishment or work for defence is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Stealing.

104. (1) Every person who steals is guilty of an offence and on conviction, if at the time of the commission of the offence he was, by reason of his rank, appointment or employment or as a result of any lawful command, entrusted with the custody, control or distribution of the thing stolen, is liable to imprisonment for a term not exceeding fourteen years or to less punishment, and in any other case is liable to imprisonment for a term not exceeding seven years or to less punishment.

Definition.

(2) For the purposes of this section,

(a) stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent

(i) to deprive the owner, or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest;

(ii) to pledge the same or deposit it as security;

(iii) to part with it under a condition as to its return which the person parting with it may be unable to perform; or

102. New

103. See Naval Service Act, Sec 78
Army Act (UK), Sec 39A(1)*(c)*
Air Force Act (UK) Sec 39A(1)*(c)*

104. See Naval Service Act, Sec 77
Army Act (UK), Secs 17, 18(4)
Air Force Act (UK), Secs 17, 18(4)
Criminal Code, Secs 347, 386(1), 359

(iv) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of such taking and conversion;

(b) stealing is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it;

(c) the taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment;

(d) it is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting.

Receiving.

105. Every person who receives or retains in his possession any property obtained by the commission of any service offence, knowing such property to have been so obtained, is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding seven years or to less punishment.

Destruction, loss or improper disposal.

106. Every person who

(a) wilfully destroys or damages, loses by neglect, improperly sells or wastefully expends any public property, non-public property or property of any of His Majesty's Forces or of any forces co-operating therewith;

(b) wilfully destroys, damages or improperly sells any property belonging to another person who is subject to the Code of Service Discipline; or

(c) sells, pawns or otherwise disposes of any cross, medal, insignia or other decoration granted by or with the approval of His Majesty,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Miscellaneous offences.

107. Every person who

(a) connives at the exaction of an exorbitant price for property purchased or rented by a person supplying property or services to the Canadian Forces;

(b) improperly demands or accepts compensation, consideration or personal advantage in respect of the performance of any military duty or in respect of any matter relating to the Department, the Canadian Forces or the Defence Research Board;

(c) receives directly or indirectly, whether personally or by or through any member of his family or person under his control, or for his benefit, any gift, loan, promise, compensation or consideration, either in money or otherwise, from any person, for assisting or favouring any person in the transaction of any business relating to any of His Majesty's Forces, or to any forces co-operating therewith or to any mess, institute

105. New
See Criminal Code, Sec 399
Naval Service Act, Sec 77
Army Act (UK), Sec 18(4)
Air Force Act (UK), Sec 18(4)

106. See Army Act (UK), Sec 24(1), (2), (3) and (4)
Air Force Act (UK), Sec 24(1), (2), (3) and (4)

107. See Naval Service Act, Secs 73, 75, 76
Army Act (UK), Secs 18(5), 23
Air Force Act (UK), Secs 18(5), 23

or canteen operated for the use and benefit of members of such forces;

(d) demands or accepts compensation, consideration or personal advantage for convoying ships or vessels entrusted to his care;

(e) being in command of a vessel or aircraft, takes or receives on board goods or merchandise that he is not authorized to take or receive on board; or

(f) commits any act of a fraudulent nature not particularly specified in the Code of Service Discipline,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

OFFENCES IN RELATION TO SERVICE TRIBUNALS.

"service tribunal".

108. (1) For the purposes of this section, "service tribunal", in addition to the tribunals mentioned in paragraph *(jj)* of section two, includes a board of inquiry, a commissioner taking evidence under this Act and an officer taking a summary of evidence in accordance with regulations.

Contempt of service tribunals.

(2) Every person who

(a) being duly summoned or ordered to attend as a witness before a service tribunal, makes default in attending;

(b) refuses to take an oath or make a solemn affirmation lawfully required by a service tribunal to be taken or made;

(c) refuses to produce any document in his power or control lawfully required by a service tribunal to be produced by him;

(d) refuses when a witness to answer any question to which a service tribunal may lawfully require an answer;

(e) uses insulting or threatening language or causes any interruption or disturbance in the proceedings of a service tribunal; or

(f) commits any other contempt of a service tribunal,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment; and where an offence under this section is committed at or in relation to a court martial, that court martial may, under the hand of the president, issue an order that the offender undergo, for a period not exceeding thirty days, a term of imprisonment or detention; and where any such order is issued the offender shall not be liable to any other proceedings under the Code of Service Discipline in respect of the contempt in consequence of which the order is issued.

108. See Army Act (UK), Sec 28
Air Force Act (UK), Sec 28

False evidence.

109. Every person who, when examined on oath or solemn affirmation before a service tribunal mentioned in section one hundred and eight, knowingly gives false evidence, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding seven years or to less punishment.

OFFENCES IN RELATION TO BILLETING.

Disturbances, etc., in billets.

110. Every person who

(a) ill-treats, by violence, extortion or making disturbance in billets or otherwise, any occupant of a house in which any person is billeted or of any premises in which accommodation for equipment has been provided; or

(b) fails to comply with regulations in respect of payment of the just demands of the person on whom he or any officer or man under his command is or has been billeted or the occupant of premises on which equipment is or has been accommodated,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

OFFENCES IN RELATION TO ENROLMENT.

Fraudulent enrolment.

111. Every person who, having been released from His Majesty's Forces by reason of a sentence of a service tribunal or by reason of misconduct, has afterwards been enrolled in the Canadian Forces without declaring the circumstances of his release is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

False answer on enrolment.

112. Every person who knowingly makes a false answer to any question set forth in any document required to be completed in relation to his enrolment is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Assisting unlawful enrolment.

113. Every person who is concerned in the enrolment of any other person, and knows or has reasonable cause to believe that by being enrolled such other person commits an offence under this Act, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

MISCELLANEOUS OFFENCES.

Negligent performance of duties.

114. Every person who negligently performs a military duty imposed on him is guilty of an offence and on conviction is liable to dismissal with disgrace from His Majesty's service or to less punishment.

CROSS-REFERENCES TO EXISTING LEGISLATION

109. See Army Act (UK), Sec 29
Air Force Act (UK), Sec 29

110. See Army Act (UK), Sec 30(1) and (3)
Air Force Act (UK), Sec 30(1) and (3)

111. See Army Act (UK), Sec 32(1)
Air Force Act (UK), Sec 32(1)

112. See Army Act (UK), Sec 33
Air Force Act (UK), Sec 33

113. See Army Act (UK), Sec 34(1)
Air Force Act (UK), Sec 34(1)

114. See Naval Service Act, Sec 56

Offences in relation to documents.

115. Every person who

(a) knowingly or negligently makes or signs a document, required for official purposes, that is false or who orders the making or signing thereof;

(b) when signing a document required for official purposes, leaves in blank any material part for which his signature is a voucher; or

(c) knowingly and with intent to injure any person or with intent to deceive, suppresses, defaces, alters or makes away with any document or file kept, made or issued for any military or departmental purpose,

is guilty of an offence and on conviction, if he acted knowingly, is liable to imprisonment for a term not exceeding seven years or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Refusing vaccination, etc.

116. Every person who, upon receiving an order to submit to inoculation, re-inoculation, vaccination, re-vaccination, other immunization procedures, immunity tests, blood examination or treatment against any infectious disease, wilfully and without reasonable excuse disobeys that order is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Negligent handling of dangerous substances.

117. Every person who wilfully or negligently or by neglect of or contrary to regulations, orders or instructions does any act or omits to do anything in relation to any matter or substance that may be dangerous to life or property, which act or omission causes or is likely to cause loss of life or bodily injury to any person or causes or is likely to cause damage to or destruction of any property, is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Conduct to the Prejudice of Good Order and Discipline.

Offence.

118. (1) Any act, conduct, disorder or neglect to the prejudice of good order and discipline is an offence and every person convicted thereof is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Not intended to cover offences elsewhere provided for.

(2) No person may be charged under this section with any offence for which special provision is made in sections sixty-four to one hundred and seventeen but the conviction of a person so charged is not invalid by reason only of the

CROSS-REFERENCES TO EXISTING LEGISLATION

115. See Naval Service Act, Sec 79
Army Act (UK), Secs 25, 26(1)
Air Force Act (UK), Secs 25, 26(1)

116. New

117. New

118. (1) and (2) See Naval Service Act, Sec 87
Army Act (UK), Sec 40
Air Force Act (UK), Sec 40

charge being in contravention of this subsection unless it appears that an injustice has been done to the person charged by reason of the contravention; but the responsibility of any officer for that contravention is not affected by the validity of the conviction.

Contravention of Act, regulations etc., may constitute offence.

(3) Contravention by any person of

(a) any of the provisions of this Act;

(b) any regulations, orders or instructions published for the general information and guidance of that Service of the Canadian Forces to which that person belongs, or to which he is attached or seconded; or

(c) any general, garrison, unit, station, standing, local or other orders,

is an act, conduct, disorder or neglect to the prejudice of good order and discipline.

Attempts to commit offences.

(4) An attempt to commit any of the offences prescribed in sections sixty-four to one hundred and seventeen is, unless such attempt is in itself an offence punishable under any of those sections, an act, conduct, disorder or neglect to the prejudice of good order and discipline.

Saving provision.

(5) Nothing in subsections three or four shall affect the generality of subsection one.

Offences Punishable by Ordinary Law.

Service trial of civil offences.

119. (1) An act or omission

(a) that takes place in Canada and is punishable under Part XII of this Act, the *Criminal Code* or any other Act of the Parliament of Canada; or

(b) that takes place out of Canada and would, if it had taken place in Canada, be punishable under Part XII of this Act, the *Criminal Code* or any other Act of the Parliament of Canada,

is an offence under this Part and every person convicted thereof is liable to suffer punishment as provided in subsection two.

Punishment.

(2) Subject to subsection three, where a service tribunal convicts a person under subsection one, the service tribunal shall,

(a) if under Part XII of this Act, the *Criminal Code* or other Act of the Parliament of Canada, a minimum penalty is prescribed, impose a penalty in accordance with the enactment prescribing that minimum penalty; or

CROSS-REFERENCES TO EXISTING LEGISLATION

118. (3) New
See Army Act (UK), Sec 11
Air Force Act (UK), Sec 11

118. (4) and (5) New

119. (1) and (2) See Naval Service Act, Sec 89
Army Act (UK), Sec 41
Air Force Act (UK), Sec 41

(*b*) in any other case,

(i) impose the penalty prescribed for the offence by Part XII of this Act, the *Criminal Code* or that other Act; or

(ii) impose dismissal with disgrace from His Majesty's service or less punishment.

Ordinary rules apply.

(3) All provisions of the Code of Service Discipline in respect of a punishment of death, imprisonment for two years or more, imprisonment for less than two years, and a fine, shall apply in respect of penalties imposed under paragraph (*a*), or sub-paragraph (i) of paragraph (*b*) of subsection two.

Saving provision.

(4) Nothing in this section shall be in derogation of the authority conferred by other sections of the Code of Service Discipline to charge, deal with and try a person alleged to have committed any offence set out in sections sixty-four to one hundred and eighteen and to impose the punishment for that offence mentioned in the section prescribing that offence.

Conviction of Cognate Offence.

Conviction of related or less serious offences.

120. (1) A person charged with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged with attempting to desert may be found guilty of being absent without leave.

(3) A person charged with any one of the offences prescribed in section seventy-five may be found guilty of any other offence prescribed in that section.

(4) A person charged with any one of the offences prescribed in section seventy-six may be found guilty of any other offence prescribed in that section.

(5) A person charged with a service offence may, on failure of proof of an offence having been committed under circumstances involving a higher punishment, be found guilty of the same offence as having been committed under circumstances involving a lower punishment.

(6) Where a person is charged with an offence under section one hundred and nineteen and the charge is one upon which, if he had been tried by a civil court in Canada for that offence, he might have been found guilty of any other offence, he may be found guilty of that other offence.

Punishments.

Scale of punishments.

121. (1) The following punishments may be imposed in respect of service offences:—

(*a*) death;

(*b*) imprisonment for two years or more;

119. (3) New

119. (4) New

120. See Naval Service Act, Secs 92, 93
Army Act (UK), Sec 56(3) to(6)
Air Force Act (UK), Sec 56(3) to(6)

121. (1) See Naval Service Act, Sec 97
Army Act (UK), Sec 44*(a)* to *(n)*
Air Force Act (UK), Sec 44*(a)* to *(n)*

(*c*) dismissal with disgrace from His Majesty's service;
(*d*) imprisonment for less than two years;
(*e*) dismissal from His Majesty's service;
(*f*) detention;
(*g*) reduction in rank;
(*h*) forfeiture of seniority;
(*i*) dismissal of an officer from the ship to which he belongs;
(*j*) forfeiture of service toward progressive increase in pay;
(*k*) fine;
(*l*) severe reprimand;
(*m*) reprimand;
(*n*) minor punishments,

and each of the above punishments shall be deemed to be a punishment less than every punishment preceding it in the above scale, in this Act referred to as the "scale of punishments".

Less Punishment.

Definition of "less punishment".

(2) Where a punishment is specified by the Code of Service Discipline as a penalty for an offence, and it is further provided in the alternative that on conviction the offender is liable to less punishment, the expression "less punishment" means any one or more of the punishments lower in the scale of punishments than the specified punishment.

Death.

Limitation on imposition of death penalty.

(3) A punishment of death may be imposed only by a General Court Martial, and may be imposed only with the concurrence of at least two-thirds of the members.

Imprisonment.

Conditions relating to imposition of punishment of imprisonment.

(4) The punishment of imprisonment for two years or more or imprisonment for less than two years is subject to the following conditions,

(*a*) every person who, on conviction of a service offence, is liable to imprisonment for life or for a term of years or other term, may be sentenced to imprisonment for a shorter term;

(*b*) a sentence that includes a punishment of imprisonment for two years or more imposed upon an officer shall be deemed to include a punishment of dismissal with disgrace from His Majesty's service, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal;

121. (2) See Naval Service Act, Sec 100
Army Act (UK), Sec 44, proviso (1)
Air Force Act (UK), Sec 44, proviso (1)

121. (3) See Naval Service Act, Sec 98(1) *(b)*
Army Act (UK), Sec 48(8)
Air Force Act (UK), Sec 48(8)

121. (4) See Naval Service Act, Secs 98(1) *(d)*, *(e)*, *(g)* *(i)*, *(k)*, 113
Army Act (UK), Secs 44, provisoes (2) and (4), 183(4)
Air Force Act (UK), Secs 44, provisoes (2) and (4), 183(4)
Criminal Code, Sec 1054

(c) a sentence that includes a punishment of imprisonment for less than two years imposed upon an officer shall be deemed to include a punishment of dismissal from His Majesty's service, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal;

(d) where a service tribunal imposes a punishment of imprisonment for two years or more upon a man, the service tribunal may in addition, notwithstanding any other provision of this Part, impose a punishment of dismissal with disgrace from His Majesty's service;

(e) where a service tribunal imposes a punishment of imprisonment for less than two years upon a man, the service tribunal may in addition, notwithstanding any other provision of this Part, impose a punishment of dismissal from His Majesty's service;

(f) in the case of a chief petty officer, petty officer or leading rating in the Royal Canadian Navy or a warrant officer or non-commissioned officer in the Canadian Army or the Royal Canadian Air Force, a sentence that includes a punishment of imprisonment for two years or more or imprisonment for less than two years shall be deemed to include a punishment of reduction in rank to the lowest rank to which under regulations he can be reduced, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal;

(g) a punishment of imprisonment for two years or more or imprisonment for less than two years shall be deemed to be a punishment of imprisonment with hard labour, but in the case of a punishment of imprisonment for less than two years, the Minister or such authorities as he may prescribe or appoint for that purpose may order that such punishment shall be without hard labour.

Dismissal With Disgrace.

Accompanying punishment.

(5) Where a service tribunal imposes a punishment of dismissal with disgrace from His Majesty's service upon an officer or man, the service tribunal may in addition, notwithstanding any other provision of this Part, impose a punishment of imprisonment for less than two years.

Consequences of dismissal with disgrace.

(6) A person upon whom a punishment of dismissal with disgrace from His Majesty's service has been carried out shall not, except in an emergency or unless that punishment is subsequently set aside or altered, be eligible to serve His Majesty again in any military or civil capacity.

121. (5) and (6) See Naval Service Act, Sec 98(1) *(f)*

Detention.

Conditions relating to imposition of detention.

(7) The punishment of detention is subject to the following conditions,

(a) detention shall not exceed two years and a person sentenced to detention shall not be subject to detention for more than two years consecutively by reason of more than one conviction;

(b) no officer may be sentenced to detention;

(c) in the case of a chief petty officer, petty officer or leading rating in the Royal Canadian Navy or a warrant officer or non-commissioned officer in the Canadian Army or the Royal Canadian Air Force, a sentence that includes a punishment of detention shall be deemed to include a punishment of reduction in rank to the lowest rank to which under regulations he can be reduced, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal.

Reduction in Rank.

Conditions-army and air force.

(8) The punishment of reduction in rank in the Canadian Army and the Royal Canadian Air Force is subject to the following conditions,

(a) in the case of a commissioned officer, it shall not be imposed upon an officer of or above the rank of lieutenant-colonel or wing commander and shall not involve reduction to a rank lower than commissioned rank; and

(b) in the case of a subordinate officer, it shall not involve reduction to a rank lower than an inferior grade of subordinate officer.

Conditions-navy.

(9) A punishment of reduction in rank in the Royal Canadian Navy shall apply only to a chief petty officer, petty officer or leading rating and shall not involve reduction to a rank lower than that to which under regulations the offender can be reduced.

Forfeiture of Seniority.

Sentence to specify period of forfeiture.

(10) Where an officer or man has been sentenced to forfeiture of seniority, the service tribunal imposing the punishment shall in passing sentence specify the period for which seniority is to be forfeited.

Dismissal from Ship.

Applies only to Royal Canadian Navy.

(11) The punishment of dismissal of an officer from the ship to which he belongs shall apply only to officers of the Royal Canadian Navy.

CROSS-REFERENCES TO EXISTING LEGISLATION

121. (7) See Naval Service Act, Sec 98(1) *(j) (k) (l)*, 113
Army Act (UK), Secs 44 proviso (1B), 183(4)
Air Force Act (UK), Secs 44 proviso (1B), 183(4)

121. (8) See Air Force Act (UK), Sec 44*(ee)*

121. (9) See Naval Service Act, Sec 97 *(j)*

121. (10) See Naval Service Act, Sec 97*(g)*

121. (11) See Naval Service Act, Sec 97*(h)*

Fine.

Conditions relating to fines.

(12) A fine shall be imposed in a stated amount and shall not exceed, in the case of an officer or man, three months basic pay, and in the case of any other person the sum of two hundred dollars, and the terms of payment of a fine shall lie within the discretion of the commanding officer of the person so punished.

Minor Punishments.

Governor In Council prescribes.

(13) Minor punishments shall be such as are prescribed in regulations made by the Governor in Council.

SENTENCES.

One sentence only to be passed.

122. Only one sentence shall be passed on an offender at a trial under the Code of Service Discipline and, where the offender is convicted of more than one offence, the sentence shall be good if any one of the offences would have justified it.

INCARCERATION UNDER MORE THAN ONE SENTENCE.

To be concurrent.

123. Where a person is under a sentence imposed by a service tribunal that includes a punishment involving incarceration and another service tribunal subsequently passes a new sentence that also includes a punishment involving incarceration, both punishments of incarceration shall, from the date of the pronouncement of the new sentence, run concurrently, but the punishment higher in the scale of punishments shall be served first.

IGNORANCE OF LAW.

No excuse.

124. The fact that a person is ignorant of the provisions of this Act, or of any regulations or of any order or instruction duly notified under this Act, is no excuse for any offence committed by him.

CIVIL DEFENCES.

Rules of civil courts applicable.

125. All rules and principles from time to time followed in the civil courts in proceedings under the *Criminal Code* that would render any circumstances a justification or excuse for any act or omission or a defence to any charge, shall be applicable to any defence to a charge under the Code of Service Discipline, except insofar as such rules and principles are altered by or are inconsistent with this Act.

CROSS-REFERENCES TO EXISTING LEGISLATION

121. (12) New

121. (13) See Naval Service Act, Sec 97*(l)*

122. See Criminal Code, Sec 1005

123. New.
See Naval Service Act, Sec 113

124. See Criminal Code, Sec 22

125. See Criminal Code, Sec 16

INSANITY AS A DEFENCE.

Natural imbecility or mental disease.

126. (1) No person shall be convicted of a service offence by reason of an act done or omitted by him when labouring under natural imbecility, or disease of the mind, to such an extent as to render him incapable of appreciating the nature and quality of the act or omission, and of knowing that such an act or omission was wrong.

Specific delusions.

(2) In respect of a person labouring under specific delusions, but in other respects sane, subsection one shall not apply unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act or omission.

Presumption of sanity.

(3) Every person shall be presumed to be sane at the time of doing or omitting to do any act until the contrary is proved.

CROSS-REFERENCES TO EXISTING LEGISLATION

126. See Criminal Code, Sec 19

PART VI.

ARREST.

Authority to Arrest.

General authority.

127. (1) Every person who has committed, is found committing, is suspected of being about to commit, or is suspected of or charged under this Act with having committed a service offence, may be placed under arrest.

Reasonable force authorized.

(2) Every person authorized to effect arrest under this Part may use such force as is reasonably necessary for that purpose.

Powers of officers.

128. (1) An officer may, without a warrant, in the circumstances mentioned in section one hundred and twenty-seven, arrest or order the arrest of

(a) any man;

(b) any officer of equal or lower rank; and

(c) any officer of higher rank who is engaged in a quarrel, fray or disorder.

Powers of men.

(2) A man may, without a warrant, in the circumstances mentioned in section one hundred and twenty-seven, arrest or order the arrest of

(a) any man of lower rank; and

(b) any man of equal or higher rank who is engaged in a quarrel, fray or disorder.

Arrest of offenders of other Services.

(3) An order given under subsection one or subsection two shall be obeyed although the person giving the order and the person to whom and the person in respect of whom the order is given do not belong to the same Service, component, unit or other element of the Canadian Forces.

Arrest of persons other than officers or men.

(4) Every person who is subject to the Code of Service Discipline, other than an officer or man, may without a warrant be arrested or ordered to be arrested by such person as any commanding officer may designate for that purpose.

Appointment and powers of shore patrol and provost.

129. Such officers and men as are appointed under regulations for the purposes of this section may,

(a) detain or arrest without a warrant any person who is subject to the Code of Service Discipline, regardless of the rank or status of that person, who has committed, is found committing, is suspected of being about to commit, or is suspected of or charged under this Act with having committed a service offence; and

(b) exercise such other powers as are prescribed in regulations made by the Governor in Council.

Issue of warrants.

130. (1) Subject to subsection two, every commanding officer, and every officer to whom the power of trying a charge summarily has been delegated under subsection six

Part VI.

This Part contains provisions relating to arrest in respect of service offences. Provision is also made for the prompt trial of accused persons held in custody.

Cross-References to Existing Legislation

127. (1) New
See Army Act (UK), Sec 45(1) (except proviso)
Air Force Act (UK), Sec 45(1) (except proviso)

127. (2) See Naval Service Act, Sec 95

128. (1), (2) and (3) See Army Act (UK), Sec 45(3)
Air Force Act (UK), Sec 45(3)

128. (4) New

129. See Army Act (UK), Sec 74

130. See Naval Service Act, Sec 95

of section one hundred and thirty-five or subsection six of section one hundred and thirty-six may by a warrant under his hand authorize any person to arrest any other person triable under the Code of Service Discipline who has committed, or is suspected of or charged under this Act with having committed a service offence.

Limitation.

(2) An officer authorized to issue a warrant under this section shall not, unless he has certified on the face of the warrant that the exigencies of the service so require, issue a warrant authorizing the arrest of any officer of rank higher than he himself holds.

Contents of warrants.

(3) In any warrant issued under this section the offence in respect of which the warrant is issued shall be stated and the names of more persons than one in respect of the same offence, or several offences of the same nature, may be included.

Saving provision.

(4) Nothing in this section shall be deemed to be in derogation of the authority that any person, including an officer or man, may have under other sections of this Act or otherwise under the law of Canada to arrest any other person without a warrant.

ACTION FOLLOWING ARREST.

Disposal of person arrested.

131. (1) A person arrested under this Part may forthwith on his apprehension be placed in civil custody or service custody or be taken to the unit or formation with which he is serving or to any other unit or formation of the Canadian Forces; and such force as is reasonably necessary for the purposes of this section may be used.

Delivery into custody.

(2) An officer or man commanding a guard or safeguard or an officer or man appointed under section one hundred and twenty-nine shall receive and keep a person who is committed to his custody by an officer, man or other person having power to arrest that person, but it shall be the duty of the officer, man or other person who commits a person into custody to deliver at the time of such committal, or as soon as practicable and in any case within twenty-four hours thereafter, to the officer or man into whose custody that person is committed, an account in writing, signed by himself, of the offence with which the person so committed is charged.

Report of custody.

(3) An officer or man who, pursuant to subsection two, receives a person committed to his custody shall, as soon as practicable and in any case within twenty-four hours thereafter, give in writing to the officer or man to whom it is his duty to report, the name of that person and an account of the offence alleged to have been committed by

131. (1) See Naval Service Act, Sec 95

131. (2) See Army Act (UK), Secs 21(2), 45(4)
Air Force Act (UK), Secs 21(2), 45(4)

131. (3) See Army Act (UK), Sec 21(3)
Air Force Act (UK), Sec 21(3)

that person so far as is known and the name and rank of the officer, man or other person by whom the person so committed was placed in custody, accompanied by any account in writing which has been submitted pursuant to subsection two.

LIMITATIONS IN RESPECT OF CUSTODY.

Report of delay of trial.

132. (1) Where a person triable under the Code of Service Discipline has been placed under arrest for a service offence and remains in custody for eight days without a summary trial having been held or a court martial for his trial having been ordered to assemble, a report stating the necessity for further delay shall be made by his commanding officer to the authority who is empowered to convene a court martial for the trial of that person, and a similar report shall be forwarded in the same manner every eighth day until a summary trial has been held or a court martial has been ordered to assemble.

Petition in respect of delay of trial.

(2) Every person held in custody in the circumstances mentioned in subsection one, who has been continuously so held for a period of twenty-eight days without a summary trial having been held or a court martial having been ordered to assemble, shall at the expiration of that period be entitled to direct to the Minister, or to such authority as the Minister may prescribe or appoint for that purpose, a petition to be freed from custody or for a disposition of the case and in any event that person shall be so freed when a period of ninety days continuous custody from the time of his arrest has expired, unless a summary trial has been held or a court martial has been ordered to assemble.

Limitation upon re-arrest.

(3) A person who has been freed from custody pursuant to subsection two shall not be subject to re-arrest for the offence with which he was originally charged, except on the written order of an authority having power to convene a court martial for his trial.

CROSS-REFERENCES TO EXISTING LEGISLATION

132. (1) See Army Act (UK), Sec 45(1)
Air Force Act (UK), Sec 45(1)

132. (2) and (3) New

PART VII.

SERVICE TRIBUNALS.

Application.

Commanding officer

133. (1) Every reference in this Part to a commanding officer shall be deemed to be a reference to the commanding officer of the accused person, or to such other commanding officer as may by regulations be empowered to act in lieu of the commanding officer of the accused person.

Meaning of ranks where specified.

(2) Every reference in this Part to the rank of an officer or man shall be construed in accordance with regulations made by the Governor in Council and every such reference shall be deemed to include a person who holds any equivalent relative rank, whether that person is enrolled in, or is attached, seconded or on loan to the Canadian Forces.

Investigation and Preliminary Disposition of Charges.

Immediate investigation required.

134. (1) Where a charge is laid against a person to whom this Part applies alleging that he has committed a service offence, the charge shall forthwith be investigated in accordance with regulations made by the Governor in Council.

Dismissal or other disposition.

(2) Where, after investigation, a commanding officer considers that a charge should not be proceeded with, he shall dismiss the charge; but otherwise shall cause it to be proceeded with as expeditiously as circumstances admit.

Summary Trials by Commanding Officer within the Royal Canadian Navy.

Persons triable.

135. (1) This section shall apply only in respect of persons who under Part IV are liable to be charged, dealt with and tried within the Royal Canadian Navy.

Jurisdiction of commanding officer.

(2) A commanding officer may in his discretion try an accused person by summary trial, but only if all of the following conditions are satisfied,

(a) the accused person is either a subordinate officer or a man;

(b) the offence is not one for which the punishment of death may be imposed;

(c) having regard to the gravity of the offence, the commanding officer considers that his powers of punishment are adequate;

Part VII

This Part makes provision for the constitution, powers and procedure of navy, army and air force tribunals.

Cross-References to Existing Legislation

133. New

134. (1) See Army Act (UK), Sec 45(5)
Air Force Act (UK), Sec 45(5)

134. (2) See Army Act (UK), Sec 46(1)
Air Force Act (UK), Sec 46(1)

135. (1) New

135. (2) See Naval Service Act, Sec 101(2), 102

(*d*) the accused person is not, pursuant to subsection nine, entitled to be tried by court martial; and

(*e*) the offence is not one which in regulations made by the Governor in Council the commanding officer is precluded from trying.

Sentences.

(3) A sentence passed by a commanding officer at a summary trial shall not include any of the following punishments,

(*a*) death;

(*b*) imprisonment for a period exceeding ninety days;

(*c*) detention for a period exceeding ninety days;

(*d*) any other punishment that by regulations made by the Governor in Council he is precluded from imposing.

Subordinate officers.

(4) A subordinate officer charged with having committed a service offence that in the opinion of the commanding officer is not sufficiently grave to justify trial by court martial, may be tried by summary trial under this section, but no punishment shall be imposed except forfeiture of seniority for a period not exceeding twelve months or forfeiture of service toward progressive increase in pay for a period not exceeding twelve months.

Jurisdiction in cases of detachment, etc.

(5) The authority of a commanding officer exercisable under this section may,

(*a*) in respect of persons on board a tender to a unit, be exercised in the case of a single tender absent from the unit, by the officer in command of the tender, and in the case of two or more tenders absent from the unit in company or acting together, by the officer in immediate command of the tenders;

(*b*) in respect of persons on board a boat belonging to the unit, be exercised, when the boat is absent on detached service, by the officer in command of the boat; and

(*c*) in respect of persons on detached service, either on shore or otherwise, be exercised by the officer in immediate command of those persons.

Delegation.

(6) A commanding officer may, subject to regulations made by the Governor in Council and to such extent as the commanding officer deems fit, delegate his powers under this section to any officer under his command, but an officer to whom powers are so delegated may not be authorized to impose punishments other than the following,

(*a*) a fine not exceeding ten dollars;

(*b*) a reprimand;

(*c*) minor punishments.

Limitation upon powers of punishment.

(7) Such punishments as are, in regulations made by the Governor in Council, specified as requiring approval before they may be imposed by a commanding officer, shall not be so imposed until approval has been obtained in the manner prescribed in such regulations.

135. (3) New
See Naval Service Act, Sec 101(2)

135. (4) See Naval Service Act, Sec 102

135. (5) See Naval Service Act, Sec 101(3)

135. (6) See Army Act (UK), Sec 46(9)
Air Force Act (UK), Sec 46(9)

135. (7) New

Evidence on oath.

(8) Where a commanding officer tries an accused person by summary trial, the evidence shall be taken on oath if the accused person so requests.

Election to be tried by court martial.

(9) Where a commanding officer tries a chief petty officer or a petty officer, first class, by summary trial and the commanding officer, either before or after any or all of the evidence has been heard, arrives at the conclusion that a finding of guilty,

(a) in the case of a chief petty officer or petty officer, first class, who is liable to be sentenced to the punishment of reduction in rank, would justify that punishment; or

(b) in the case of a chief petty officer or petty officer, first class, who under regulations is not liable to be sentenced to the punishment of reduction in rank, would justify the punishment of imprisonment for less than two years or detention,

the accused person shall, subject to paragraph *(a)* of subsection ten, have the right to elect to be tried by court martial rather than have the commanding officer continue and complete the summary trial, and the commanding officer shall inform him of that right.

Summary trial where court martial impracticable.

(10) *(a)* Where a chief petty officer or petty officer, first class, has, under subsection nine elected to be tried by court martial and, in the opinion of the senior naval officer present, the exigencies of naval service do not permit a court martial to be assembled within a reasonable period, that senior naval officer may, if he considers it necessary, authorize the commanding officer to deal with the case by summary trial.

Board of inquiry.

(b) Where in the circumstances mentioned in paragraph *(a)*, the commanding officer at a summary trial imposes the punishment of reduction in rank upon a chief petty officer or petty officer, first class, the senior officer in chief command shall order a board of inquiry to assemble forthwith to determine whether, having regard to the circumstances of the case, any one or more of the punishments lower in the scale of punishments than reduction in rank would be appropriate.

Reduction of sentence.

(c) Where a board of inquiry recommends a substituted punishment under paragraph *(b)*, the senior officer in chief command shall make an order to that effect and the substituted punishment shall have force and effect as if it had been imposed at the summary trial in the first instance, and the provisions of the Code of Service Discipline shall apply accordingly.

CROSS-REFERENCES TO EXISTING LEGISLATION

135. (8) Army Act (UK), Sec 46(6)
Air Force Act (UK), Sec 46(6)

135. (9) New

135. (10) New

SUMMARY TRIALS BY COMMANDING OFFICER WITHIN THE CANADIAN ARMY AND THE ROYAL CANADIAN AIR FORCE

Persons triable.

136. (1) This section shall apply only in respect of persons who under Part IV are liable to be charged, dealt with and tried within the Canadian Army or the Royal Canadian Air Force.

Jurisdiction of commanding officer.

(2) A commanding officer may in his discretion try an accused person by summary trial, but only if all of the following conditions are satisfied,

(a) the accused person is a man below the rank of warrant officer;

(b) the offence is not one for which the punishment of death may be imposed;

(c) having regard to the gravity of the offence, the commanding officer considers that his powers of punishment are adequate;

(d) the accused person is not, pursuant to subsection four, entitled to be tried by court martial; and

(e) the offence is not one which in regulations made by the Governor in Council the commanding officer is precluded from trying.

Sentences.

(3) Subject to the conditions set out in this section and in Part V relating to punishments, a commanding officer at a summary trial may pass a sentence in which any one or more of the following punishments may be included,

(a) detention for a period not exceeding ninety days, subject to the following provisions,

(i) a punishment of detention imposed by a commanding officer upon a non-commissioned officer shall not be carried into effect until approved by an officer not below the rank of brigadier or air commodore under whom the commanding officer who imposed the punishment is serving, and only to the extent so approved;

(ii) where a commanding officer imposes more than thirty days detention, the portion in excess of thirty days shall be effective only if approved by, and to the extent approved by, an officer not below the rank of brigadier or air commodore under whom the commanding officer who imposed the punishment is serving;

(b) reduction in rank, but a punishment of reduction in rank imposed by a commanding officer shall be effective only if approved by, and to the extent approved by, an officer, not below the rank of brigadier or air commodore, under whom the commanding officer who imposed the punishment is serving;

(c) forfeiture of seniority;

136. (1) New

136. (2) See Naval Service Act, Secs 101(2), 102
Army Act (UK), Sec 46(1)
Air Force Act (UK), Sec 46(1)

136. (3) See Army Act (UK), Sec 46(2)
Air Force Act (UK), Sec 46(2)

(*d*) forfeiture of service toward progressive increase in pay;
(*e*) a fine not exceeding basic pay for one month;
(*f*) severe reprimand;
(*g*) reprimand;
(*h*) minor punishments.

Election to be tried by court martial.

(4) Where a commanding officer tries an accused person by summary trial and the commanding officer, either before or after any or all of the evidence has been heard, arrives at the conclusion that a finding of guilty

(*a*) would involve a forfeiture of pay for absence without leave exceeding pay for seven days; or

(*b*) would justify

(i) a fine exceeding ten dollars; or

(ii) a punishment higher in the scale of punishments than a severe reprimand,

that person shall have the right to elect to be tried by court martial rather than have the commanding officer continue and complete the summary trial, and the commanding officer shall inform him of that right.

Evidence on oath.

(5) Where a commanding officer tries an accused person by summary trial, the evidence shall be taken on oath if the accused person so requests.

Delegation.

(6) A commanding officer may, subject to regulations made by the Governor in Council and to such extent as the commanding officer deems fit, delegate his powers under this section to any officer under his command, but an officer to whom powers are so delegated may not be authorized to impose punishments other than the following,

(*a*) a fine not exceeding ten dollars;
(*b*) a reprimand;
(*c*) minor punishments.

Limitation upon powers of punishment.

(7) Such punishments as are, in regulations made by the Governor in Council, specified as requiring approval before they may be imposed by a commanding officer, shall not be so imposed until approval has been obtained in the manner prescribed in such regulations.

Summary Trials by Superior Commander within the Canadian Army and the Royal Canadian Air Force.

Persons triable.

137. (1) This section shall apply only in respect of persons who under Part IV are liable to be charged, dealt with and tried within the Canadian Army or the Royal Canadian Air Force.

Jurisdiction of superior commander.

(2) Any officer of or above the rank of brigadier or air commodore, or any other officer prescribed or appointed by the Minister for that purpose, referred to in this section

136. (4) See Army Act (UK), Sec 46(8)
Air Force Act (UK), Sec 46(8)

136. (5) See Army Act (UK), Sec 46(6)
Air Force Act (UK), Sec 46(6)

136. (6) See Army Act (UK), Sec 46(9)
Air Force Act (UK), Sec 46(9)

136. (7) New

137. See Army Act (UK), Sec 47
Air Force Act (UK), Sec 47

as a "superior commander", may in his discretion try by summary trial an officer below the rank of major or squadron leader, or a warrant officer, charged with having committed a service offence, and in an emergency the Governor in Council may extend the provisions of this section to cases where the accused person is of the rank of major or squadron leader.

Dismissal or other disposition.

(3) A superior commander may, with or without hearing the evidence, dismiss a charge if he considers that it should not be proceeded with; but otherwise shall cause it to be proceeded with as expeditiously as circumstances admit.

Sentences.

(4) Subject to the conditions set out in this section and in Part V relating to punishments, a superior commander at a summary trial may pass a sentence in which any one or more of the following punishments may be included,

(a) forfeiture of seniority;

(b) forfeiture of service toward progressive increase in pay;

(c) fine;

(d) severe reprimand;

(e) reprimand.

Election to be tried by court martial.

(5) Where a superior commander tries an accused person by summary trial and the superior commander, either before or after any or all of the evidence has been heard, arrives at the conclusion that a finding of guilty would justify

(a) forefeiture of seniority;

(b) forfeiture of service toward progressive increase in pay;

(c) in the case of an officer, a fine exceeding fifty dollars; or

(d) in the case of a warrant officer, a fine exceeding twenty-five dollars,

the accused person shall have the right to elect to be tried by court martial rather than have the superior commander continue and complete the summary trial, and the superior commander shall inform him of that right.

Evidence on oath.

(6) Where a superior commander tries an accused person by summary trial, the evidence shall be taken on oath if the accused person so requests.

Convening of Courts Martial.

Convening authorities.

138. (1) The Minister, and such other authorities as he may prescribe or appoint for that purpose, may convene General Courts Martial and Disciplinary Courts Martial.

Officers of other Services may be appointed.

(2) An authority who convenes a court martial under subsection one may appoint as members of the court martial, officers of the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force or officers of any navy, army or air force, who are attached, seconded or loaned to the Canadian Forces.

138. (1) See Militia Act, Sec 93(2)
Naval Service Act, Secs 104(9), 103(1)

138. (2) See RCAF Act, Sec 13
Army Act (UK), Sec 48(10)
Air Force Act, (UK) Sec 48(10)

General Courts Martial.

Jurisdiction.

139. A General Court Martial may try any person who under Part IV is liable to be charged, dealt with and tried upon a charge of having committed any service offence.

Number of members.

140. (1) A General Court Martial shall consist of not less than five officers and not more than such maximum number of officers as may be prescribed in regulations.

Appointment of president.

(2) The president of a General Court Martial shall be an officer of or above the naval rank of captain or of or above the rank of colonel or group captain and shall be appointed by the authority convening the General Court Marial or by an officer empowered by that authority to appoint the president.

Trial of commodore, etc.

(3) Where the accused person is of or above the rank of commodore, brigadier or air commodore, the president of a General Court Martial shall be an officer or of above the rank of the accused person, and the other members of the court martial shall be of or above the naval rank of captain or of or above the rank of colonel or group captain.

Trial of captain, etc.

(4) Where the accused person is of the naval rank of captain or of the rank of colonel or group captain, all of the members of a General Court Martial, other than the president, shall be of or above the rank of commander, lieutenant-colonel or wing commander.

Trial of commander, etc.

(5) Where the accused person is a commander, lieutenant-colonel or wing commander, at least two of the members of a General Court Martial, other than the president, shall be of or above the rank of the accused person.

Judge advocate.

141. Such authority as is prescribed for that purpose in regulations shall appoint a person to officiate as judge advocate at a General Court Martial.

Ineligibility to serve on General Court Martial.

142. None of the following persons shall sit as a member of a General Court Martial,

(a) the officer who convened the court martial;

(b) the prosecutor;

(c) a witness for the prosecution;

(d) the commanding officer of the accused person;

(e) a provost officer;

(f) an officer who is under the age of twenty-one years;

(g) an officer below the naval rank of lieutenant, the army rank of captain or the air force rank of flight lieutenant;

(h) any person who prior to the court martial participated in any investigation respecting the matters upon which a charge against the accused person is founded; or

CROSS-REFERENCES TO EXISTING LEGISLATION

139. See Naval Service Act, Sec 101(1)
Army Act (UK), Sec 48(6)
Air Force Act (UK), Sec 48(6)

140. (1) See Naval Service Act, Sec 104(1) and (13)
Army Act (UK), Sec 48(3)
Air Force Act (UK), Sec 48(3)

140. (2), (3), (4), (5), See Naval Service Act, Sec 104(5), (6), (7) and (12)
Army Act (UK), Sec 48(9)
Air Force Act (UK), Sec 48(9)

141. New

142. See Naval Service Act, Secs 104(2), (4), (8) and (11), 105

(i) within the Royal Canadian Navy, an officer of the reserve forces, unless he is on active service.

DISCIPLINARY COURTS MARTIAL.

Jurisdiction.

143. Subject to any limitations prescribed in regulations made by the Governor in Council, a Disciplinary Court Martial may try any person who under Part IV is liable to be charged, dealt with and tried upon a charge of having committed any service offence.

Punishment.

144. A Disciplinary Court Martial shall not pass a sentence including a punishment higher in the scale of punishments than dismissal with disgrace from His Majesty's service, or higher than such other punishment as may be prescribed in regulations; but no such other punishment shall be higher in the scale of punishments than dismissal with disgrace from His Majesty's service.

Number of members.

145. A Disciplinary Court Martial shall consist of not less than three officers and not more than such maximum number of officers as may be prescribed in regulations.

Appointment of president.

146. (1) The president of a Disciplinary Court Martial shall be appointed by the authority convening the Disciplinary Court Martial or by an officer empowered by that authority to appoint the president.

Rank of president.

(2) The president of a Disciplinary Court Martial shall be an officer of or above the rank of lieutenant-commander, major or squadron leader or of or above such higher rank as may be prescribed in regulations.

Judge advocate.

147. Such authority as may be prescribed for that purpose in regulations may appoint a person to officiate as judge advocate at a Disciplinary Court Martial.

Ineligibility to serve on Disciplinary Court Martial.

148. None of the following persons shall sit as a member of a Disciplinary Court Martial,

(a) the officer who convened the court martial;
(b) the prosecutor;
(c) a witness for the prosecution;
(d) the commanding officer of the accused person;
(e) a provost officer;
(f) an officer who is under the age of twenty-one years;
(g) any person who prior to the court martial participated in any investigation respecting the matters upon which a charge against the accused person is founded; or
(h) within the Royal Canadian Navy, an officer of the reserve forces, unless he is on active service.

143. New
See Naval Service Act, Sec 103(1)
Army Act (UK), Sec 48(6)
Air Force Act (UK), Sec 48(6)

144. New
See Naval Service Act, Sec 103(3)
Army Act (UK), Sec 48 (6)
Air Force Act (UK), Sec 48(6)

145. See Naval Service Act, Sec 103(2)
Army Act (UK), Sec 48(4)
Air Force Act (UK), Sec 48 (4)

146. See Naval Service Act, Sec 103(2)
Army Act (UK) Sec 48(9)
Air Force Act (UK), Sec 48(9)

147. New

148. New
See Naval Service Act, Secs 104(4), (8) and (11), 105

Standing Courts Martial.

Constitution.

149. (1) The Governor in Council may in an emergency establish Standing Courts Martial and each such court martial shall consist of one officer, to be called the president, who is or has been a barrister or advocate of more than three years standing and who shall be appointed by or under the authority of the Minister.

Powers.

(2) Subject to any limitations prescribed in regulations, a Standing Court Martial may try any person who under Part IV is liable to be charged, dealt with and tried upon a charge of having committed a service offence, but a Standing Court Martial shall not pass a sentence including any punishment higher in the scale of punishments than imprisonment for less than two years.

Admission to Courts Martial.

Trials public.

150. (1) Subject to subsections two and three, courts martial shall be public and, to the extent that accommodation permits, members of the public shall be admitted to the trial.

Exception.

(2) Where the authority who convenes a court martial or the president of a court martial considers that it is expedient in the interests of public safety, defence or public morals that the public should be excluded during the whole or any part of a trial, either of them may make an order to that effect, and any such order shall be recorded in the minutes of the proceedings of the court martial.

Witnesses.

(3) Witnesses, other than the prosecutor and the accused person, shall not be admitted to a trial, except when under examination or by specific leave of the president of the court martial.

Clearing court.

(4) The president may, on any deliberation among the members, cause a court martial to be cleared of any other persons in accordance with regulations.

Rules of Evidence.

Trial in Canada.

151. (1) The rules of evidence at a trial by court martial held in Canada shall be the same as those from time to time followed in civil courts in the province of Canada in which the court martial is held, except insofar as such rules are inconsistent with this Act or regulations.

CROSS-REFERENCES TO EXISTING LEGISLATION

149. New

150. New

151. New
See Army Act (UK), Secs 127, 128
Air Force Act (UK), Sec 128

Trial outside Canada.

(2) Where a court martial is held out of Canada or in a ship beyond the territorial limits of Canada, the rules of evidence shall be the same as those from time to time followed in civil courts in the province in which the accused person states to the court martial that his ordinary place of residence is situated, except insofar as such rules are inconsistent with this Act or regulations.

Special case.

(3) Where, in the circumstances mentioned in subsection two, an accused person states that his ordinary place of residence is situated out of Canada, or makes no statement as to his ordinary place of residence, the court martial shall apply the rules of evidence from time to time followed in civil courts in the capital city of Canada, except insofar as such rules are inconsistent with this Act or regulations.

Exclusion.

(4) A court martial, wherever held, shall not as respects the conduct of its proceedings or the reception or rejection of evidence or as respects any other matter or thing, be subject to any Act, law or regulation not in force in Canada.

Admission of documents and records.

152. Such classes of documents and records as are prescribed in regulations made by the Governor in Council may be admitted as evidence of the facts therein stated at trials by court martial or in any proceedings before civil courts arising out of such trials, and the conditions governing the admissibility of such classes of documents and records or copies thereof shall be as prescribed in those regulations.

Statutory declarations admissible.

153. A court martial may receive, as evidence of the facts therein stated, declarations made in the manner prescribed by section thirty-six of the *Canada Evidence Act*, subject to the following conditions,

(a) where the declaration is one that the prosecutor wishes to introduce, a copy shall be served upon the accused person at least seven days before the trial;

(b) where the declaration is one that the accused person wishes to introduce, a copy shall be served upon the prosecutor at least three days before the trial; and

(c) at any time before the trial the party upon whom the copy of the declaration has been served under paragraphs *(a)* or *(b)* may notify the opposite party that he will not consent to the declaration being received by the court martial, and in that event the declaration shall not be received.

Witnesses at Courts Martial.

Procurement of attendance of witnesses.

154. (1) The commanding officer of the accused person, the authority who convenes a court martial, or, after the assembly of the court martial, the president, shall take all necessary action to procure the attendance of the witnesses

152. New

153. New

154. New

whom the prosecutor and the accused person request to be called and whose attendance can, having regard to the exigencies of the service, reasonably be procured, but nothing in this subsection shall require the procurement of the attendance of any witnesses, the request for whose attendance is deemed by any such commanding officer, authority who convenes a court martial or president to be frivolous or vexatious.

Procurement of attendance in exceptional cases.

(2) Where a request by the accused person for the attendance of a witness is deemed to be frivolous or vexatious, the attendance of that witness, if his attendance, having regard to the exigencies of the service, can reasonably be procured, shall be procured if the accused person pays in advance the fees and expenses of the witness at the rates prescribed in regulations, and if at the trial the evidence of the witness proves to be relevant and material, the president of the court martial or the authority who convened the court martial may order that the accused person be reimbursed in the amount of the fees and expenses of the witness so paid.

Rights of accused preserved.

(3) Nothing in this section shall limit the right of the accused person to procure and produce at the trial at his own expense such witnesses as he may desire, if the exigencies of the service permit.

Evidence on Commission.

Appointment of commissioner.

155. (1) Where it appears to the Judge Advocate General, or to such person as he may appoint for that purpose, that the attendance at a trial by court martial of a witness for the prosecution is not readily obtainable because the witness is ill or is absent from the country in which the trial is held, or that the attendance of a witness for the accused person is not readily obtainable for any reason, the Judge Advocate General, or such person as he may appoint for that purpose, may appoint any officer or other qualified person, in this section referred to as a "commissioner", to take the evidence of the witness under oath.

Admissibility of commission evidence.

(2) The document containing the evidence of a witness, taken under subsection one and duly certified by the commissioner, shall be admissible in evidence at a court martial to the same extent and subject to the same objections as if the witness had given that evidence in person at the trial.

Personal attendance of witness.

(3) Where in the opinion of the president of a court martial, a witness whose evidence has been taken on commission, should in the interests of justice appear and give evidence before the court martial and that witness is not too ill to attend the trial and is not outside the country in which the trial is held, the president may require the attendance of that witness.

Cross-References to Existing Legislation

155. New

Commission evidence part of summary or abstract.

(4) The document mentioned in subsection two or a true copy thereof may be attached to the summary or abstract of evidence taken in respect of the charge against the accused person and, on being so attached, that document shall form part of the summary or abstract of evidence.

Cross-examination.

(5) At any proceedings before a commissioner the accused person and the prosecutor shall be entitled to be represented and the persons representing them shall have the right to examine and cross-examine any witness.

Copy to accused.

(6) The accused person shall, at least twenty-four hours before it is admitted at the court martial, be furnished without charge with a copy of the document mentioned in subsection two.

View by Court Martial.

President may authorize.

156. A court martial may, where the president considers it necessary, view any place, thing or person.

Objection to Members of Courts Martial.

Right of accused.

157. (1) When a court martial is assembled, the names of the president and other members shall be read over to the accused person who shall be asked if he objects to be tried by any of them, and if he objects the court martial shall decide whether the objection shall be allowed.

Replacements

(2) The procedure for the replacement of a president of a court martial or any other members of a court martial in respect of whom an objection has been allowed shall be as prescribed in regulations.

Oaths at Courts Martial.

Persons required to take oath.

158. (1) At every court martial an oath shall be administered to each of the following persons,

(a) the president and other members of the court martial;

(b) the judge advocate;

(c) the officers ordered to attend for purposes of instruction;

(d) court reporters;

(e) interpreters;

(f) witnesses,

in the manner and in the forms prescribed in regulations.

Affirmation in lieu of oath.

(2) If a person to whom an oath is required to be administered under subsection one,

(a) objects to take the oath and the president of the court martial is satisfied of the sincerity of the objection; or

(b) is objected to as incompetent to take the oath and the president of the court martial is satisfied that the

156. See Army Act (UK), Sec 53(7)
Air Force Act (UK), Sec 53(7)
Criminal Code, Sec 958(1)

157. See Naval Service Act, Sec 109
Army Act (UK), Sec 51
Air Force Act (UK), Sec 51

158. See Naval Service Act, Secs 110, 111
Army Act (UK), Sec 52
Air Force Act (UK), Sec 52

oath would have no binding effect on the conscience of that person,

the president shall require that person, instead of being sworn, to make a solemn affirmation in the form prescribed in regulations and, for the purposes of this Act, a solemn affirmation shall be deemed to be an oath.

ADJOURNMENT AND DISSOLUTION.

President may adjourn.

159. A court martial may be adjourned whenever the president considers adjournment desirable.

Dissolution when numbers reduced.

160. (1) Where, after the commencement of a trial, a court martial is by death or otherwise reduced below the minimum number of members prescribed in this Act, it shall be deemed to be dissolved.

President unable to attend.

(2) Where, after the commencement of a trial, the president of a court martial dies or for any other reason cannot attend and the court martial is not thereby reduced below the minimum number of members prescribed in this Act, the authority who convened the court martial may appoint the senior member of the court martial to be the president and the trial shall proceed; but if the senior member of the court martial is not of sufficient rank to be appointed president, the court martial shall be deemed to be dissolved.

Illness of accused.

(3) Where, on account of the illness of the accused person, it is impossible to continue the trial, the court martial shall be dissolved.

Effect of dissolution.

(4) Where a court martial is dissolved pursuant to this section, the accused person may be dealt with as if the trial had never commenced.

AMENDMENT OF CHARGES.

May be made if no injustice.

161. (1) Where at any time during a trial by court martial, it appears to the president that there is a technical defect in a charge that does not affect the substance of the charge, the president, if he is of the opinion that the accused person will not be prejudiced in the conduct of his defence by an amendment, shall make such order for the amendment of the charge as he considers necessary to meet the circumstances of the case.

Procedure.

(2) Where an amendment to the charge has been made, the president of the court martial shall, if the accused person so requests, adjourn the court martial for such period as the president considers necessary to enable the accused person to meet the charge so amended.

Minute of amendment.

(3) Where a charge is amended, a minute of the amendment shall be endorsed upon the charge sheet and signed

159. See Naval Service Act, Sec 107
Army Act (UK), Sec 53(6)
Air Force Act (UK), Sec 53(6)

160. See Army Act (UK), Sec 53(1), (2), (3) and (4)
Air Force Act (UK), Sec 53(1), (2), (3) and (4)

161. New
See Criminal Code, Sec 893

by the president of the court martial; and the charge sheet so amended shall be treated for the purposes of the trial and all proceedings in connection therewith as being the original charge sheet.

Decisions by Courts Martial.

Majority vote.

162. (1) The finding and, subject to subsection three of section one hundred and twenty-one, the sentence of a court martial and the decision in respect of any other matter or question arising after the commencement of the trial shall be determined by the vote of a majority of the members.

Equality on finding.

(2) In the case of an equality of votes on the finding, the accused shall be found not guilty.

Equality on sentence.

(3) In the case of an equality of votes on the sentence or on any other matter or question arising after the commencement of the trial, except the finding, the president of the court martial shall have a second or casting vote.

Similar Offences.

May be considered in imposing sentence.

163. A court martial may at the request of the offender and in its discretion take into consideration, for the purposes of sentence, other service offences, similar in character to that of which the offender has been found guilty, that are admitted by him, as if he had been charged with, tried on and found guilty of such offences; but the sentence of the court martial sha l not include any punishment higher in the scale of punishments than the punishment that might be imposed in respect of any offence of which the offender has been found guilty.

Pronouncement of Findings and Sentence.

Effect.

164. The finding and sentence of a court martial shall at the conclusion of the trial be pronounced to the offender in open court and he shall be under the sentence as of the date of the pronouncement thereof.

Recommendations to Clemency.

Applicable in certain cases only.

165. Where a court martial has found a person guilty of an offence, prescribed in section sixty-four, sixty-five, sixty-six or sixty-seven, for which the punishment of death is mandatory, or in section eighty-three, for which the punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service is manda-

162. (1) New

162. (2) and (3) See Army Act (UK), Sec 53(8)
Air Force Act (UK), Sec 53(8)

163. New

164. New

165. See Army Act (UK), Sec 53(9)
Air Force Act (UK), Sec 53(9)

tory, or an offence to which paragraph *(a)* of subsection two of section one hundred and nineteen applies, the court martial may recommend clemency and the recommendation shall be attached to and form part of the minutes of the proceedings of the trial.

DECISION WHERE ACCUSED INSANE AT TRIAL.

Trial of issue of insanity.

166. (1) Where at any time after a trial by court martial commences and before the finding of the court martial is made, it appears that there is sufficient reason to doubt whether the accused person is then, on account of insanity, capable of conducting his defence, an issue shall be tried and decided by that court martial as to whether the accused person is or is not then, on account of insanity, unfit to stand or continue his trial.

Trial proceeds if accused sane.

(2) Where the decision of the court martial on an issue mentioned in subsection one is that the accused person is not then unfit to stand or continue his trial, the court martial shall proceed to try that person as if no such issue had been tried.

Disposal of accused in Canada.

(3) Where the decision of a court martial held in Canada is that the accused person is unfit to stand or continue his trial on account of insanity, the court martial shall order the accused person to be kept in strict custody, and he shall be treated in accordance with subsection five of section nine hundred and sixty-seven and section nine hundred and sixty-nine of the *Criminal Code*, as if the same decision had been made in respect of him by a civil court in the province of Canada in which that court martial was held.

Disposal of accused out of Canada.

(4) Where the decision of a court martial held out of Canada is that the accused person is unfit to stand or continue his trial on account of insanity, the court martial shall order that person to be kept in strict custody and he shall be transferred, as soon as conveniently may be, to the province of Canada in which he is domiciled, and upon transfer to that province he shall be treated in accordance with subsection five of section nine hundred and sixty-seven and section nine hundred and sixty-nine of the *Criminal Code*, as if the same decision had been made in respect of him by a civil court in that province; and, in the case of an accused person who is not domiciled in any province, the Minister may make such arrangements for the benefit and welfare of that person as to the Minister seem fit.

Saving of jurisdiction.

(5) No decision of a court martial that an accused person is unfit to stand or continue his trial by reason of insanity shall prevent that person being afterwards tried in respect of the offence or of any other offence of which he might have been found guilty on the same charge; and the period during which he is unfit to stand or continue his trial by reason of

166. New
Criminal Code, Sec 967
See Army Act (UK), Sec 130(1) and (3)
Air Force Act (UK), Sec 130(1) and (3)

insanity shall not be taken into account in applying to him in respect of that offence the provisions of section sixty.

Decision Where Accused Insane When Offence Committed.

Special finding.

167. (1) Where evidence is given at a court martial that a person charged with a service offence was insane at the time of the commission of that offence, the court martial, if it finds that person not guilty of the offence, shall make a special finding as to whether he was insane at the time of the commission of the offence and whether he was found not guilty by reason of insanity.

Disposal of accused in Canada.

(2) Where a court martial held in Canada makes a special finding under subsection one that an accused person was insane, it shall order that person to be kept in strict custody and he shall be treated in accordance with subsection two of section nine hundred and sixty-six and section nine hundred and sixty-nine of the *Criminal Code*, as if the same finding had been made in respect of him by a civil court in the province of Canada in which that court martial was held.

Disposal of accused out of Canada.

(3) Where a court martial held out of Canada makes a special finding under subsection one that an accused person was insane, it shall order that person to be kept in strict custody and he shall be transferred, as soon as conveniently may be, to the province of Canada in which he is domiciled, and upon transfer to that province he shall be treated in accordance with subsection two of section nine hundred and sixty-six and section nine hundred and sixty-nine of the *Criminal Code*, as if the same finding had been made in respect of him by a civil court in that province; and, in the case of an accused person who is not domiciled in any province, the Minister may make such arrangements for the benefit and welfare of that person as to the Minister seem fit.

Minutes of Proceedings of Courts Martial.

Delivery to offender.

168. A copy of the minutes of the proceedings of a court martial shall be delivered without charge as soon as practicable after the conclusion of the trial to the person who has been tried and found guilty by that court martial.

167. New
Criminal Code Sec 966
See Army Act (UK), Sec 130(2) and (3)
Air Force Act (UK), Sec 130(2) and (3)

168. See Army Act (UK), Sec 124
Air Force Act (UK), Sec 124

Part VIII.

PROVISIONS APPLICABLE TO FINDINGS AND SENTENCES AFTER TRIAL.

Imprisonment and Detention.

Commencement.

169. (1) Subject to subsection three and sections one hundred and seventy-six and one hundred and seventy-seven, the term of a punishment of imprisonment for two years or more, imprisonment for less than two years or detention, shall commence on the date upon which the service tribunal pronounces sentence upon the offender.

Time counted.

(2) The only time which shall be reckoned toward the completion of a term of a punishment of imprisonment for two years or more, imprisonment for less than two years or detention shall be the time that the offender spends in civil custody or service custody while under the sentence in which that punishment is included.

Special case.

(3) Where a punishment mentioned in subsection two cannot lawfully be carried out by reason of a vessel being at sea or in a port at which there is no suitable place of incarceration, the offender shall as soon as practicable, having regard to the exigencies of military service, be sent to a place where the punishment can lawfully be carried out, and the period of time prior to the date of arrival of the offender at that place shall not be reckoned toward the completion of the term of the punishment.

Punishments Requiring Approval.

Death.

170. (1) A punishment of death included in a sentence passed by a court martial shall be subject to approval by the Governor in Council and shall not be carried out unless so approved.

Dismissal.

(2) A punishment of dismissal with disgrace from His Majesty's service or of dismissal from His Majesty's service, whether it is expressly included in the sentence passed by a service tribunal or whether it is deemed to be included in the sentence pursuant to paragraph *(b)* or paragraph *(c)* of subsection four of section one hundred and twenty-one shall be subject to approval by the Minister or such authorities as are prescribed in regulations and shall not be carried out unless so approved; but any punishment of imprisonment for two years or more, imprisonment for less than two years or detention included in the sentence shall commence and be carried out under section one hundred and sixty-nine as

Part VIII.

This Part provides for the effective date of sentences and the carrying out of punishments. It also empowers service authorities to quash findings and alter sentences in circumstances where the ends of justice and the interest of the accused render that action desirable.

Cross-References to Existing Legislation

169. (1) See Naval Service Act, Sec 114(1)
Army Act (UK), Sec 68(1)

169. (2) New

169. (3) See Naval Service Act, Sec 114(3)

170. (1) Militia Act, Sec 93(3)
See Naval Service Act, Sec 98(1) *(c)*

170. (2) New

if the sentence had not included a punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service, as the case may be.

Effective date of dismissal.

(3) A punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service shall be deemed to be carried out as of the date upon which the release of the offender from the Canadian Forces is effected.

Substitution where punishment not approved.

(4) An authority mentioned in section one hundred and seventy-three shall have power to substitute a new punishment for

(a) a punishment of death that has not been approved under subsection one;

(b) a punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service that has not been approved under subsection two; or

(c) a punishment, imposed by a commanding officer at a summary trial, that has not been approved under subsection seven of section one hundred and thirty-five or subsection three or seven of section one hundred and thirty-six, as the case may be.

Quashing of Findings.

Authority.

171. (1) The Minister, and such other authorities as he may prescribe or appoint for that purpose, may quash any finding of guilty made by a service tribunal.

Effect upon sentence of complete quashing.

(2) Where, after a finding of guilty has been quashed, no other finding of guilty remains, the whole of the sentence passed by the service tribunal shall cease to have force and effect.

Effect upon sentence of partial quashing.

(3) Where, after a finding of guilty has been quashed, another finding of guilty remains, and any punishment included in the sentence passed by the service tribunal is in excess of the punishment authorized by this Act in respect of the findings of guilty which remain, or is, in the opinion of the authority who quashed the finding, unduly severe, he shall, subject to the conditions set out in section one hundred and seventy-five, substitute such new punishment or punishments as he considers appropriate.

Substitution of Findings.

Authority.

172. (1) The Minister, and such other authorities as he may prescribe or appoint for that purpose, may substitute a new finding for any finding of guilty, made by a service tribunal, that is illegal or cannot be supported by the evidence, if the new finding could validly have been made

CROSS-REFERENCES TO EXISTING LEGISLATION

170. (3) New

170. (4) New

171. See Army Act (UK), Sec 54(1) *(b)* and *(c)*
Air Force Act (UK), Sec 54(1) *(b)* and *(c)*

172. See Army Act (UK), Sec 70(1) *(ee)*
Air Force Act (UK), Sec 70(1) *(ee)*

by the service tribunal on the charge and if it appears that the service tribunal was satisfied of the facts establishing the offence specified or involved in the new finding.

Effect upon sentence.

(2) Where a new finding has been substituted for a finding made by a service tribunal and any punishment included in the sentence passed by the service tribunal is in excess of the punishment authorized by this Act in respect of the new finding, or is, in the opinion of the authority who substituted the new finding, unduly severe, he shall, subject to the conditions set out in section one hundred and seventy-five, substitute such new punishment or punishments as he considers appropriate.

Substitution of Punishments.

Authority.

173. Where a service tribunal has passed a sentence in which is included an illegal punishment, the Minister, and such other authorities as he may prescribe or appoint for that purpose, may, subject to the conditions set out in section one hundred and seventy-five, substitute for the illegal punishment such new punishment or punishments as he considers appropriate.

Mitigation, Commutation and Remission of Punishments.

Authority.

174. The Minister, and such other authorities as he may prescribe or appoint for that purpose, may, subject to the conditions set out in section one hundred and seventy-five, mitigate, commute or remit any or all of the punishments included in a sentence passed by a service tribunal.

Conditions Applicable to New Punishments.

Limitation upon new punishments.

175. The following conditions shall apply where under this Act a new punishment, by way of substitution, commutation or reduction, replaces a punishment imposed by a service tribunal,

(a) the new punishment shall not be any punishment that could not legally have been imposed by the service tribunal on the charges of which the offender was found guilty and in respect of which the findings have not been quashed or set aside by way of substitution;

(b) the new punishment shall not be higher in the scale of punishments than the punishment imposed by the service tribunal in the first instance and, if the sentence passed by the service tribunal included a punishment of incarceration, the new punishment shall not involve

173. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Sec 70(1) *(e)*
Air Force Act (UK), Sec 70(1) *(e)*

174. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Sec 57(2)
Air Force Act (UK), Sec 57(2)

175. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Secs 44(1A) and (1B), 57(2)
Air Force Act (UK), Secs 44(1A) and (1B), 57(2)

a period of incarceration exceeding the period comprised in that sentence;

(c) where the new punishment is detention and the punishment that it replaces is imprisonment for two years or more or imprisonment for less than two years, the term of detention from the date of alteration shall in no case exceed the term of imprisonment remaining to be served, and in any event shall not exceed a term of two years; and

(d) where the offence of which a person has been found guilty by a service tribunal is an offence, prescribed in section sixty-four, sixty-five, sixty-six or sixty-seven, for which the punishment of death is mandatory, or in section eighty-three, for which the punishment of dismissal with disgrace from His Majesty's service is mandatory, or an offence to which paragraph *(a)* of subsection two of section one hundred and nineteen applies, the punishment may, subject to this section, be altered to any one or more of the punishments lower in the scale of punishments than the punishment provided for in the enactment prescribing the offence.

Effect of New Punishments.

Ordinary provisions to apply.

176. Where under the authority of this Act, a new punishment, by reason of substitution, commutation or reduction, replaces a punishment imposed by a service tribunal, the new punishment shall have force and effect as if it had been imposed by the service tribunal in the first instance and the provisions of the Code of Service Discipline shall apply accordingly; but where the new punishment involves incarceration, the term of the new punishment shall be reckoned from the date of substitution, commutation or reduction, as the case may be.

Suspension of Imprisonment or Detention.

Authority.

177. (1) Where an offender has been sentenced to imprisonment for two years or more, imprisonment for less than two years or detention, the carrying into effect of the punishment may be suspended by the Minister, or such other authorities as he may prescribe or appoint for that purpose; and the Minister or any authority so prescribed or appointed is referred to in this section as a "suspending authority".

Postponement of committal.

(2) Where, in the case of an offender upon whom any punishment mentioned in subsection one has been imposed, suspension of the punishment has been recommended, the authority empowered to commit the offender to a penitentiary, civil prison, service prison or detention barrack, as

176. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Sec 57(5)
Air Force Act (UK), Sec 57(5)

177. See Naval Service Act, Secs 98(1) *(a)*, 115
Army Act (UK), Sec 57A
Air Force Act (UK), Sec 57A

45641—10

the case may be, may postpone committal until the directions of a suspending authority have been obtained.

Suspension possible at any time.

(3) A suspending authority may, in the case of an offender upon whom any punishment mentioned in subsection one has been imposed, suspend the punishment whether or not the offender has already been committed to undergo that punishment.

Effect of suspension before committal.

(4) Where a punishment is suspended before the offender has been committed to undergo the punishment, he shall, if in custody, be discharged from custody and the term of the punishment shall not commence until the offender has been ordered to be committed to undergo that punishment.

Effect of suspension after committal.

(5) Where a punishment is suspended after the offender has been committed to undergo the punishment, he shall be discharged from the place in which he is incarcerated and the currency of the punishment shall be arrested from the day on which he is so discharged, until he is again ordered to be committed to undergo that punishment.

Review and remission.

(6) Where a punishment has been suspended, it may at any time, and shall at intervals of not more than three months, be reviewed by a suspending authority and if on such review it appears to the suspending authority that the conduct of the offender, since the punishment was suspended, has been such as to justify a remission of the punishment, he shall remit it.

Automatic remission.

(7) A punishment that has been suspended shall be deemed to be wholly remitted on the expiration of the period specified as the term of that punishment, unless the punishment has been put into execution prior to the expiration of that period.

Committal after suspension.

(8) A suspending authority may, at any time while a punishment is suspended, direct the authority who is empowered to commit the offender to commit him, and from the date of the committal order that punishment shall cease to be suspended.

Term where suspended punishment put into execution.

(9) Where a punishment that has been suspended under this section is put into execution, the term of the punishment shall be deemed to commence on the date upon which it is put into execution, but there shall be deducted from the term any time during which the offender has been incarcerated following pronouncement of the sentence.

COMMITTAL TO IMPRISONMENT OR DETENTION.

"committing authority".

178. (1) The Minister may prescribe or appoint authorities for the purposes of this section and any such authority is referred to in this section as a "committing authority".

Service prisons and detention barracks.

(2) Such places as are designated by the Minister for the purpose shall be service prisons and detention barracks and

178. See Militia Act, Secs 132, 133
Naval Service Act, Secs 114(2) and (4), 116, 118
Army Act (UK), Secs 58, 60(1), 61, 63, 65, 66, 67(2)

any hospital or other place for the reception of sick persons to which a person who is a service convict, service prisoner or service detainee has been admitted shall, as respects that person, be deemed to be part of the place to which he has been committed.

Warrants for committal.

(3) A committal order, in such form as is prescribed in regulations, made by a committing authority shall be a sufficient warrant for the committal of a service convict, service prisoner or service detainee to any lawful place of confinement.

Authority for transfer.

(4) A committing authority may from time to time by warrant order that a service convict, service prisoner or service detainee shall be transferred from the place to which he has been committed to undergo his punishment to any other place in which that punishment may lawfully be put into execution.

Custody pending committal and during transfer.

(5) Until he is delivered to the place where he is to undergo his punishment or while he is being transferred from one such place to another such place, a service convict, service prisoner or service detainee may be held in any place, either in service custody or in civil custody or at one time in service custody and at another time in civil custody, as occasion may require, and may be transferred from place to place by any mode of conveyance, under such restraint as is necessary for his safe conduct.

Committal to penitentiaries.

(6) Where a punishment of imprisonment for two years or more is to be put into execution, the service convict shall as soon as practicable be committed to a penitentiary, there to undergo his punishment according to law; except that a committing authority may, in accordance with regulations made by the Governor in Council, order that a service convict be committed to a service prison there to undergo his punishment or part of his punishment, and where a service convict has undergone part of his punishment in a service prison and a committing authority then orders him to be committed to a penitentiary, the service convict may be so committed notwithstanding that the unexpired portion of the term of his punishment is less than two years.

Committal to service prisons.

(7) Where a punishment of imprisonment for less than two years is to be put into execution, the service prisoner shall as soon as practicable be committed to a civil prison there to undergo his punishment according to law; except that a committing authority may, in accordance with regulations made by the Governor in Council, order that a service prisoner be committed to a service prison or detention barrack there to undergo his punishment or part of his punishment.

Committal to detention barrack.

(8) Where a punishment of detention is to be put into execution, the service detainee shall as soon as practicable be committed to a detention barrack there to undergo his punishment.

Temporary Removal from Incarceration.

Authority required.

179. Where the exigencies of military service so require, a service convict, service prisoner or service detainee may, by an order made by a committing authority mentioned in section one hundred and seventy-eight, be removed temporarily from the place to which he has been committed for such period as may be specified in that order but, until his return to that place, he shall be retained in service custody or civil custody, as occasion may require, and no further committal order shall be necessary upon his return to that place.

Rules Applicable to Service Convicts and Service Prisoners.

Rules of penitentiaries and civil prisons to apply.

180. While a service convict is undergoing punishment in a penitentiary or a service prisoner is undergoing punishment in a civil prison, he shall be dealt with in the same manner as other prisoners in the place where he is undergoing punishment, and all rules applicable in respect of a person sentenced by a civil court to imprisonment in a penitentiary or civil prison, as the case may be, shall insofar as circumstances admit, apply accordingly; but a service convict undergoing punishment in a penitentiary or a service prisoner undergoing punishment in a civil prison shall not be discharged therefrom until the expiration of the term of his punishment, as reduced for good conduct by virtue of any rules in effect in that penitentiary or civil prison, unless an authority mentioned in section one hundred and seventy-four or section one hundred and seventy-seven orders that he be discharged therefrom prior to the expiration of the term of his punishment.

Validity of Documents.

Errors in form may be corrected.

181. The custody of a service convict, service prisoner or service detainee is not illegal by reason only of informality or error in or in respect of a document containing a warrant, order or direction issued in pursuance of this Act, or by reason only that such document deviates from the prescribed form; and any such document may be amended appropriately at any time by the authority who issued t in the first instance or by any other authority empowered to issue documents of the same nature.

CROSS-REFERENCES TO EXISTING LEGISLATION

179. See Naval Service Act, Sec 117

180. See Army Act (UK), Secs 62, 67(1)

181. See Army Act (UK), Sec 172(4)
Air Force Act (UK), Sec 172(4)

Insanity During Imprisonment or Detention.

Insane persons in penitentiaries or civil prisons.

182. (1) A service convict or service prisoner who, having been released from the Canadian Forces, is or becomes insane, mentally ill or mentally deficient while undergoing punishment in a penitentiary or a civil prison, shall be treated in the same manner as if he were a person undergoing a term of imprisonment in such penitentiary or civil prison by virtue of the sentence of a civil court.

Insane persons in service prisons or detention barracks.

(2) A service convict, service prisoner or service detainee who, having been released from the Canadian Forces, is or becomes insane, mentally ill or mentally deficient while undergoing punishment in a service prison or detention barrack, may, in the discretion of the commanding officer of that service prison or detention barrack, be made available to the Lieutenant-Governor of the province in which the service prison or detention barrack is situated, in order that he may be treated in the manner provided for in section nine hundred and seventy of the *Criminal Code*, and, pending action under that section, he shall be kept in strict custody until his case has been disposed of under that section, whether or not his term of imprisonment or detention has expired.

CROSS-REFERENCES TO EXISTING LEGISLATION

182. New
See Criminal Code, Sec 970
Army Act (UK), Sec 130(5)
Air Force Act (UK), Sec 130(5)

Part IX.

APPEAL, REVIEW AND PETITION.

General Provisions.

"legality" and "illegal".

183. For the purposes of this Part, the expressions "legality" and "illegal", shall be deemed to relate either to questions of law alone or to questions of mixed law and fact.

Exercise of powers of Judge Advocate General.

184. The powers, duties and functions of the Judge Advocate General under this Part may also be exercised by such other person as the Minister may authorize to act for the Judge Advocate General for that purpose.

Saving provision.

185. Nothing in this Part shall be in derogation of the powers conferred under Part VIII to quash findings or alter findings and sentences.

Right to Appeal.

Cases in which applicable.

186. Every person who has been tried and found guilty by a court martial shall, subject to subsection two of section one hundred and eighty-eight, have a right to appeal in respect of any or all of the following matters,

(a) the severity of the sentence;

(b) the legality of any or all of the findings; or

(c) the legality of the whole or any part of the sentence.

Other rights preserved.

187. The right of any person to appeal from the finding or sentence of a court martial shall be deemed to be in addition to and not in derogation of any rights that he has under the law of Canada.

Entry of Appeals.

Form.

188. (1) An appeal under this Part shall be stated on a form to be known as a Statement of Appeal which shall contain particulars of the grounds upon which the appeal is founded and shall be signed by the appellant.

Time limits.

(2) No appeal under this Part shall be entertained unless the Statement of Appeal is delivered to an officer designated for that purpose in regulations

(a) within fourteen days after delivery to the appellant, pursuant to section one hundred and sixty-eight, of a copy of the minutes of the proceedings; or

Part IX.

This Part is new. It gives to an offender a right of appeal which is designed to place service personnel, as closely as practicable, in the same position as persons convicted by civil courts. When the appeal relates only to severity of sentence it will be dealt with by service authorities as at present. When the appeal raises a question of law or one of mixed law and fact it will be dealt with by the Court Martial Appeal Board, consisting of judges and other legally qualified persons, provision for which is made in this Part. A further appeal will lie to the Supreme Court of Canada in certain circumstances. Where no appeal has been entered, provision is made for an automatic review by service authorities of findings and sentences of service tribunals. In addition, provision is made for a petition for a new trial in the case of newly discovered evidence.

Cross-References to Existing Legislation

183. New

184. New

185. New

186. New

187. New

188. New

(b) where the finding or sentence in respect of which the offender intends to enter an appeal has been altered under section one hundred and seventy-two, one hundred and seventy-three or one hundred and seventy-four, within fourteen days after the date upon which notice of such alteration is given to the appellant.

Where sent.

(3) All Statements of Appeal shall be forwarded to the Judge Advocate General.

PRELIMINARY DISPOSITION OF APPEALS.

When quantum of sentence only involved.

189. (1) Where an appeal relates only to the severity of the sentence, mentioned in paragraph *(a)* of section one hundred and eighty-six, the Judge Advocate General shall forward the Statement of Appeal to an authority who, under section one hundred and seventy-four, has power to mitigate, commute or remit punishments and that authority shall, as seems fit, deal with the appeal.

Illegal findings.

(2) Where an appeal relates to the legality of the findings, as mentioned in paragraph *(b)* of section one hundred and eighty-six, the Statement of Appeal shall be referred by the Judge Advocate General to the Court Martial Appeal Board provided for in this Part, unless the appropriate chief of staff, acting on the certificate of the Judge Advocate General that all of the findings in respect of which an appeal has been made are illegal, quashes such findings.

Illegal sentences.

(3) Where an appeal relates to the legality of the sentence, mentioned in paragraph *(c)* of section one hundred and eighty-six, the Statement of Appeal shall be referred by the Judge Advocate General to the Court Martial Appeal Board, unless the Judge Advocate General certifies that there is no finding in respect of which any sentence could legally be passed, in which case the sentence shall be null and void.

COURT MARTIAL APPEAL BOARD.

Establishment.

190. (1) There shall be a Court Martial Appeal Board which shall hear and determine all appeals referred to it under this Part.

Constitution.

(2) The Court Martial Appeal Board shall consist of,

(a) a Chairman, who shall be a judge of the Exchequer Court or of a "superior court of criminal jurisdiction", as that expression is defined in the *Criminal Code;* and

(b) two or more other persons who shall be judges or retired judges of the Exchequer Court or of a "superior court of criminal jurisdiction", as that expression is defined in the *Criminal Code*, or barristers or advocates of not less than five years standing,

all of whom shall be appointed by the Governor in Council.

189. New

190. New

Tribunals.

(3) Where, in the opinion of the Minister, the exigencies of the situation so demand, the Minister may require the Chairman of the Court Martial Appeal Board to establish tribunals consisting of not less than three members of the Board, to sit and hear appeals at such times and places as the Minister may designate.

Constitution and powers of tribunals.

(4) The Chairman of the Court Martial Appeal Board shall establish such tribunals as the Minister may require under subsection three, and shall appoint one member of each tribunal as Chairman, and every tribunal shall exercise all the powers, duties and functions of the Board as prescribed by this Act, and all references in this Act to the Court Martial Appeal Board in respect of the hearing and dispositions of appeals shall be deemed to include such tribunals.

Judge Advocate General to attend as adviser.

(5) The Judge Advocate General shall on the hearing of all appeals sit with the Court Martial Appeal Board, not as a member, but for the purpose of advising on service law, regulations and legal procedure.

Provision for additional adviser.

(6) Where the chief of staff of the Service of the Canadian Forces within which an appellant was tried considers it to be desirable, that chief of staff may designate an officer in addition to the Judge Advocate General to sit with the Court Martial Appeal Board on the hearing of the appeal, not as a member, but for the purpose of advising on service procedure and customs and any other matter involving service considerations.

Procedure.

(7) The Chairman of the Court Martial Appeal Board or of any tribunal thereof may allow the hearing of evidence, including new evidence, on oath or otherwise as he may deem expedient, and the Board may sit in camera or in public, and for the performance of its duties shall have all the powers vested in a commissioner under Part I of the *Inquiries Act*.

Quorum and decision on appeal.

(8) The powers, duties and functions of the Court Martial Appeal Board shall be exercised at any sitting of the Board when not less than three members, including the Chairman, are present, and the decision on any appeal shall be determined by the vote of the majority of the members of the Board, and in the event of an equality of votes, the Chairman shall have a second or casting vote.

Fees of members.

(9) The Chairman and members of the Court Martial Appeal Board shall be paid such fees and allowances as may be prescribed by the Governor in Council.

Disposition of Appeals by Court Martial Appeal Board.

Powers.

191. (1) Upon the hearing of an appeal respecting the legality of a finding of guilty on any charge, the Court Martial Appeal Board, if it considers the finding to be illegal and allows the appeal, shall

(a) set aside the finding and direct a finding of not guilty to be recorded in respect of that charge; or

(b) direct a new trial on that charge, in which case the appellant shall be tried again as if no trial on that charge had been held.

Effect of setting aside finding of guilty.

(2) Where the Court Martial Appeal Board has set aside a finding of guilty and no other finding of gu lty remains, the whole of the sentence shall cease to have force and effect

Reduction of punishment where finding set aside.

(3) Where the Court Martial Appeal Board has set aside a finding of guilty and another finding of guilty remains and any punishment included in the sentence passed by the court martial upon the appellant is thereby in excess of the punishment authorized by this Act, the punishment included in that sentence shall be reduced to a new punishment, which shall, subject to the conditions set out in section one hundred and seventy-five, be the highest punishment that the court martial could legally have imposed upon the appellant for the charges in respect of which findings of guilty remain; and section one hundred and seventy-six shall apply to the new punishment.

Substitution of new punishment where illegal punishment set aside.

192. Upon the hearing of an appeal respecting the legality of a sentence passed by a court martial, the Court Martial Appeal Board, if it considers that any pun shment included in that sentence is illegal and allows the appeal in respect of that punishment, shall set aside that punishment and shall substitute therefor a new punishment which shall be included in the sentence in the same manner and upon the same terms and conditions as are set out in subsection three of section one hundred and ninety-one in respect of the reduction of a punishment to a new punishment.

Special power to disallow appeal.

193. Notwithstanding sections one hundred and ninety-one and one hundred and ninety-two, the Court Martial Appeal Board shall have power to disallow an appeal if, in the opinion of the Board, to be expressed in writing, there has been no substantial miscarriage of justice.

Power of service authorities preserved.

194. Where a punishment included in a sentence has been reduced pursuant to section one hundred and ninety-one or where a punishment has been dealt with pursuant to section one hundred and ninety-two, the new punishment

CROSS-REFERENCES TO EXISTING LEGISLATION

191. New

192. New

193. New
See Criminal Code, Sec 1014(2)

194. New

shall be subject to mitigation, commutation, remission or suspension in the same manner and to the same extent as if it had been passed by the court martial that tried the appellant.

RULES OF APPEAL PROCEDURE.

Chairman may make.

195. (1) The Chairman of the Court Martial Appeal Board, with the approval of the Governor in Council, may make rules not inconsistent with this Act respecting,

(a) the seniority of members of the Board for the purpose of presiding at appeals;

(b) the practice and procedure to be observed at hearings;

(c) the conduct of appeals;

(d) the production of the minutes of the proceedings of any court martial in respect of which an appeal is taken;

(e) the production of all other documents and records relating to an appeal;

(f) the extent to which new evidence may be introduced;

(g) the circumstances in which the appellant may attend or appear before the Board on the hearing of his appeal, but no such rule shall deprive an appellant of the right to be present on the hearing of his appeal from a sentence of death; and

(h) provision for and payment of fees of counsel for the appellant.

Publication.

(2) No rule made under this section shall have effect until it has been published in the *Canada Gazette*.

APPEAL TO SUPREME COURT OF CANADA.

Cases in which appeals lie.

196. (1) A person whose appeal has been wholly or partially dismissed by the Court Martial Appeal Board or any tribunal thereof may, where there has been dissent in the Board or tribunal, appeal to the Supreme Court of Canada with leave of the Attorney General of Canada.

Application.

(2) An application for leave to appeal under subsection one shall be delivered to the Attorney General of Canada within thirty days of notice to the appellant of the decision of the Court Martial Appeal Board or tribunal, and the Attorney General of Canada may grant leave to appeal only if in his opinion a matter of importance affecting the public interest is involved.

Powers of Supreme Court of Canada.

(3) The Supreme Court of Canada shall, in respect of the hearing and determination of an appeal under this section, have the same powers, duties and functions as the Court Martial Appeal Board has under this Act, and sections one hundred and ninety-one to one hundred and ninety-four shall apply with such adaptations and modifications as the circumstances may require.

195. New

196. New

Review After Expiration of Right to Appeal.

Review by Judge Advocate General.

197. Upon the expiration of the period mentioned in subsection two of section one hundred and eighty-eight within which an appeal may be made, the proceedings of every court martial shall be reviewed by the Judge Advocate General in respect of any matter mentioned in paragraph *(b)* or *(c)* of section one hundred and eighty-six on which an appeal has not been made.

Procedure where illegality exists.

198. Where, upon the review mentioned in section one hundred and ninety-seven, the Judge Advocate General certifies that any finding or punishment is illegal, he shall refer the minutes of the proceedings of the court martial to the appropriate chief of staff for such action under this Act as that chief of staff may deem fit.

Petition for New Trial.

Where applicable.

199. (1) Every person who has been tried and found guilty by a court martial shall have a right to petition for a new trial on grounds of new evidence discovered subsequent to his trial.

Time limits.

(2) No petition under this section shall be entertained unless it is delivered to an officer designated for that purpose in regulations

(a) within one year after the date of the pronouncement of the finding; or

(b) within one year after any punishment of incarceration, undergone by the petitioner in consequence of his trial, has been carried out,

Disposal.

whichever is the later.

(3) Every petition under this section shall be forwarded to the Judge Advocate General who shall refer the petition with his recommendation to the appropriate chief of staff who, if he is of the opinion that the petition should be granted, shall order a new trial, in which case the petitioner shall be tried again as if no trial had been held.

CROSS-REFERENCES TO EXISTING LEGISLATION

197. New

198. New

199. New

PART X.

MISCELLANEOUS PROVISIONS HAVING GENERAL APPLICATION.

WITNESSES AND COUNSEL AT COURTS MARTIAL.

"court martial".

200. (1) For the purposes of this section, "court martial", in addition to the tribunals mentioned in paragraph *(g)* of section two, includes a commissioner taking evidence under this Act and an officer taking a summary of evidence in accordance with regulations; and references in this section to the president or members of a court martial shall be deemed to include references to any such commissioner or officer.

Summons to witnesses.

(2) Every person required to give evidence before a court martial may be summoned under the hand of the authority by whom the court martial was convened, established or appointed, or the Judge Advocate General, or under the hand of the president, judge advocate, commissioner taking evidence under this Act or officer taking a summary of evidence in accordance with regulations.

Production of documents.

(3) A person summoned under subsection two may be required to bring with him and produce at a court martial any documents in his possession or under his control relating to the matters in issue before the court martial.

Witness fees.

(4) A witness summoned or attending to give evidence before a court martial shall be paid such witness fees and allowances for expenses of attendance as are prescribed in regulations.

Misconduct of counsel.

(5) Any conduct of counsel before a court martial that would be liable to censure or be contempt of court if it took place before a civil court in the place where the court martial is held shall likewise be liable to censure or be contempt of court in the case of a court martial; and the regulations governing the procedure of courts martial shall be binding upon counsel appearing before courts martial, and wilful disobedience of those regulations shall, if persevered in, be deemed to be contempt of court.

Removal for contempt.

(6) A court martial may, by order under the hand of the president, a commissioner taking evidence under this Act or an officer taking a summary of evidence in accordance with regulations, cause counsel to be removed from the court martial for contempt.

Oaths.

201. Every person when required to give evidence on oath under this Act shall take his oath in the form prescribed in regulations and that oath shall, in respect of any prosecution for perjury under the *Criminal Code*, have the same force and effect as an oath taken before a civil court.

Part X.

This Part embodies miscellaneous provisions which impose duties and obligations upon members of the general public in relation to the defence of Canada. It prescribes certain limitations upon the civil liabilities of service personnel. The prosecution and settlement of salvage claims is also provided for.

Cross-References to Existing Legislation

200. See Militia Act, Sec 96
Naval Service Act, Sec 46(1)
Army Act (UK), Secs 125(1) and (3), 129(1) and (3)
Air Force Act (UK), Secs 125(1) and (3), 129(1) and (3)

201. See Army Act (UK), Sec 126(2)
Air Force Act (UK), Sec 126(2)

Disposal by Civil Authorities of Deserters and Absentees Without Leave.

"justice".

202. (1) For the purposes of this section "justice" means a justice as defined in the *Criminal Code*.

Powers of arrest on reasonable suspicion.

(2) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any constable, or if no constable can be immediately met with, for any officer, man or other person, to apprehend that suspected person and forthwith to bring him before a justice.

Issue of warrant.

(3) A justice, if he is satisfied by evidence on oath that a deserter or absentee without leave is, or is reasonably suspected to be, within his jurisdiction, may issue a warrant authorizing the deserter or absentee without leave to be apprehended and brought forthwith before him or any other justice.

Powers of justice.

(4) Where a person is brought before a justice charged with being a deserter or absentee without leave under this Act, that justice may examine into the case in like manner as if that person were brought before him accused of an indictable offence.

Disposal of suspected person.

(5) A justice, if satisfied either by evidence on oath or by the admission of a person brought before him under this section that he is a deserter or absentee without leave, shall cause him to be delivered into service custody in such manner as the justice may deem most expedient; and, until he can be so delivered, the justice may cause him to be held in civil custody for such time as appears to the justice reasonably necessary for the purpose of delivering him into service custody.

Verification of admission.

(6) Where a person has admitted that he is a deserter or absentee without leave and evidence of the truth or falsehood of the admission is not then forthcoming, the justice before whom that person is brought shall remand him for the purpose of obtaining information as to the truth or falsehood of the admission; and for that purpose the justice shall transmit to such authorities of the Canadian Forces as the Minister may prescribe, a report which shall contain such particulars and be in such form as may be prescribed by the Minister.

Remands.

(7) A justice, before whom a person is brought under this section, may from time to time remand that person for a period not exceeding eight days on each appearance before him, but the whole period during which a person is so remanded shall not be longer than appears to the justice reasonably necessary for the purpose of obtaining the information mentioned in subsection six.

202. See Army Act (UK), Sec 154
Air Force Act (UK), Sec 154(1)

Report following disposal.

(8) Where a justice before whom a person is brought under this section causes him to be delivered into service custody or to be held in civil custody, the justice shall transmit to such authorities of the Canadian Forces as the Minister may prescribe, a report which shall contain such particulars and be in such form as may be prescribed by the Minister.

Report where person delivered into service custody.

(9) Where a person surrenders himself to a constable and admits desertion or absence without leave, the constable in charge of the police station to which he is brought shall forthwith inquire into the case and, if it appears to him from the admission that such person is a deserter or absentee without leave, he may cause him to be delivered into service custody, without bringing him before a justice; and in that event the constable shall transmit to such authorities of the Canadian Forces as the Minister may prescribe, a report which shall contain such particulars and be in such form as may be prescribed by the Minister.

CERTIFICATE OF CIVIL COURTS.

Procedure.

203. Where any person subject to the Code of Service Discipline has at any time been tried by a civil court, the clerk of that court or other authority having custody of the records of the court shall, if required by any officer of the Canadian Forces, transmit to that officer a certificate setting forth the offence for which that person was tried, together with the judgment or order of the court thereon, and shall be allowed for that certificate the fee authorized by law.

AUTHORITY FOR COMMITTAL.

Execution of warrants.

204. Every warden, governor, gaoler, commanding officer, commandant or other keeper of a penitentiary, civil prison, service prison or detention barrack shall take cognizance of any warrant of committal purporting to be signed by a committing authority mentioned in section one hundred and seventy-eight and shall receive and detain, according to the exigency of that warrant, the offender mentioned therein and delivered into his custody and shall confine that person until discharged or delivered over in due course of law.

203. See Army Act (UK), Sec 164
Air Force Act (UK), Sec 164

204. See Militia Act, Sec 131
Naval Service Act, Sec 44
Army Act (UK), Secs 61(1), 66(1)

MANOEUVRES.

Minister may authorize.

205. (1) For the purpose of training the Canadian Forces, the Minister may authorize the execution of military exercises or movements, referred to in this section as "manoeuvres", over and upon such parts of Canada and during such periods as are specified.

Notice.

(2) Notice of manoeuvres shall be given to the inhabitants of any area concerned by appropriate publication.

Powers.

(3) Units and other elements of the Canadian Forces may execute manoeuvres on and pass over such areas as are specified under subsection one, stop or control all traffic thereover whether by water, land or air, draw water from such sources as are available, and do all things reasonably necessary for the execution of the manoeuvres.

Interference.

(4) Any person who wilfully obstructs or interferes with manoeuvres authorized under this section and any animal, vehicle, vessel or aircraft under his control may be forcibly removed by any constable or by any officer, or by any man on the order of any officer.

Bar of action.

(5) No action shall lie by reason only of the execution of manoeuvres authorized under this section.

EMERGENCY POWERS IN RELATION TO PROPERTY.

Control of property in emergency.

206. (1) When the Governor in Council by reason of an emergency declares it to be expedient for His Majesty to take control of property, including transportation or communications facilities in Canada or operating from Canada, the Minister may, by warrant under his hand, empower any person named in such warrant to take possession of property which he considers necessary for defence purposes or to assume the operation or management thereof for the service of His Majesty in such manner as the Minister directs; and all persons employed in whatever manner in connection with such property shall obey the directions of the Minister or of the person named in the warrant.

Duration.

(2) A warrant mentioned in subsection one shall remain in force only so long as the emergency exists.

Enforcement of contracts.

(3) Where action relating to any property has been taken under subsection one, all contracts and agreements, which would otherwise have been enforceable by or against the person who owns that property, including the directors, officers, servants and agents of that person, shall be enforceable by or against His Majesty.

CROSS-REFERENCES TO EXISTING LEGISLATION

205. New
See The Military Manoeuvres Act, Statutes of the United Kingdom, 60 & 61 Vict, Chap 43

206. See Militia Act, Sec 90
Naval Service Act, Sec 20

Emergency powers of commanding officer.

207. When an emergency exists, the officer in command of any unit of the Canadian Forces or any officer duly authorized by him may, subject to regulations made by the Governor in Council, enter upon, take, impress, control, use, occupy, alter, remove or cause to be removed, destroy, desolate or lay waste any property imperatively required to be so dealt with immediately for the purpose of meeting the emergency.

Compensation.

208. Any person who suffers loss, damage or injury by reason of the exercise of any of the powers conferred by sections two hundred and five, two hundred and six or two hundred and seven shall be compensated from the Consolidated Revenue Fund in accordance with regulations made by the Governor in Council.

Exemption from Tolls.

Canadian Forces exempt.

209. (1) No duties or tolls, otherwise payable by law in respect of the use of any pier, wharf, quay, landing-place, highway, road, right of way, bridge or canal, shall be paid by or demanded from any unit or other element of the Canadian Forces or an officer or man when on duty or any person under escort or in respect of the movement of any equipment.

Exception.

(2) Nothing in this section shall affect the liability for payment of duties or tolls lawfully demandable in respect of any vehicles or vessels other than those belonging to or in the service of His Majesty.

Ships in Convoy.

Master of merchant ship to obey convoying officer.

210. Every master or other person in command of a merchant or other vessel under the convoy of any of His Majesty's Canadian Ships shall obey the directions of the commanding officer of the convoy or the directions of the commanding officer of any of His Majesty's Canadian Ships in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by any such commanding officer; and if he fails to obey such directions, that commanding officer may compel obedience by force of arms, without being liable for any loss of life or property that may result from the use of such force.

CROSS-REFERENCES TO EXISTING LEGISLATION

207. RCAF Act, Sec 10(1)
See Militia Act, Sec 7(1)

208. See RCAF Act, Sec 10(2)
Militia Act, Sec 7(2)

209. See Army Act (UK), Sec 143(1)

210. See Naval Service Act, Sec 45

SALVAGE.

Crown may claim for salvage services.

211. (1) Where salvage services are rendered by or with the aid of a vessel or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces, His Majesty may claim salvage for those services, and shall have the same rights and remedies in respect of those services as any other salvor would have had if the vessel or aircraft had belonged to him.

Consent of Minister to salvage claim.

(2) No claim for salvage services by the commander or crew or part of the crew of a vessel or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces shall be finally adjudicated upon, unless the consent of the Minister to the prosecution of claim is proved; and such consent may be given at any time before final adjudication.

Evidence of consent.

(3) Any document purporting to give the consent of the Minister for the purpose of this section shall be evidence of that consent.

Claim dismissed if no consent.

(4) Where a claim for salvage services is prosecuted and the consent of the Minister is not proved the claim shall be dismissed with costs.

Minister may accept offers of settlement for the Crown and others.

(5) The Minister may, upon the recommendation of the Attorney General of Canada, accept on behalf of His Majesty and the commander and crew or part of the crew, offers of settlement made with respect to claims for salvage services rendered by vessels or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces.

Distribution.

(6) The proceeds of any settlement made under subsection five shall be distributed in such manner as the Governor in Council may prescribe.

Canada Shipping Act, 1934 —limiting provision.

(7) Section five hundred and thirty-four of the *Canada Shipping Act, 1934*, shall not apply to or in respect of any claim for salvage services by His Majesty or by the commander or crew or part of the crew of a vessel or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces.

GOVERNMENT VESSELS DISCIPLINE ACT.

When applicable.

212. Unless the Governor in Council otherwise directs, the *Government Vessels Discipline Act* shall not apply to His Majesty's Canadian Ships or to any other ship or vessel of the Canadian Forces or to the officers, men or other persons serving or engaged for service therein, or to officers and men serving in the regular forces, the active service forces, or the reserve forces when on service or on active service

211. New
See Canada Shipping Act, 1934, Sec 534
Merchant Shipping (Salvage) Act, 1940,
Statutes of United Kingdom, 3 & 4 Geo VI,
Chap 43

212. See Naval Service Act, Sec 37

Limitation of Civil Liabilities.

Officers and men not to be taken out of His Majesty's service.

213. (1) An officer or man of the reserve forces on active service or an officer or man of the regular forces or active service forces is not liable to be taken out of His Majesty's service by any process, execution or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of

(a) a charge of or conviction for an offence punishable under the *Criminal Code*, or any other law of Canada or of a province of Canada, or an offence punishable according to the law of that part of His Majesty's dominions in which the offence was committed; or

(b) a judgment for a debt, damages or sum of money when the amount involved, exclusive of any costs, exceeds two hundred dollars.

Procedure on complaint of officer or man.

(2) All proceedings and documents in or incidental to a process, execution or order in contravention of this section are void; and where a complaint is made by an officer or man or by his commanding officer that such officer or man has been dealt with in contravention of this section by any process, execution or order issued out of any court, the officer or man or his commanding officer may complain to that court or to any court superior to it and the court or a judge thereof shall examine into the complaint and shall, if necessary, discharge the officer or man without fee, and may award reasonable costs to him which may be recovered as if such costs had been awarded in his favour in an action or other proceeding in such court.

Judgment and execution.

(3) Any person having a cause of action against an officer or man of the reserve forces on active service or an officer or man of the regular forces or active service forces may, notwithstanding anything in this section, after due notice in writing of his intention to commence action has been personally served upon the officer or man, or left at his usual place of abode, commence action and proceed to judgment, and may proceed to execution except as against the person, pay, allowances or personal equipment of such officer or man.

Exemption from jury service.

214. Every officer and man of the reserve forces on active service and every officer and man of the regular forces and active service forces is exempt from serving on a jury.

Limitation of actions.

215. (1) No action, prosecution or other proceeding lies against any person for an act done in pursuance or execution or intended execution of this Act or any regulations, or of any military or departmental duty or authority, or in respect

CROSS-REFERENCES TO EXISTING LEGISLATION

213. See Army Act (UK), Sec 144(1), (2) and (5)
Air Force Act (UK), Sec 144(1), (2) and (5)

214. Army Act (UK), Sec 147

215. See Militia Act, Sec 134(1)

of any alleged neglect or default in the execution of this Act, regulations or such duty or authority, unless it is commenced within six months next after the act, neglect or default complained of, or, in the case of continuance of injury or damage, within six months after the ceasing thereof.

Saving provision.

(2) Nothing in subsection one shall be in bar of proceedings against any person under the Code of Service Discipline.

Actions barred in respect of findings and sentences.

216. No action or other proceeding lies against any officer or man in respect of a finding made or sentence passed on any person by a service tribunal, or in respect of anything done or omitted as a consequence of the finding or sentence, unless the finding was made or the sentence was passed maliciously and without reasonable and probable cause.

216. New

Based on principle contained in provincial legislation such as *The Public Authorities Protection Act*, R.S.O., 1937, Chap 135, Sec 2

Part XI.

AID OF THE CIVIL POWER.

Definitions.

217. For the purposes of this Part,

(a) "Attorney General" means the Attorney General of any province of Canada, or the acting Attorney General of a province, or any minister of a government of a province performing for the time being the duties of a provincial Attorney General;

(b) "Officer Commanding a Command" means an officer commanding a Canadian Army Command if he is present in the command and able to act, or if he is not so present, or is from sickness or other cause unable to act, the officer appointed to administer the command or for the time being performing the duties of the officer commanding the command.

Canadian Forces liable to be called out to suppress riot.

218. The Canadian Forces, or any unit or other element thereof, or any officer or man, with equipment, are liable to be called out for service in aid of the civil power, in any case in which a riot or disturbance of the peace requiring such service occurs, or is, in the opinion of an Attorney General, considered as likely to occur, and that is beyond the powers of the civil authorities to suppress, prevent, or deal with.

Exception in case of certain reserves.

219. Nothing in this Part shall be deemed to impose liability to serve in aid of the civil power, without his consent, upon an officer or man of the reserve forces who is, by virtue of the terms of his enrolment, liable to perform duty on active service only.

Attorney General of province may requisition Canadian Army.

220. In any case where a riot or disturbance occurs, or is considered as likely to occur, the Attorney General of the province in which is situated the place where the riot or disturbance occurs, or is considered as likely to occur, on his own motion, or upon receiving notification from a judge of a superior, county or district court having jurisdiction in that place that the services of the Canadian Forces are required in aid of the civil power, may by requisition in writing, signed by him and addressed to the Officer Commanding a Command of the command in which that place is situated, require the Canadian Army or such part thereof as the authorities hereinafter mentioned consider necessary, to be called out on service in aid of the civil power.

Part XI.

This Part deals with aid of the civil power in cases of riot or disturbance of the peace. The liability upon the army, and in a supplemental capacity the air force, for aid in these cases has long been established by the Militia Act and The Royal Canadian Air Force Act. A liability similar to that imposed on the air force will by this Part be imposed on the navy. Aid to the civil power has been, and under the provisions of this Part would still be, primarily an army responsibility and the services of the navy and air force would be supplemental only.

Cross-References to Existing Legislation

217. New

218. See Militia Act, Sec 75

219. New

220. See Militia Act, Sec 76

Call out of Canadian Army in a command.

221. (1) Upon receiving a requisition in writing made by an Attorney General under section two hundred and twenty, the Officer Commanding a Command shall call out such part of the Canadian Army in his command as he considers necessary for the purpose of suppressing or preventing any actual riot or disturbance, or any riot or disturbance that is considered as likely to occur.

Call out of Canadian Army in other commands.

(2) Where the Officer Commanding a Command mentioned in subsection one considers that the services of parts of the Canadian Army in commands other than his command are necessary or desirable for the purpose of suppressing or preventing the riot or disturbance mentioned in the requisition, he shall notify the Chief of the General Staff of the number of officers and men, and of the equipment therefor, that he requires, as to which the Officer Commanding a Command shall be the sole judge; and upon being so notified the Chief of the General Staff may call out such parts of the Canadian Army and provide such equipment as in his judgment are available to meet the requirements of the Officer Commanding a Command and shall cause them to be despatched to the Officer Commanding a Command.

Call out of navy and air force.

(3) Where the Officer Commanding a Command mentioned in subsection one has called out or caused to be called out any part of the Canadian Army in aid of the civil power, and considers that the services of any part of the Royal Canadian Navy or of the Royal Canadian Air Force are necessary or desirable for the purpose of assisting that part of the Canadian Army so called out, he may address to the Minister, through the Chief of the General Staff, a request stating the nature and extent of the assistance from the Royal Canadian Navy or from the Royal Canadian Air Force which in the circumstances the Officer Commanding a Command requires; and the Chief of the Naval Staff or the Chief of the Air Staff, as the case may be, if the Minister so directs, shall call out such part of the Royal Canadian Navy or of the Royal Canadian Air Force, and equipment therefor, as the Minister considers necessary or desirable for the purpose of meeting the request.

Form of requisition.

222. A requisition of an Attorney General under this Part may be in the following form, or to the like effect, and the form may, subject to section two hundred and twenty-three, be varied to suit the facts of the case:—

CROSS-REFERENCES TO EXISTING LEGISLATION

221. (1) See Militia Act, Secs 77, 78(1)

221. (2) See Militia Act, Sec 78(2)

221. (3) New
See RCAF Act, Sec 9(1)

222. See Militia Act, Sec 80

Province of
To wit

Whereas information has been received by me from responsible persons (or a notification has been received by me from a judge of a (superior) (county) (district) court having jurisdiction in) that a riot or disturbance of the peace beyond the powers of the civil authorities to suppress (or to prevent or to deal with) and requiring the aid of the Canadian Forces to that end has occurred and is in progress (or is considered likely as to occur) at ;

And whereas it has been made to appear to my satisfaction that the Canadian Forces are required in aid of the civil power;

Now therefore I, , the Attorney General of , under and by virtue of the powers conferred by the National Defence Act, do hereby require you to call out the Canadian Army or such part thereof as you consider necessary for the purpose of suppressing (or preventing or dealing with) the riot or disturbance and, if it is deemed necessary or desirable by the appropriate authorities, I do hereby request that such other Services of the Canadian Forces as are under that Act liable to be called out in aid of the civil power be so called out for the purpose of assisting the Canadian Army;

And for and on behalf of the Province of , I the said , Attorney General, hereby undertake that all expenses and costs, incurred by His Majesty by reason of the Canadian Forces or any part thereof being called out on service in aid of the civil power pursuant to this requisition, shall be paid to His Majesty by the said province.

Dated at , this day of , 19 .

Attorney General.

What requisition must show.

223. (1) In a requisition made under this Part it shall be stated that information has been received by the Attorney General from responsible persons, or that a notification has been received by the Attorney General from a judge that a riot or disturbance beyond the powers of the civil authorities to suppress or to prevent or to deal with, as the case may be, has occurred, or is considered as likely to occur, and that the Canadian Forces are required in aid of the civil power; and the requisition shall further state that it has been made to appear to the satisfaction of the Attorney General that the Canadian Forces are so required.

223. See Militia Act, Secs 81, 79

Undertaking to pay costs.

(2) In a requisition made under this Part there shall be embodied an unconditional undertaking by the Attorney General that the province shall pay to His Majesty all expenses and costs incurred by His Majesty by reason of the Canadian Forces or any part thereof being called out for service in aid of the civil power, as by the requisition required.

Statements of fact to be binding on the province.

(3) Every statement of fact contained in a requisition made under this Part shall be conclusive and binding upon the province on behalf of which the requisition is made, and every undertaking or promise in the requisition shall be binding upon the province and not open to question or dispute by reason of alleged incompetence or lack of authority on the part of the Attorney General or for any other reason.

Inquiry and report by Attorney General.

(4) In every case where a requisition is made under this Part, the Attorney General of the province concerned shall, within seven days after the making of the requisition, cause an inquiry to be made into the circumstances which occasioned the calling out of the Canadian Forces or any part thereof, and shall send a report upon the circumstances to the Secretary of State.

Statements not open to dispute.

(5) A statement of fact contained in a requisition made under this Part shall not be open to dispute by the Officer Commanding a Command upon whom the requisition is made.

Officers and men have powers of constables.

224. Officers and men when called out for service in aid of the civil power shall, without further authority or appointment and without taking oath of office, be held to have and may exercise, in addition to their powers and duties as officers and men, all of the powers and duties of constables, so long as they remain so called out, but they shall act only as a military body, and shall be individually liable to obey the orders of their superior officers.

Duration of aid of civil power.

225. The Canadian Forces or any part thereof called out in aid of the civil power shall remain on duty in such strength as the Officer Commanding a Command, who has carried into effect a requisition of an Attorney General made under this Part, deems necessary or orders, until notification is received from the Attorney General that the Canadian Forces are no longer required in aid of the civil power; and the Officer Commanding a Command may, from time to time as in his opinion the exigencies of the situation require, increase or diminish the number of officers and men called out; except that officers and men of the Royal Canadian Navy and the Royal Canadian Air Force called out to assist the Canadian Army in aid of the

224. See Militia Act, Sec 82

225. See Militia Act, Sec 83

civil power may be withdrawn at such time and to such extent as the Chief of the Naval Staff or the Chief of the Air Staff, as the case may be, under the direction of the Minister, may order.

Province to pay expenses.

226. All expenses and costs incurred by His Majesty by reason of any of the Canadian Forces being called out under this Part in aid of the civil power, shall be paid to His Majesty by the province the Attorney General of which made the requisition requiring the Canadian Army to be called out.

Advances in first instance.

227. Such moneys as are required to meet the expenses and costs occasioned by the calling out of the Canadian Forces as provided for in this Part and for the services rendered by them shall, pending payment by the province liable under section two hundred and twenty-six, be advanced in the first instance out of the Consolidated Revenue Fund by the authority of the Governor in Council, but shall be payable by and recoverable from the province to and by His Majesty as moneys paid by His Majesty to and for the use of the province at the request of the province.

226. See Militia Act, Sec 84(1)

227. See Militia Act, Sec 85

PART XII.

OFFENCES TRIABLE BY CIVIL COURTS.

APPLICATION.

Liability to civil trial.

228. (1) Every person, including an officer or man, shall be liable to be tried in a civil court in respect of any offence prescribed in this Part.

Special provision.

(2) No charge against an officer or man in respect of any offence prescribed in this Part shall, if laid by any other officer or man, be tried by a civil court unless the consent thereto in writing of the commanding officer of such first-mentioned officer or man has first been obtained.

Special limitation on prosecutions.

229. No prosecution in a civil court shall be commenced against a person in respect of an offence prescribed in this Part after the expiration of six months from the date of commission of the offence charged, except for any of the offences mentioned in section two hundred and thirty-nine.

OFFENCES.

Breach of regulations respecting defence establishments, etc.

230. Every person who contravenes regulations respecting the access to, exclusion from, and safety and conduct of any persons in, on or about any defence establishment, work for defence or equipment is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

False answer on enrolment.

231. Every person who knowingly makes a false answer to any question relating to his enrolment that has been put to him by or by direction of the person before whom he appears for the purpose of being enrolled in the Canadian Forces is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

False medical certificates.

232. Every medical practitioner who signs a false medical certificate or other document in respect of

(a) the examination of a person for the purpose of enrolment in the Canadian Forces;

(b) the service or release of an officer or man; or

Part XII.

This Part prescribes certain offences, relating to the defence of Canada, which are capable of being committed by members of the public as well as by service personnel.

Cross-References to Existing Legislation

228. New
See Militia Act, Sec 126(1) and (2)

229. See Militia Act, Sec 126(4)

230. New
See Militia Act, Secs 53, 123
Naval Service Act, Sec 29

231. See Army Act (UK), Sec 99

232. See Militia Act, Sec 103

(c) the disability or alleged disability of a person, purported to have arisen or to have been contracted during, in the course of, or as a result of the service of such person as an officer or man,

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Personation.

233. Every person who falsely personates any other person in respect of any duty, act or thing required to be performed or done under this Act by the person so personated is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Representation of desertion.

234. Every person who falsely represents himself to any military or civil authority to be a deserter from His Majesty's Forces is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Failure to attend parade.

235. (1) Every officer or man of the reserve forces who without lawful excuse neglects or refuses to attend any parade, drill or training at the place and hour appointed therefor is guilty of an offence and is liable on summary conviction for each offence, if an officer to a fine of ten dollars, and if a man to a fine of five dollars.

Each absence an offence.

(2) Absence from any parade, drill or training mentioned in subsection one shall, in respect of each day on which such absence occurs, be a separate offence.

Neglecting personal equipment.

236. Every officer or man of the reserve forces who fails to keep in proper order any personal equipment or who appears at drill, parade or on any other occasion with his personal equipment out of proper order, unserviceable or deficient in any respect is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each offence.

Interruption of drill or training.

237. Every person who without reasonable excuse interrupts or hinders the Canadian Forces at drill, training or while on the march is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each offence; and may be taken into custody and detained by any person by the order of an officer until such drill, training or march is over for the day.

233. See Militia Act, Sec 112

234. See Army Act (UK), Sec 152

235. See Militia Act, Sec 115

236. See Milltia Act, Sec 118

237. See Militia Act, Secs 116, 121 *(f)* and *(g)*

Hampering manœuvres.

238. Every person who without reasonable excuse obstructs or interferes with manœuvres authorized under section two hundred and five is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars.

Unlawfully dealing with property.

239. (1) Every person who

(a) unlawfully disposes of or removes any property;

(b) when lawfully required, refuses to deliver up any property that is in his possession; or

(c) except for lawful cause, the proof of which lies on him, has in his possession any property,

is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each offence.

Definition.

(2) For the purposes of this section, "property" means any public property, non-public property, and property of any of His Majesty's Forces or of any forces co-operating therewith.

Assisting or harbouring deserters or absentees.

240. (1) Every person who

(a) procures, persuades, aids, assists or counsels an officer or man to desert or absent himself without leave; or

(b) aids, assists, harbours or conceals an officer or man who is a deserter or an absentee without leave and who does not satisfy the court that he did not know that such officer or man was a deserter or an absentee without leave,

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

Certificate of Judge Advocate General.

(2) A certificate signed by the Judge Advocate General, or such person as he may appoint for that purpose, that an officer or man was convicted under this Act, of desertion or absence without leave or had been continuously absent without leave for six months or more, and setting forth the date of commencement and the duration of such desertion or absence without leave, shall for the purposes of proceedings under this section be conclusive proof that the officer or man was a deserter or absentee without leave during the period mentioned in the certificate.

Aid to intending deserters or absentees.

241. Every person who, knowing that an officer or man is about to desert or absent himself without leave, aids or assists him in his attempt to desert or absent himself without leave is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

CROSS-REFERENCES TO EXISTING LEGISLATION

238. New

239. (1) See Militia Act, Sec 119

239. (2) New

240. (1) See Naval Service Act, Sec 43 *(a)* and *(c)*
Army Act (UK), Sec 153(1) and (3)
Criminal Code, Sec 82

240. (2) New

241. See Naval Service Act, Sec 43 *(b)*
Army Act (UK), Sec 153(2)

Miscellaneous offences.

242. Every person who

(a) wilfully obstructs, impedes or otherwise interferes with any other person in the execution of any duty that such other person is required under this Act or regulations to perform;

(b) counsels any other person not to perform any duty that such other person is required under this Act or regulations to perform;

(c) does an act to the detriment of any other person in consequence of such other person having performed a duty that he is required under this Act or regulations to perform;

(d) interferes with or impedes, directly or indirectly, the recruiting of the Canadian Forces;

(e) wilfully produces any disease or infirmity in, or maims or injures himself or any other person with a view to enabling himself or such other person to avoid service in the Canadian Forces;

(f) with intent to enable any other person to render himself, or to induce the belief that such other person is, permanently or temporarily unfit for service in the Canadian Forces, supplies to or for such other person any drug or preparation calculated or likely to render such other person, or lead to the belief that such other person is, permanently or temporarily unfit for such service; or

(g) gives or receives, or is in any way concerned in the giving or receiving, of any valuable consideration in respect of enrolment, release or promotion in the Canadian Forces,

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

Offence of contempt of court.

243. (1) Every person who

(a) on being duly summoned as a witness under section two hundred and after payment or tender of the fees and expenses of his attendance prescribed in regulations, makes default in attending;

(b) being in attendance as a witness before a court martial mentioned in section two hundred,

(i) refuses to take an oath or affirmation legally required of him,

(ii) refuses to produce any document in his power or under his control legally required to be produced by him, or

(iii) refuses to answer any question that legally requires an answer;

(c) uses insulting or threatening language before a court martial mentioned in section two hundred, or causes

CROSS-REFERENCES TO EXISTING LEGISLATION

242. See Militia Act, Sec 121 *(d)* and *(e)*
Army Act (UK), Sec 153A
Criminal Code, Sec 167(1)

243. See Militia Act, Sec 130
Naval Service Act, Sec 46(3)
Army Act (UK), Secs 126(1) and (3), 129(2)
Air Force Act (UK), Secs 126(1) and (3), 129(2)

any interference or disturbance in its proceedings, or prints observations or uses words likely to influence improperly the members of or witnesses before that court martial or to bring that court martial into disrepute, or in any other manner whatsoever displays contempt of that court martial; or

(d) being in attendance as counsel before a court martial mentioned in section two hundred, is in contempt of court within the meaning of subsection five of that section,

is guilty of an offence and the court martial may, by a certificate setting forth the facts thereof, refer the offence of such person to a civil court, in the place where the court martial is held, that has power to punish witnesses guilty of like offences in that civil court.

Disposal of offender.

(2) Any civil court to which an offence mentioned in this section has been referred shall cause to be brought before it the person certified to have committed that offence, and shall inquire into the circumstances set forth in the certificate mentioned in subsection one, and, after examination of any witnesses who may be produced for or against the person so accused and after hearing any statement that may be offered in defence, shall, if it seems just, punish the person in like manner as if he had committed the offence in a proceeding in that civil court.

Failure to obey directions respecting property taken over, etc.

244. Every person employed in connection with any property, control of which has been taken by His Majesty under section two hundred and six, who does not obey the directions of the Minister or such person as is named in any warrant issued by the Minister is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Breach of regulations respecting billeting, etc.

245. Every person who contravenes regulations respecting the quartering, billeting and encamping of a unit or other element of the Canadian Forces, or of an officer or man is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars.

Improper exaction of tolls.

246. Every person who receives or demands a duty or toll in contravention of section two hundred and nine is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

244. New

245. See Militia Act, Sec 86

246. See Army Act (UK), Sec 143(3)

Failure to comply with convoy orders.

247. Every person who fails to comply with directions given under section two hundred and ten is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

CROSS-REFERENCES TO EXISTING LEGISLATION

247. New

Part XIII.

SPECIAL PROVISIONS

Deserters and Absentees.

Certain deserters and absentees deemed never to have served.

248. (1) Every member of the Naval Forces of Canada, the Canadian Army and the Royal Canadian Air Force and every person called out for compulsory military service under *The National Resources Mobilization Act, 1940*, who, while serving on active service beyond Canada at any time after the ninth day of September, one thousand nine hundred and thirty-nine, or while serving on active service within Canada at any time between the thirty-first day of December, one thousand nine hundred and forty-five, and the first day of October, one thousand nine hundred and forty-six, deserted or absented himself without leave and is still absent on the date that this section comes into force, shall for all purposes be deemed never to have been enlisted or enrolled in or appointed to or have served with the naval, army or air forces of Canada during the war that commenced in September, one thousand nine hundred and thirty-nine.

Pay, etc., of such persons.

(2) Notwithstanding that any person mentioned in subsection one is deemed never to have served in the naval, army or air forces of Canada, all pay and allowances, rations, kit and equipment at any time paid or issued to him or on his behalf shall be deemed to have been paid or issued with due authority.

Amendment to The Royal Canadian Air Force Act.

Definition of "officer".

249. Paragraph *(e)* of section two of *The Royal Canadian Air Force Act*, chapter fifteen of the statutes of 1940, is repealed and the following substituted therefor:—

"*(e)* "officer" means a person who holds His Majesty's commission in or who is a subordinate officer in the Royal Canadian Air Force or who is attached or seconded to the Royal Canadian Air Force as an officer;"

Repeal.

Existing legislation.

250. *The Royal Military College Act*, the *Militia Act*, the *Department of National Defence Act*, *The Royal Canadian Air Force Act* and *The Naval Service Act, 1944*, or any portion thereof, may be repealed by proclamation of the Governor in Council.

Part XIII.

This Part contains two clauses of a transitory nature and includes provision for the repeal of certain existing legislation and the coming into force of various portions of the Bill.

Cross-References to Existing Legislation

248. New

249. New
See RCAF Act, Sec 2 *(e)*

250. New

Commencement of Act.

Proclamation.

251. Sections one, two hundred and forty-eight and two hundred and fifty of this Act shall come into force when this Act is assented to, section two hundred and eleven shall operate retrospectively to the eighth day of December, one thousand nine hundred and forty-seven, section two hundred and forty-nine shall operate retrospectively to the first day of October, one thousand nine hundred and forty-six, and the other sections of this Act shall come into force on a day or days to be fixed by proclamation of the Governor in Council.

CROSS-REFERENCES TO EXISTING LEGISLATION

251. New

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL 223 J5.

An Act respecting National Defence.

AS PASSED BY THE SENATE, 8th DECEMBER, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949

45643—A

NATIONAL DEFENCE ACT

ARRANGEMENT AND CONTENTS

PAGE

Short title 1
Interpretation 1

FIRST DIVISION

ORGANIZATION FOR DEFENCE

PART I—Department of National Defence—
Provision for Department 5
Minister 5
Deputy Minister 5
Civilian employees 6
Judge Advocate General 6
Property 6
Equipment 6
Inventions 7
Regulations 8

PART II—The Canadian Forces—
Constitution 9
Units and other elements 10
Chiefs of Staff 10
Powers of command 11
Enrolment 11
Attachment and secondment 12
Promotion 13
Redress of grievances 13
Release 13
Active service 13
Service 14
Pay and allowances 15
Supply and issue of equipment 15
Public property 15
Non-public property 15
Service estates 17
Presumption of death 17
Personal effects of absentees 17
Boards of inquiry 17
Cadet organizations 18
Educational institutions 18
Service associations 18
Exercise of authority 19
Notification of orders 19
Validity of documents 19

PART III—The Defence Research Board 21

SECOND DIVISION

CODE OF SERVICE DISCIPLINE

PAGE

PART IV—Disciplinary Jurisdiction of the Services—

Application 23
Persons in Canadian Forces 24
Persons accompanying Canadian Forces 25
Spies for the enemy 25
Released persons serving sentence 25
Persons under special engagement 26
Women 26
Plea in bar of trial 26
Place of commission of offence 26
Place of trial 27
Period of liability under Code of Service Discipline 27
Limitations with respect to certain offences 27
Jurisdiction of civil courts 27

PART V—Service Offences and Punishments—

Responsibility for offences 28
Misconduct of commanders in presence of enemy 28
Misconduct of any person in presence of enemy 29
Security 29
Prisoners of war 30
Miscellaneous operational offences 30
Spies for the enemy 31
Mutiny 31
Seditious offences 31
Insubordination 31
Desertion 32
Absence without leave 33
Disgraceful conduct 34
Offences in relation to service arrest and custody 35
Offences in relation to vessels 36
Offences in relation to aircraft 36
Offences in relation to vehicles 37
Offences in relation to property 38
Offences in relation to service tribunals 40
Offences in relation to billeting 41
Offences in relation to enrolment 41
Miscellaneous offences 41
Conduct to the prejudice of good order and discipline 42
Offences punishable by ordinary law 43
Conviction of cognate offence 44
Punishments 44
Less punishment 45
Death 45
Imprisonment 45
Dismissal with disgrace 46
Detention 47
Reduction in rank 47
Forfeiture of seniority 47
Dismissal from ship 47
Fine 48
Minor punishments 48
Sentences 48
Incarceration under more than one sentence 48
Ignorance of law 48
Civil defences 48
Insanity as a defence 49

PART VI—Arrest—

Authority to arrest 50
Action following arrest 51
Limitations in respect of custody 52

PAGE

PART VII—Service Tribunals—
Application ... 53
Investigation and preliminary disposition of charges ... 53
Summary trials by commanding officer within the Royal Canadian Navy ... 53
Summary trials by commanding officer within the Canadian Army and the Royal Canadian Air Force ... 56
Summary trials by superior commander within the Canadian Army and the Royal Canadian Air Force ... 57
Convening of Courts Martial ... 58
General Courts Martial ... 59
Disciplinary Courts Martial ... 60
Standing Courts Martial ... 61
Represennation of accused ... 61
Admission to courts martial ... 61
Rules of evidence ... 61
Witnesses at courts martial ... 62
Evidence on commission ... 63
View by court martial ... 64
Objection to members of courts martial ... 64
Oaths at courts martial ... 64
Adjournment and dissolution ... 65
Amendment of charges ... 65
Decisions by courts martial ... 66
Similar offences ... 66
Pronouncement of findings and sentence ... 66
Recommendation to clemency ... 66
Decision where accused insane at trial ... 67
Decision where accused insane when offence committed ... 68
Minutes of proceedings of courts martial ... 68

PART VIII—Provisions Applicable to Findings and Sentences After Trial—
Imprisonment and detention ... 69
Punishments requiring approval ... 69
Quashing of findings ... 70
Substitution of findings ... 70
Substitution of punishments ... 71
Mitigation, commutation and remission of punishments ... 71
Conditions applicable to new punishments ... 71
Effect of new punishments ... 72
Suspension of imprisonment or detention ... 72
Committal to imprisonment or detention ... 73
Temporary removal from incarceration ... 75
Rules applicable to service convicts and service prisoners ... 75
Validity of documents ... 75
Insanity during imprisonment or detention ... 76

PART IX—Appeal, Review and Petition—
General provisions ... 77
Right to appeal ... 77
Entry of appeals ... 77
Preliminary disposition of appeals ... 78
Court Martial Appeal Board ... 78
Disposition of appeals by Court Martial Appeal Board ... 80
Rules of appeal procedure ... 81
Appeal to Supreme Court of Canada ... 81
Review after expiration of right to appeal ... 82
Petition for new trial ... 82

THIRD DIVISION

GENERAL LAWS RESPECTING DEFENCE

PART X—Miscellaneous Provisions Having General Application—
Witnesses and counsel at courts martial ... 83
Disposal by civil authorities of deserters and absentees without leave ... 84
Certificate of civil courts ... 85
Duties respecting incarceration ... 85
Manœuvres ... 86
Emergency powers in relation to property ... 86

PAGE

Exemption from tolls 87
Ships in convoy 87
Salvage 88
Government Vessels Discipline Act 88
Limitation of civil liabilities 89

PART XI—Aid of the Civil Power 91

PART XII—Offences Triable by Civil Courts—
Application 96
Offences 96

SPECIAL PROVISIONS

PART XIII—Special Provisions—
Deserters and absentees 102
Amendment to The Royal Canadian Air Force Act 102
Repeal 102
Commencement of Act 103

Explanatory Notes.

The purpose of this Bill is to embody in one statute all legislation respecting the Department of National Defence, the organization, administration and discipline of the armed forces, the organization and functions of the Defence Research Board and all other matters directly concerning defence.

The Department, including the Defence Research Board, is now established under the *Department of National Defence Act*.

The navy is now governed entirely by a Canadian statute, *The Naval Service Act, 1944*, and United Kingdom statutes no longer apply.

Organization and administration of the army are now governed by a Canadian statute, the *Militia Act*, which is still in much the same terms as when first enacted in 1868. Discipline, however, is carried out in the main under the *Army Act* of the United Kingdom, for many years made applicable in part to the Canadian Militia by reference.

Organization and administration of the air force are prescribed in a Canadian statute, *The Royal Canadian Air Force Act*, but, as in the case of the army, discipline is carried out in the main under the *Air Force Act* of the United Kingdom, made applicable in part by reference.

The *Army Act* and the *Air Force Act* of the United Kingdom are, in matters of discipline, trial and punishment, practically identical. The disciplinary provisions of *The Naval Service Act, 1944*, differ substantially from those of the army and air force legislation.

A new disciplinary code for the Canadian Forces is contained in the Bill and application by reference of United Kindgom statutes will no longer be necessary. This code applies generally to personnel of the navy, army and air force, so that if enacted it would prescribe the same offences and punishments for officers and men of all three Services for the first time.

The Bill is more than a consolidation and revision of existing legislation. It contains many new clauses deemed necessary to meet present and future requirements in respect of the defence of Canada. Certain archaic provisions of existing legislation have been discarded. Many other provisions have been adapted, modified or extended in principle to suit present day conditions.

The Bill falls into three main divisions:

(a) Parts I, II and III relating generally to organization for defence,

(b) Parts IV to IX which constitute a complete Code of Service Discipline and are so defined, and

(c) Parts X, XI and XII which contain clauses of general application relating to defence.

Part XIII contains a special provision relating to deserters in the Second World War and clauses respecting the amendment and repeal of certain existing legislation and the bringing into force of the Act.

The purpose and general content of each of the thirteen Parts of the Bill are indicated at the commencement of each Part. Opposite each clause is shown the existing legislation upon which the clause is based. Where, in respect of a clause, the word "see" appears in the Explanatory Notes, this is intended to indicate that such clause relates to the subject of the legislation mentioned in said Notes, but may depart both in form and in substance therefrom. On the other hand, where, in such Notes, reference has been made to existing legislation without the word "see," this is intended to mean that the clause in the Bill conforms substantially with existing legislation. Owing to the large number of sections of existing legislation which have some bearing upon each clause of the Bill, it is impracticable to reprint them here.

Clauses which have no counterpart in existing service legislation are indicated as being "new" clauses. In most cases, however, clauses designated as "new" represent either codification of well-established service legal principles or adaptation of principles embodied in the Criminal Code and other statutes.

Existing legislation is listed hereunder and to the right of each item there is shown the abbreviation by which it will be indicated throughout the Explanatory Notes.

STATUTE	ABBREVIATION
Department of National Defence Act, Revised Statutes of Canada, 1927, Chap 136, as amended.	DND Act
Militia Act, Revised Statutes of Canada, 1927, Chap 132, as amended.	Militia Act
The Naval Service Act, 1944, Statutes of Canada, 8 Geo VI, Chap 23, as amended.	Naval Service Act

Statute	Abbreviation
The Royal Canadian Air Force Act, Statutes of Canada, 4 Geo VI, Chap 15, as amended.	RCAF Act
Criminal Code, Revised Statutes of Canada, 1927, Chap 36, as amended.	Criminal Code
Army Act, Statutes of the United Kingdom, 44-45 Vict, Chap 58, as amended.	Army Act (UK)
Air Force Act, Statutes of the United Kingdom, 7 and 8 Geo V, Chap 51, as amended.	Air Force Act (UK)

1st Session, 21st Parliament, 13 George VI, 1949.

THE SENATE OF CANADA

BILL J[5].

An Act respecting National Defence.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as the *National Defence Act.*

INTERPRETATION.

Definitions.

2. In this Act and in regulations made hereunder, unless the context otherwise requires,

"aircraft".

(a) "aircraft" means flying machines and guided missiles that derive their lift in flight chiefly from aerodynamic forces and flying devices that are supported chiefly by their buoyancy in air, and includes any aeroplane, balloon, kite balloon, airship, glider or kite;

"aircraft material".

(b) "aircraft material" means engines, fittings, armament, ammunition, bombs, missiles, gear, instruments and apparatus, used or intended for use in connection with aircraft or the operation thereof, and components and accessories of aircraft and substances used to provide motive power or lubrication for or in connection with aircraft or the operation thereof;

"civil court".

(c) "civil court" means a court of ordinary criminal jurisdiction in Canada and includes a court of summary jurisdiction;

"civil custody".

(d) "civil custody" means the holding under arrest or in confinement of a person by the police or other competent civil authority, and includes confinement in a penitentiary or a civil prison;

"civil prison."

(e) "civil prison" means any prison, gaol or other place in Canada in which offenders sentenced by a civil court in Canada to imprisonment for less than two years can be confined, and, if sentenced out of Canada, any prison, gaol or other place in which a person,

Cross-References to Existing Legislation

1. New

2.

(a) See Army Act (UK), Sec 190(42)
Air Force Act (UK), Sec 190(42)

(b) Army Act (UK), Sec 190(43)
Air Force Act (UK), Sec 190(43)

(c) Army Act (UK), Sec 190(31)
Air Force Act (UK), Sec 190(31)

(d) See Army Act (UK), Sec 68(2) *(c)*

(e) See Army Act (UK), Sec 68(2) *(f)*

sentenced to that term of imprisonment by a civil court having jurisdiction in the place where the sentence was passed, can for the time being be confined;

'Code of Service Discipline'.

(f) "Code of Service Discipline" means the provisions of Parts IV, V, VI, VII, VIII and IX;

"court martial".

(g) "court martial" includes a General Court Martial, a Disciplinary Court Martial and a Standing Court Martial;

"defence establishment".

(h) "defence establishment" means any area or structure under the control of the Minister, and the equipment and other things situate in or on any such area or structure;

"Department".

(i) "Department" means the Department of National Defence;

"Deputy Minister".

(j) "Deputy Minister" means the Deputy Minister of National Defence;

"detention barrack".

(k) "detention barrack" means a place designated as such under subsection two of section one hundred and seventy-eight;

"emergency".

(l) "emergency" means war, invasion, riot or insurrection, real or apprehended;

"enemy".

(m) "enemy" includes armed mutineers, armed rebels, armed rioters and pirates;

"enrol".

(n) "enrol" means to cause any person to become a member of a component of a Service of the Canadian Forces;

"equipment".

(o) "equipment" means all movable public property or materiel, other than money, provided for the Canadian Forces or the Defence Research Board or for any other purpose under this Act, and includes any vessel, vehicle, aircraft, animal, missile, arms, ammunition, clothing, stores or provisions so provided;

"His Majesty's Canadian Ship".

(p) "His Majesty's Canadian Ship" means any vessel of the Royal Canadian Navy commissioned as a vessel of war;

"His Majesty's Forces".

(q) "His Majesty's Forces" means the naval, army and air forces of His Majesty wheresoever raised, and includes the Canadian Forces;

"man".

(r) "man" means any person, other than an officer, who is enrolled in, or who pursuant to law is attached or seconded otherwise than as an officer to, the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force;

"military".

(s) "military" shall be construed as relating to all or any of the Services of the Canadian Forces;

"Minister".

(t) "Minister" means the Minister of National Defence;

"mutiny".

(u) "mutiny" means collective insubordination or a combination of two or more persons in the resistance of lawful naval, army or air force authority in any of

(f) New

(g) New

(h) New
See Naval Service Act, Sec 2*(i)*

(i) DND Act, Sec 2*(a)*
Naval Service Act, Sec 2*(c)*

(j) DND Act, Sec 2*(b)*

(k) See Army Act (UK), Sec 68(2) *(e)*

(l) Militia Act, Sec 2*(c)*
RCAF Act, Sec 2*(c)*
See Naval Service Act, Sec 2*(e)*

(m) Army Act (UK), Sec 190(20)
Air Force Act (UK), Sec 190(20)
See Naval Service Act, Sec 94

(n) New

(o) New

(p) New

(q) New
See Army Act (UK), Sec 190(7A)

(r) See Militia Act, Sec 2*(e)*
Naval Service Act, Sec 2*(g)*
RCAF Act, Sec 2*(b)*
Army Act (UK), Sec 190(6)
Air Force Act (UK), Sec 190(6)

(s) New

(t) See DND Act, Sec 2*(c)*

(u) New

His Majesty's Forces or in any forces co-operating therewith;

"non-public property".

(v) "non-public property" means,

(i) all money and property, other than issues of equipment, received for or administered by or through messes, institutes or canteens of the Canadian Forces;

(ii) all money and property contributed to or by officers, men, units or other elements of the Canadian Forces for the collective benefit and welfare of such officers, men, units or other elements;

(iii) by-products and refuse and the proceeds of the sale thereof to the extent prescribed under subsection five of section thirty-nine; and

(iv) all money and property derived from, purchased out of the proceeds of the sale of, or received in exchange for money and property described in sub-paragraphs (i), (ii) and (iii);

"officer".

(w) "officer" means,

(i) a person who holds His Majesty's commission in the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force;

(ii) a subordinate officer in the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force; or

(iii) any person who pursuant to law is attached or seconded as an officer to the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force;

"penitentiary".

(x) "penitentiary" means a penitentiary established under the *Penitentiary Act, 1939*, and includes, in respect of any punishment of imprisonment for two years or more imposed out of Canada pursuant to the Code of Service Discipline, any prison or place in which a person sentenced to imprisonment for two years or more by a civil court having jurisdiction in the place where the sentence is imposed, can for the time being be confined; and if in any such place out of Canada there is no prison or place for the confinement of persons sentenced to imprisonment for two years or more, then in that case "penitentiary" means a civil prison;

"personal equipment".

(y) "personal equipment" means all equipment issued to an officer or man for his personal wear or other personal use;

"possession".

(z) "possession" by any person, for the purpose of the Code of Service Discipline and Part XII, includes,

(i) having in his own personal possession;

(ii) knowingly having in the actual possession or custody of any other person; or

(v) New

(w) See Naval Service Act, Sec 2*(l)*
RCAF Act, Sec 2*(e)*
Army Act (UK), Sec 190(4)
Air Force Act (UK), Sec 190(4)

(x) New

(y) New

(z) Criminal Code, Sec 5(1) *(b)*

(iii) knowingly having in any place, whether belonging to or occupied by himself or not, for the use or benefit of himself or any other person;

"public property".

(aa) "public property" means any property of His Majesty in right of Canada;

"regulations".

(bb) "regulations" means regulations made under this Act;

"release".

(cc) "release" means the termination of the service of an officer or man in any manner whatsoever;

"service convict".

(dd) "service convict" means a person who is under a sentence that includes a punishment of imprisonment for two years or more imposed upon him pursuant to the Code of Service Discipline;

"service custody".

(ee) "service custody" means the holding under arrest or in confinement of a person by the Canadian Forces, and includes confinement in a service prison or detention barrack;

"service detainee".

(ff) "service detainee" means a person who is under a sentence that includes a punishment of detention imposed upon him pursuant to the Code of Service Discipline;

"service offence".

(gg) "service offence" means an offence under this Act, the *Criminal Code*, or any other Act of the Parliament of Canada, committed by a person while subject to the Code of Service Discipline;

"service prison".

(hh) "service prison" means a place designated as such under subsection two of section one hundred and seventy-eight;

"service prisoner".

(ii) "service prisoner" means a person who is under a sentence that includes a punishment of imprisonment for less than two years imposed upon him pursuant to the Code of Service Discipline;

"service tribunal".

(jj) "service tribunal" means a court martial or a person presiding at a summary trial;

"summary trial".

(kk) "summary trial" means a trial conducted by or under the authority of a commanding officer pursuant to section one hundred and thirty-five or section one hundred and thirty-six and a trial by a superior commander pursuant to section one hundred and thirty-seven;

"superior officer".

(ll) "superior officer" means any officer or man who, in relation to any other officer or man, is by this Act, or by regulations or by custom of the service, authorized to give a lawful command to that other officer or man;

"unit".

(mm) "unit" means an individual body of the Canadian Forces that is organized as such pursuant to section eighteen, with the personnel and equipment thereof.

(aa) New

(bb) See Militia Act, Sec. 2*(j)*
RCAF Act, Sec (2)*(i)*

(cc) New

(dd) New

(ee) See Army Act (UK), Sec 45(2)
Air Force Act (UK), Sec 45(2)

(ff) New

(gg) New

(hh) New

(ii) New

(jj) New

(kk) New

(ll) See Army Act (UK), Sec 190(7)
Air Force Act (UK), Sec 190(7)

(mm) See Militia Act, Sec 2*(k)*
RCAF Act, Sec 2*(j)*

PART I.

DEPARTMENT OF NATIONAL DEFENCE.

PROVISION FOR DEPARTMENT.

Formation of department.

3. There shall be a department of the Government of Canada which shall be called the Department of National Defence, over which the Minister of National Defence for the time being appointed by the Governor General by commission under the Great Seal shall preside.

MINISTER.

Duties.

4. The Minister shall have the control and management of the Canadian Forces, the Defence Research Board and of all matters relating to national defence including preparation for civil defence against enemy action, and shall be responsible for the construction and maintenance of all defence establishments and works for the defence of Canada.

Exercise of powers.

5. The Governor in Council, upon the recommendation of the Minister, may from time to time designate any other person in addition to the Minister to exercise any power or perform any duty or function that is vested in or that may be exercised or performed by the Minister under this Act.

Additional or Associate Ministers.

6. (1) The Governor General may, during an emergency, by commission under the Great Seal appoint

(a) not more than three additional Ministers of National Defence, each of whom shall exercise and perform such of the powers, duties and functions of the Minister as may be prescribed by the Governor in Council; or

(b) not more than three Associate Ministers of National Defence, each of whom shall exercise and perform such of the powers, duties and functions of the Minister as may be assigned to him by the Governor in Council or the Minister.

Term of office.

(2) Each additional or Associate Minister appointed under this section may be continued in office for not more than six months after the termination of the emergency during which he is appointed.

DEPUTY MINISTER.

Appointment.

7. (1) There shall be a Deputy Minister of National Defence who shall be appointed by the Governor in Council.

PART I

Part I provides for the organization of the Department of National Defence. The general functions of the Minister are prescribed and provision is made for the appointment of additional or Associate Ministers in an emergency. The appointment of a Deputy Minister, Associate Deputy Ministers, civilian staff and a Judge Advocate General is authorized. The Governor in Council and the Minister are empowered to make regulations in respect of the Canadian Forces and other subjects related to the defence of Canada. These powers are conferred in clause 13.

CROSS-REFERENCES TO EXISTING LEGISLATION

3. DND Act, Sec 3

4. See DND Act, Sec 4.
Militia Act, Sec 6
Naval Service Act, Sec 5

5. New

6. See DND Act, Sec 4A

7. DND Act, Sec 5(1), (2) and (3)

Associate Deputy Ministers.

(2) The Governor in Council may appoint not more than three persons to be Associate Deputy Ministers of National Defence.

Duties of Associate Deputy Ministers.

(3) Each Associate Deputy Minister of National Defence shall have the rank and status of a deputy head of a department and as such shall, under the direction of the Minister and of the Deputy Minister, perform such duties and exercise such authority as deputy of the Minister and otherwise, as may be assigned to him by the Minister.

CIVILIAN EMPLOYEES.

Appointment.

8. Such officers, clerks and employees as are necessary for carrying on the business of the Department may be appointed in the manner authorized by law.

JUDGE ADVOCATE GENERAL.

Appointment.

9. The Governor in Council may appoint a barrister or advocate of not less than ten years standing to be the Judge Advocate General of the Canadian Forces.

PROPERTY.

Disposition of property.

10. (1) *Any lands, buildings or equipment held by His Majesty, that are under the control of the Department for any purpose under this Act, may be leased by the Minister for a period not exceeding one year or may be leased, sold or otherwise disposed of by direction of the Governor in Council.*

Municipal interest.

(2) *Where any portion of the cost of any land, building or equipment sold under subsection one has been defrayed by the municipality in which it is situated, a fair proportion of the proceeds of sale, to be determined by the Governor in Council, may be returned to the municipality or expended therein for other purposes of the Department of a permanent nature.*

EQUIPMENT.

Delivery of equipment for sale.

11. (1) *The Governor in Council may authorize the Minister to deliver to any department or agency of the Government of Canada any equipment that has not been declared surplus and that is not immediately required for the use of the Canadian Forces or the Defence Research Board or for any other purpose under this Act, for sale to such countries on such terms as the Governor in Council may determine.*

8. DND Act, Sec 5(4)

9. New

10. See Militia Act, Sec 56

11. New

Application of proceeds.

(2) *The proceeds of a sale of equipment delivered under subsection one shall be paid into a special account in the Consolidated Revenue Fund and, subject to the approval of the Governor in Council, shall be used for the procurement of equipment; and payments out of the special account shall be made by the Minister of Finance on the requisition of the Minister.*

Annual statement.

(3) *The Minister shall within three months after the termination of each fiscal year prepare a statement of the moneys received and disbursed under this section during that year, indicating the balance, if any, remaining at the end of that year in the special account mentioned in subsection two.*

Tabling in Parliament.

(4) *The Minister shall forthwith lay the statement mentioned in subsection three before Parliament or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session thereof.*

Inventions.

Certain inventions vested in the Crown.

12. (1) All discoveries, inventions or improvements in processes, apparatus, machines or composition of matter made

(a) by an officer or man acting within the scope of his duties or employment;

(b) by an officer, servant, clerk or employee of the Department or of the Defence Research Board acting within the scope of his duties or employment; or

(c) as a result of or in the course of research conducted by any person under a grant in aid furnished with the approval of the Minister in connection with that research,

and all rights with respect thereto are vested in His Majesty.

Exception.

(2) Notwithstanding subsection one, the Minister, on behalf of His Majesty, may authorize agreements to be made with any person mentioned in paragraph *(c)* of that subsection whereby that person shall have and enjoy, exclusively or with limitations, any rights accruing to or that may accrue to or be vested in His Majesty in respect of the matters mentioned in that subsection.

Abandonment of Crown's rights.

(3) The Minister may, in any particular case, abandon any or all of the rights of His Majesty under subsections one and two upon such terms and conditions as the Minister may determine.

Bonuses

(4) *Subject to regulations made by the Governor in Council and notwithstanding the Civil Service Act, the Minister may authorize payment of such bonuses or gratuities as in his opinion may be warranted to any person mentioned in subsection one who has made a discovery, invention or improvement that by virtue of this section is vested in His Majesty.*

12. New

REGULATIONS.

By Governor in Council.

13. (1) The Governor in Council may make regulations, not inconsistent with this Act, for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces and generally for carrying the purposes and provisions of this Act into effect.

By Minister.

(2) Subject to subsection three, the Minister may make regulations, not inconsistent with this Act or regulations made by the Governor in Council, for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces and generally for carrying the purposes and provisions of this Act into effect.

Limitation.

(3) Where in any other section of this Act there is express reference to regulations made or prescribed by the Governor in Council in respect of any matter, the Minister shall not have power to make regulations pertaining to that matter.

Publication where public affected.

14. (1) Every regulation applicable to persons not subject to the Code of Service Discipline shall be published in the *Canada Gazette* and shall take effect on the date of such publication, unless some later date is fixed by the regulation, in which case it shall take effect on the date so fixed.

Tabling in Parliament.

(2) Every regulation that, under subsection one, is required to be published in the *Canada Gazette* shall be laid before Parliament within ten days after such publication, if Parliament is then in session or, if Parliament is not then in session, within ten days after the commencement of the next ensuing session thereof.

Publication in other cases.

(3) Regulations to which subsections one and two do not apply shall be published in such manner as the Minister may direct.

13. See DND Act, Sec 6
Militia Act, Secs 14, 139
Naval Service Act, Sec 38
RCAF Act, Sec 16(1)

14. See Militia Act, Secs 140, 141
Naval Service Act, Secs 39, 40
RCAF Act, Sec 16(2)
Naval Service Act, Secs 8, 21, 23

Part II.

THE CANADIAN FORCES.

Constitution.

Services.

15. The Canadian Forces are the naval, army and air forces of His Majesty raised by Canada and consist of three Services, namely, the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force.

Regular forces.

16. (1) There shall be a component of each Service of the Canadian Forces consisting of officers and men who are enrolled for continuing, full-time military service; and those components are referred to in this Act as the regular forces.

Composition.

(2) The maximum numbers of officers and men in the regular forces shall be as from time to time authorized by the Governor in Council, and the regular forces shall include such units and other elements as are embodied therein.

Reserve forces.

(3) There shall be components of each Service of the Canadian Forces consisting of officers and men who are enrolled for other than continuing, full-time military service when not on active service; and those components are referred to in this Act as the reserve forces.

Composition.

(4) The maximum numbers of officers and men in the reserve forces shall be as from time to time authorized by the Governor in Council, and the reserve forces shall include such units and other elements as are embodied therein.

Active service forces.

(5) In an emergency, the Governor in Council may establish and, while the emergency exists, authorize the maintenance of a component of each Service of the Canadian Forces, referred to in this Act as the active service forces, consisting of

(a) officers and men of the regular forces and the reserve forces who are on active service and who are placed in the active service forces under conditions prescribed in regulations; and

(b) officers and men, not of the regular forces or the reserve forces, who are enrolled on active service in the active service forces for continuing, full-time military service.

Composition.

(6) The maximum numbers of officers and men in the active service forces shall be as from time to time authorized by the Governor in Council, and the active service forces shall include such units and other elements as are embodied therein.

Part II.

Part II constitutes the naval, army and air forces of Canada as the 'Canadian Forces', and provides for their organization and administration. The provisions of the Militia Act, The Naval Service Act, 1944, and The Royal Canadian Air Force Act have been adapted for that purpose. There are in addition several new clauses which are self-explanatory.

Cross-References to Existing Legislation

15. New

16. New
See Militia Act, Sec 22(1)
Naval Service Act, Secs 8, 21, 23

Continuation of existing constitution.

17. (1) Subject to this Act, the Naval Service, including the Naval Forces, and the Canadian Army and the Royal Canadian Air Force shall continue as constituted immediately prior to the coming into force of this Part.

Redesignation of Naval Service.

(2) On and after the coming into force of this Part, the Naval Service, including the Naval Forces, shall be designated as the Royal Canadian Navy.

UNITS AND OTHER ELEMENTS.

Organization.

18. (1) The Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force shall consist of such units and other elements as are from time to time organized by or under the authority of the Minister.

Component.

(2) A unit or other element organized under subsection one shall from time to time be embodied in such component of the Service of which it forms a part as the Minister may direct.

CHIEFS OF STAFF.

Chief of the Naval Staff.

19. (1) The Governor in Council may appoint an officer to be Chief of the Naval Staff who shall hold such rank as the Governor in Council may prescribe and who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Royal Canadian Navy.

Chief of the General Staff.

(2) The Governor in Council may appoint an officer to be Chief of the General Staff who shall hold such rank as the Governor in Council may prescribe and who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Canadian Army.

Chief of the Air Staff.

(3) The Governor in Council may appoint an officer to be Chief of the Air Staff who shall hold such rank as the Governor in Council may prescribe and who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Royal Canadian Air Force.

Responsibility and channels of communication.

(4) The Chief of the Naval Staff, the Chief of the General Staff and the Chief of the Air Staff shall, unless the Governor in Council otherwise directs, be respectively responsible for the issue of all the orders and instructions to the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force that are required to give effect to the decisions and to carry out the directions of the Government of Canada or the Minister.

CROSS-REFERENCES TO EXISTING LEGISLATION

17. New
See Militia Act, Sec 16

18. See Militia Act, Sec 20(2)

19. (1), (2) and (3)
See Naval Service Act, Sec 7
Militia Act, Sec 30

19. (4) New

Powers of Command.

Authority of officers and men.

20. The authority and powers of command of officers and men shall be as prescribed in regulations.

Enrolment.

Commissioned officers.

21. (1) Commissions of officers in the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force shall be granted by His Majesty during pleasure.

Subordinate officers and men.

(2) Persons shall be enrolled as subordinate officers and men for such term of service as may be prescribed in regulations made by the Governor in Council.

Authorized ranks.

22. The respective ranks that may be held by officers and men of the Canadian Forces shall be as from time to time prescribed in regulations made by the Governor in Council.

Numbers in ranks and trade groups.

23. The maximum number of persons in each rank and trade group of the Canadian Forces shall be determined as prescribed in regulations made by the Governor in Council.

Obligation to serve.

24. The enrolment of a person in a Service of the Canadian Forces binds that person to serve in that Service until he is, in accordance with regulations, lawfully released.

Oaths on enrolment.

25. Oaths and declarations required upon enrolment shall be taken and subscribed before commissioned officers or justices of the peace and shall be in such forms as may be prescribed in regulations.

Consent to transfer.

26. Subject to subsection three of section thirty-two, no officer or man shall without his consent be transferred from the regular forces to the reserve forces or from the reserve forces to the regular forces or from the Service of the Canadian Forces in which he has been enrolled to another Service of the Canadian Forces.

Effect of receipt of pay if not enrolled.

27. (1) Where, although not enrolled or re-engaged for service, a person has received pay as an officer or man, he is, until he claims his release and is released, deemed to be an officer or man, as the case may be, of the Service and component of the Canadian Forces through which he

20. See Naval Service Act, Sec 10
Militia Act, Sec 40

21. See Militia Act, Secs 33, 15(1)
Naval Service Act, Secs 9(1), 11
RCAF Act, Sec 7(1)

22. See Naval Service Act, Sec 10

23. Militia Act, Sec 20(1)

24. See Militia Act, Sec 21(2)

25. See Militia Act, Sec 21(1)
Naval Service Act, Sec 9(2) and (3)

26. New

27. Army Act (UK), Sec 100

received pay and to be subject to this Act as if he were such an officer or man duly enrolled or re-engaged for service.

Effect of receipt of pay if irregularly enrolled.

(2) Where, although there has been an error or irregularity in his enrolment or re-engagement, a person has received pay as an officer or man of that Service and component of the Canadian Forces in which he was erroneously or irregularly enrolled or re-engaged, that person is deemed to be an officer or man, as the case may be, regularly enrolled or re-engaged, and is not, except as provided in subsection three, entitled to be released on the ground of the error or irregularity.

Provision for release.

(3) Where a person who, by virtue of subsection two, is deemed to be an officer or a man, claims to be released within three months, reckoned from the date on which his pay commenced, and establishes the error or irregularity in his enrolment or re-engagement, he shall, except during an emergency, be released.

Method of release.

(4) Where a person claims his release on the ground that he has not been enrolled or re-engaged or has not been regularly enrolled or re-engaged, his commanding officer shall forthwith forward his claim to the authority having power to release him and, if he is entitled to be released, he shall be released with all convenient speed.

ATTACHMENT AND SECONDMENT.

Within the Canadian Forces.

28. (1) An officer or man may be attached or seconded to another component of the Service of the Canadian Forces in which he is enrolled or to any component of any Service of the Canadian Forces, other than that in which he is enrolled, in such manner and under such conditions as are prescribed in regulations; and he shall have like powers of command and punishment over officers and men of the component and Service of the Canadian Forces to which he is attached or seconded as if he were an officer or man of that component and Service of equivalent rank, relative to the rank he holds.

28. See Army Act (UK), Sec 179A(1)
Air Force Act (UK), Sec 179A(1)
The Visiting Forces (British Commonwealth) Act, Statutes of Canada, 23-24 Geo V, Chap 21, Sec 6(3)
Naval Service Act, Sec 42

Out of the Canadian Forces.

(2) An officer or man may be attached or seconded to any of His Majesty's Forces, any department or agency of government, any public or private institution, private industry or any other body in such manner and under such conditions as are prescribed in any other Act or in regulations.

Provision regarding reserve forces.

(3) No officer or man of the reserve forces who is not serving on active service shall without his consent be attached or seconded pursuant to this section.

PROMOTION.

Authority.

29. Subject to section twenty-three and to regulations, officers and men may be promoted by the Minister or by such authorities of the Canadian Forces as are prescribed in regulations made by the Governor in Council.

REDRESS OF GRIEVANCES.

Procedure.

30. Except in respect of a matter that would properly be the subject of an appeal or petition under Part IX, an officer or man who considers that he has suffered any personal oppression, injustice or other ill-treatment or that he has any other cause for grievance, may as a matter of right seek redress from such superior authorities in such manner and under such conditions as shall be prescribed in regulations made by the Governor in Council.

RELEASE.

Entitlement.

31. (1) Except during an emergency, an officer or man is entitled to be released at the expiration of the term of service for which he is enrolled or re-engaged.

Effect of illegal absence.

(2) Except as may be prescribed in regulations made by the Governor in Council, any period during which an officer or man is in a state of desertion or is absent without leave shall not be reckoned toward the completion of the term of service for which that officer or man was enrolled or re-engaged.

Exception in emergency.

(3) Where the term of service for which an officer or man is enrolled or re-engaged expires during an emergency or within one year after the expiration of an emergency, he is liable to serve until the expiration of one year after the emergency has ceased to exist.

ACTIVE SERVICE.

Placing forces on active service.

32. (1) The Governor in Council may place the Canadian Forces or any Service, component, unit or other element thereof or any officer or man thereof on active service anywhere in Canada, and also beyond Canada, for the defence thereof at any time when it appears desirable so to do by reason of an emergency.

29. New

30. See Army Act (UK), Secs 42, 43
Air Forces Act (UK), Secs 42, 43

31. See Militia Act, Secs 15(2) and (3), 18
Naval Service Act, Sec 13
RCAF Act, Sec 7(2) and (3)

32. Militia Act, Sec 64
See Naval Service Act, Sec 17
RCAF Act, Sec 8
See also Militia Act, Sec 2*(g)*
Naval Service Act, Sec 2*(a)*
RCAF Act, Sec 2*(f)*

Effect on status of officers and men.

(2) An officer or man of His Majesty's Forces who is a member of, serving with, or attached or seconded to a Service, component or unit of the Canadian Forces that has been placed on active service, or who has been placed on active service, or who pursuant to law has been attached or seconded to a portion of a force that has been placed on active service, shall be deemed to be on active service for all purposes.

Transfer on active service.

(3) An officer or man on active service may for the period of such service, be transferred from the component of the Service of the Canadian Forces in which he has been enrolled to the same component of another Service of the Canadian Forces or from the reserve forces to the regular forces.

Proclamation for meeting of Parliament.

33. Whenever the Governor in Council places the Canadian Forces or any Service, component or unit thereof on active service, if Parliament is then separated by such adjournment or prorogation as will not expire within ten days, a proclamation shall be issued for the meeting of Parliament within fifteen days, and Parliament shall accordingly meet and sit upon the day appointed by such proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

SERVICE.

Liability of regular forces.

34. (1) The regular forces, all units and other elements thereof and all officers and men thereof are at all times liable to perform any lawful duty.

Liability of reserve forces.

(2) The reserve forces, all units and other elements thereof and all officers and men thereof

(a) may be ordered to drill or train for such periods as are prescribed in regulations made by the Governor in Council; and

(b) may be called out on service to perform any naval, army or air force duty, as the case may be, other than drill or training at such times and in such manner as by regulations or otherwise are prescribed by the Governor in Council.

Exception in case of certain reserves.

(3) Nothing in subsection two shall be deemed to impose liability to serve as prescribed therein, without his consent, upon an officer or man of the reserve forces who is, by virtue of the terms of his enrolment, liable to perform duty on active service only.

Special liability of regular forces in national disaster.

35. (1) Where the Governor in Council has declared that a disaster exists or is imminent that is, or is likely to be, so serious as to be of national concern, the regular forces or any unit or other element thereof or any officer or man thereof shall be liable to perform such services in respect of the disaster, existing or imminent, as the Minister may authorize, and the performance of such services shall be deemed to be naval, army or air force duty, as the case may be.

33. Militia Act. Sec 66
Naval Service Act, Sec 19

34. See Militia Act, Secs 63, 22(2), 47, 51
RCAF Act, Sec 8
See also Militia Act, Sec 2*(h)*
Naval Service Act, Sec 2*(m)*
RCAF Act, Sec 2*(g)*

35. New

Special liability of reserve forces in national disaster.

(2) Where the Governor in Council declares that a disaster as mentioned in subsection one exists or is imminent and that the services of the reserve forces are required for the purpose of rendering assistance in respect of the disaster, existing or imminent, the Governor in Council may authorize the reserve forces or any unit or other element thereof or any officer or man thereof to be called out on service for that purpose and all officers and men while so called out shall be deemed to be performing naval, army or air force duty, as the case may be.

Exception in case of certain reserves.

(3) Nothing in subsection two shall be deemed to impose liability to serve as prescribed therein, without his consent, upon an officer or man of the reserve forces who is, by virtue of the terms of his enrolment, liable to perform duty on active service only.

PAY AND ALLOWANCES.

Rates and conditions.

36. (1) *The pay and allowances of officers and men shall be at such rates and issued under such conditions as are prescribed in regulations made by the Governor in Council.*

Forfeitures and deductions.

(2) *The pay and allowances of officers and men shall be subject to such forfeitures and deductions as are prescribed in regulations made by the Governor in Council.*

Assignments.

(3) *Unless made in accordance with regulations prescribed by the Governor in Council, an assignment of pay and allowances is void.*

SUPPLY AND ISSUE OF EQUIPMENT.

Authority.

37. The equipment supplied to or used by the Canadian Forces shall be of such type, pattern and design and shall be issued on such scales and in such manner as the Minister, or such authorities of the Canadian Forces as are designated by him for that purpose, may approve.

PUBLIC PROPERTY.

Liability for loss or damage.

38. The conditions under which and the extent to which an officer or man shall be liable to His Majesty in respect of loss or damage to public property shall be as prescribed in regulations.

NON-PUBLIC PROPERTY.

Non-public property of units.

39. (1) The non-public property of a unit or other element of the Canadian Forces shall vest in the officer from time to time in command of that unit or other element, and shall be used for the benefit of officers and men or for any other purpose approved by the chief of staff of the Service of the Canadian Forces in which that unit or other element is comprised, in the manner and to the extent authorized by that chief of staff.

36. See Militia Act, Secs 48, 49
Naval Service Act, Sec 6
RCAF Act, Secs 16(1) *(b)*, 18

37. See Militia Act, Sec 42
Naval Service Act, Sec 14
RCAF Act, Sec 16(1) *(c)*

38. New

39. New

Non-public property of disbanded units.

(2) The non-public property of every disbanded unit or other disbanded element of the Canadian Forces, vested in the officer in command of that unit or other element, shall pass to and vest in the chief of staff of the Service of the Canadian Forces in which that unit or other element was comprised, and may be disposed of at his discretion and direction for the benefit of all or any officers and men or former officers and men, or their dependents, of the Service of the Canadian Forces in which that unit or other element was comprised.

Non-public property of units in altered circumstances.

(3) Where, by reason of a substantial reduction in the number of officers and men serving in a unit or other element of the Canadian Forces or by reason of a change in the location or other conditions of service of a unit or other element, the chief of staff of the Service of the Canadian Forces in which the unit or other element is comprised considers it desirable so to do, he may direct that the non-public property or any part thereof that is vested in the officer in command of that unit or other element shall pass to and be vested in the chief of staff upon the terms set out in subsection two.

Other non-public property.

(4) Non-public property acquired by contribution but not contributed to any specific unit or other element of the Canadian Forces shall vest in the chief of staff of the Service of the Canadian Forces to which that non-public property is contributed and, subject to any specific directions by the contributor as to its disposal, may be disposed of at his discretion and direction for the benefit of all or any officers and men or former officers and men, or their dependents, of that Service of the Canadian Forces.

By-products and refuse.

(5) By-products and refuse derived from rations and other consumable stores issued to the Canadian Forces for use in service kitchens, and the proceeds of the sale thereof, shall, to the extent that the Governor in Council may prescribe, be non-public property.

Alienation of non-public property.

(6) Except as authorized by the appropriate chief of staff, no gift, sale or other alienation or attempted alienation of non-public property is effectual to pass the property therein.

Liability for loss or damage.

(7) The conditions under which and the extent to which an officer or man shall be liable to make restitution or reimbursement in respect of loss or damage to non-public property resulting from his negligence or misconduct shall be as prescribed by the Minister.

Exercise of authority.

(8) A chief of staff shall exercise his authority under subsections one, two and four subject to any directions that may be given to him by the Minister for carrying the purposes and provisions of this section into effect.

Audit.

(9) Non-public property accounts shall be audited as the Minister may from time to time direct.

Special provision.

(10) The *Consolidated Revenue and Audit Act* shall not apply to non-public property.

Service Estates.

Collection, administration and distribution.

40. (1) The service estates of officers and men who die during their service in the Canadian Forces may be collected, administered and distributed in whole or in part as prescribed in regulations made by the Governor in Council.

Definition.

(2) For the purposes of this section, "service estate" means the following parts of the estate of a deceased officer or man mentioned in subsection one,

(a) service pay and allowances;

(b) all other emoluments emanating from His Majesty that, at the date of death, are due or otherwise payable;

(c) personal equipment that the deceased person is, under regulations, permitted to retain; and

(d) personal belongings, including cash, found on the deceased person or in camp, quarters or otherwise in the care or custody of the Canadian Forces.

Presumption of Death.

Authority to issue certificate.

41. Where an officer or man disappears under circumstances that, in the opinion of the Minister or such other authorities as he may designate, raise beyond reasonable doubt a presumption that he is dead, the Minister or any such other authority may issue a certificate declaring that such officer or man is deemed to be dead and stating the date upon which his death is presumed to have occurred, and such officer or man shall thenceforth, for the purposes of this Act and the regulations and in relation to his status and service in the Canadian Forces, be deemed to have died on that date.

Personal Effects of Absentees.

Disposal.

42. The personal belongings and decorations of an officer or man, who is absent without leave, that are found in camp, quarters or otherwise in the care or custody of the Canadian Forces shall vest in His Majesty and shall be disposed of in accordance with regulations made by the Governor in Council.

Boards of Inquiry.

Convening.

43. The Minister, and such other authorities as he may prescribe or appoint for that purpose, may, where it is expedient that he or any such other authority should be informed on any matter connected with the government,

40. See DND Act, Sec 7

41. New

42. See Naval Service Act, Sec 71

43. See Militia Act, Sec 93(1)

discipline, administration or functions of the Canadian Forces or affecting any officer or man, convene a board of inquiry for the purpose of investigating and reporting on that matter.

CADET ORGANIZATIONS.

Formation.

44. (1) The Minister may authorize the formation of cadet organizations under the joint or several control and supervision of the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force, to consist of boys not less than twelve years of age and who have not attained the age of nineteen years.

Conditions of service.

(2) The cadet organizations mentioned in subsection one shall be trained for such periods, administered in such manner, provided with equipment and accommodation under such conditions and shall be subject to the authority and command of such officers as the Minister may direct.

Not part of the forces.

(3) The cadet organizations mentioned in subsection one shall not be comprised in the Canadian Forces.

EDUCATIONAL INSTITUTIONS.

Establishment.

45. (1) The Governor in Council, and such other authorities as are prescribed or appointed by the Governor in Council for that purpose, may in the interests of national defence establish institutions for the training and education of officers and men, officers and employees of the Department and of the Defence Research Board, candidates for enrolment in the Canadian Forces or for employment in the Department or by the Defence Research Board and other persons whose attendance has been authorized by or on behalf of the Minister.

Administration.

(2) The institutions mentioned in subsection one shall be governed and administered in the manner prescribed by the Minister.

SERVICE ASSOCIATIONS.

Establishment.

46. (1) The Governor in Council may establish associations and organizations for purposes designed to further the defence of Canada.

Equipment.

(2) The Minister may authorize the provision of accommodation, equipment and facilities for the training, practice and use of the associations and organizations mentioned in subsection one and other associations and organizations designed to further the defence of Canada, whether or not the members of such associations and organizations are officers or men.

44. Militia Act, Secs 59 to 62
Naval Service Act, Secs 28A, 28B
RCAF Act, Secs 15A, 15B

45. See Naval Service Act, Secs 24 to 28
The Royal Military College Act, Statutes of Canada, 18-19 Geo V, Chap 7

46. New
See Militia Act, Sec 57

Exercise of Authority.

Conditions applicable.

47. Any power or jurisdiction given to, and any act or thing to be done by, to or before any officer or man may be exercised by, or done by, to or before any other officer or man for the time being authorized in that behalf by regulations or according to the custom of the service.

Method of signifying orders.

48. Orders made under this Act may be signified by an order, instruction or letter under the hand of any officer whom the authority who made such orders has authorized to issue orders on his behalf; and any order, instruction or letter purporting to be signed by any officer appearing therein so to be authorized is evidence of his being so authorized.

Notification of Orders.

By exhibition.

49. (1) All regulations and all orders and instructions issued to the Canadian Forces shall be held to be sufficiently notified to any person whom they may concern by their publication, in the manner prescribed in regulations made by the Governor in Council, in the unit or other element in which that person is serving.

By mail.

(2) All regulations and all orders and instructions relating to or in any way affecting an officer or man of the reserve forces, other than an officer or man who is serving with a unit or other element, when sent to him by registered mail, addressed to his last known place of abode or business, shall be held to be sufficiently notified.

Saving provision.

(3) Notwithstanding subsections one and two, all regulations and all orders and instructions mentioned in those subsections shall be held to be sufficiently notified to any person whom they may concern by their publication in the *Canada Gazette*.

Validity of Documents.

Authenticity of documents.

50. A commission, appointment, warrant, order or instruction in writing purported to be granted, made or issued under this Act is evidence of its authenticity without proof of the signature or seal affixed thereto or the authority of the person granting, making or issuing it.

Signature on commissions.

51. (1) The Governor General may cause his signature to be affixed to a commission granted to an officer of the Canadian Forces by stamping the signature on the commission with a stamp approved by him and used for the purpose by his authority.

47. Army Act (UK), Sec 171
Air Force Act (UK), Sec 171

48. See Army Act (UK), Sec 172(1)
Air Force Act (UK), Sec 172(1)

49. New
See Militia Act, Secs 136 to 138
Naval Service Act, Sec 31

50. Militia Act, Sec 100
Naval Service Act, Sec 32

51. Militia Act, Sec 34

Validity.

(2) A signature affixed in accordance with subsection one is as valid and effectual as if it were in the handwriting of the Governor General, and neither its authenticity nor the authority of the person by whom it was affixed shall be called in question except on behalf of His Majesty.

Validity of bonds.

52. Every bond to His Majesty entered into by any person before a judge or justice of the peace, or officer of the Canadian Forces, for the purpose of securing the payment of a sum of money or the performance of a duty or act required or authorized by this Act or by regulations, is valid and may be enforced accordingly.

52. Militia Act, Sec 128

PART III

THE DEFENCE RESEARCH BOARD.

Defence Research Board and its functions.

53. (1) There shall be a Defence Research Board which shall carry out such duties in connection with research relating to the defence of Canada and development of or improvements in equipment as the Minister may assign to it, and shall advise the Minister on all matters relating to scientific, technical, and other research and development that in its opinion may affect national defence.

Constitution.

(2) The Defence Research Board shall consist of a Chairman and a Vice Chairman, appointed by the Governor in Council, the persons who from time to time hold the offices of Chief of the Naval Staff, Chief of the General Staff, Chief of the Air Staff, President of the Honorary Advisory Council for Scientific and Industrial Research, and Deputy Minister of National Defence, and such additional members representative of universities, industry and other research interests as the Governor in Council appoints.

Chairman and Vice Chairman—tenure and salary.

(3) *The Chairman and Vice Chairman shall hold office during pleasure, and shall be paid such salaries as the Governor in Council determines.*

Other members—tenure and remuneration.

(4) *The members of the Defence Research Board, other than the Chairman, Vice Chairman or the exofficio members, shall hold office for a period not exceeding three years but shall be eligible for re-appointment, and shall be paid such remuneration, if any, as the Governor in Council determines.*

Expenses of members.

(5) *Each member shall be paid his travelling and other expenses incurred in connection with the work of the Defence Research Board.*

Duties of Chairman.

(6) The Chairman shall be the chief executive officer of the Defence Research Board and, under the direction of the Minister and in accordance with policies approved by the Board, shall oversee and direct the officers, clerks and employees of the Board, have general control of the business of the Board, have supervision over the work directed to be carried out by the Board, be charged with the organization, administration and operation of the defence establishments of the Board and perform such other duties as the Minister may assign to him.

Duties of Vice Chairman.

(7) The Vice Chairman shall perform such duties as may be assigned to him under the by-laws made by the Defence Research Board.

Status of Chairman.

(8) The Chairman shall have a status equivalent to that of a chief of staff of a Service of the Canadian Forces.

Part III

This Part contains, in amplified form, provisions for the Defence Research Board now contained in section 8 of the Department of National Defence Act as enacted by Statutes of Canada, 1947, Chapter 5.

Powers of the Defence Research Board.

54. The Defence Research Board may, with the approval of the Minister,

(a) notwithstanding the Civil Service Act or any other section of this Act or any other statute or law, appoint and employ the professional, scientific, technical, clerical and other employees required to carry out efficiently the duties of the Board, prescribe their duties and, subject to the approval of the Governor in Council, prescribe their terms of appointment and service and fix their remuneration;

(b) make by-laws or rules for the regulation of its proceedings and for the performance of its functions;

(c) enter into contracts in the name of His Majesty for research and investigations with respect only to matters relating to defence; and

(d) make grants in aid of research and investigations with respect only to matters relating to defence and establish scholarships for the education or training of persons to qualify them to engage in such research and investigations.

Expenses of the Defence Research Board.

55. (1) *All expenses of the Defence Research Board shall be paid out of moneys appropriated by Parliament for the purpose or received by the Board through the conduct of its operations, bequests, donations or otherwise and shall be paid by the Minister of Finance on the requisition of the Minister.*

Scholarships and grants in aid.

(2) *The Minister may request the Minister of Finance to allocate any portion of the moneys appropriated by Parliament for the purposes of the Defence Research Board for scholarships or grants in aid of research and investigations, and thereupon the Minister of Finance shall hold that portion of the moneys in trust and may at any time on the requisition of the Minister disburse that portion of the moneys for scholarships or grants in aid of research and investigations.*

Moneys not required.

(3) *Any moneys allocated by the Minister of Finance under this section that, in the opinion of the Minister, are not required for the purpose for which they were allocated shall cease to be held in trust.*

Part IV

DISCIPLINARY JURISDICTION OF THE SERVICES.

Application.

Persons subject.

56. (1) The following persons, and no others, are subject to the Code of Service Discipline,

(a) an officer or man of the regular forces;

(b) an officer or man of the active service forces;

(c) an officer or man of the reserve forces when he is

(i) undergoing drill or training whether in uniform or not,

(ii) in uniform,

(iii) on duty,

(iv) called out under subsection two of section thirty-five to render assistance in a disaster,

(v) called out under Part XI in aid of the civil power,

(vi) on service,

(vii) on active service,

(viii) in or on any vessel, vehicle or aircraft of the Canadian Forces or in or on any defence establishment or work for defence,

(ix) serving with any unit or other element of the regular forces or the active service forces, or

(x) present, whether in uniform or not, at any drill or training of a unit or other element of the Canadian Forces;

(d) subject to such exceptions, adaptations, and modifications as the Governor in Council may by regulations prescribe, a person who pursuant to law is attached or seconded as an officer or man to a Service of the Canadian Forces;

(e) a person, not otherwise subject to the Code of Srevice Discipline, who is serving in the position of an offiecr or man of any force raised and maintained out of Canada by His Majesty in right of Canada and commanded by an officer of the Canadian Forces;

(f) a person, not otherwise subject to the Code of Service Discipline, who accompanies any unit or other element of the Canadian Forces that is on service or active service in any place;

(g) subject to such exceptions, adaptations and modifications as the Governor in Council may by regulations prescribe, a person attending an institution established under section forty-five;

Part IV

For convenience, this Part and Parts V to IX inclusive, relating to discipline within the armed forces, are designated as the "Code of Service Discipline". The purpose of Part IV is to establish the classes of persons who are subject to that Code and the circumstances in which they are so subject. It also contains certain provisions relating to the jurisdiction of service tribunals generally.

Cross-References to Existing Legislation

56. See Militia Act, Secs 69(2), 71(1) and(2)
Naval Service Act, Secs 47, 91
RCAF Act, Sec 6, 12
Army Act (UK), Secs 158, 175, 176, 176A, 178
Air Force Act (UK), Sec 158

(h) an alleged spy for the enemy;

(i) a service convict, service prisoner or service detainee, not otherwise subject to the Code of Service Discipline, who is committed to undergo his punishment in a service prison or detention barrack, as the case may be;

(j) a person, not otherwise subject to the Code of Service Discipline, while serving with a Service of the Canadian Forces under an engagement with the Minister whereby he agreed to be subject to that Code.

Continuing liability.

(2) Every person subject to the Code of Service Discipline under subsection one at the time of the alleged commission by him of a service offence shall continue to be liable to be charged, dealt with and tried in respect of that offence under the Code of Service Discipline notwithstanding that he may have, since the commission of that offence, ceased to be a person mentioned in subsection one.

Retention of status.

(3) Every person who, since the alleged commission by him of a service offence, has ceased to be a person mentioned in subsection one, shall for the purposes of the Code of Service Discipline be deemed, for the period during which under that Code he is liable to be charged, dealt with and tried, to have the status and rank that he held immediately prior to the time when he ceased to be a person mentioned in subsection one.

Persons in Canadian Forces.

An officer or man to be tried by own Service.

(4) Subject to subsections five and six, every officer or man who is alleged to have committed a service offence may be charged, dealt with and tried only within the Service of the Canadian Forces in which he is enrolled.

Attachment and secondment.

(5) Every officer or man who, while attached or seconded to a Service of the Canadian Forces other than the Service in which he is enrolled, is alleged to have committed a service offence, may be charged, dealt with and tried either within that other Service, as if he were an officer or man thereof, or within the Service in which he is enrolled.

When on vessel or aircraft of other Service.

(6) Every officer or man who, while embarked on any vessel or aircraft of a Service of the Canadian Forces other than the Service in which he is enrolled, is alleged to have committed a service offence, may be charged, dealt with and tried either within that other Service, as if he were an officer or man thereof, or within the Service in which he is enrolled.

Forces raised out of Canada.

(7) Every person serving in the circumstances set forth in paragraph *(e)* of subsection one who, while so serving, is alleged to have committed a service offence, may be charged, dealt with and tried within that Service of the Canadian Forces in which his commanding officer is serving.

45643—4

Persons Accompanying Canadian Forces.

Dealt with by Service accompanied.

(8) Every person mentioned in paragraph *(f)* of subsection one who, while accompanying any unit or other element of the Canadian Forces, is alleged to have committed a service offence, may be charged, dealt with and tried within the Service in which is comprised the unit or other element of the Canadian Forces that he accompanies, and for that purpose shall be treated as a man, unless he holds from the commanding officer of the unit or other element of the Canadian Forces that he so accompanies or from any other officer prescribed by the Minister for that purpose, a certificate, revocable at the pleasure of the officer who issued it or of any other officer of equal or higher rank, entitling such person to be treated on the footing of an officer, in which case he shall be treated as an officer in respect of any offence alleged to have been committed by him while holding that certificate.

Command.

(9) Every person mentioned in subsection eight shall, for the purpose of the Code of Service Discipline, be deemed to be under the command of the commanding officer of the unit or other element of the Service of the Canadian Forces that such person accompanies.

Spies for the Enemy.

Dealt with by Service having custody.

(10) Every person mentioned in paragraph *(h)* of subsection one may be charged, dealt with and tried within the Service of the Canadian Forces in which he is at any time held in custody and shall, for the purposes of the Code of Service Discipline, be deemed to be under the command of the commanding officer of such unit or other element of that Service as may be holding him in custody from time to time.

Released Persons Serving Sentence.

Dealt with by Service having custody.

(11) Every person mentioned in paragraph *(i)* of subsection one who is alleged to have committed, during the currency of his imprisonment or detention, a service offence, may be charged, dealt with and tried within the Service of the Canadian Forces which controls or administers the service prison or detention barrack to which he has been committed, and shall, for the purposes of the Code of Service Discipline, be deemed to be under the command of the commanding officer of that service prison or detention barrack, as the case may be.

Persons Under Special Engagement.

Dealt with by Service in which engaged.

(12) Every person mentioned in paragraph *(j)* of subsection one who, while serving with a Service of the Canadian Forces, is alleged to have committed a service offence, may be charged, dealt with and tried within that Service and for that purpose he shall be treated as a man, unless the terms of the agreement under which he was engaged entitle him to be treated as an officer, in which case he shall be treated as an officer.

Command.

(13) Every person mentioned in subsection twelve shall, for the purposes of the Code of Service Discipline, be deemed to be under the command of the commanding officer of the unit or other element of the Service of the Canadian Forces in which that person is serving.

Women.

Application.

(14) The Code of Service Discipline, in its application to female persons, may be limited or modified by regulations.

PLEA IN BAR OF TRIAL.

Autrefois acquit and autrefois convict.

57. (1) Every person, in respect of whom a charge of having committed a service offence has been dismissed, or who has been found guilty or not guilty either by a service tribunal or a civil court on a charge of having committed any such offence, shall not be tried or tried again by a service tribunal under this Act in respect of that offence or any other offence of which he might have been found guilty on that charge by a service tribunal or a civil court.

Exception.

(2) Nothing in subsection one shall affect the validity of a new trial ordered under sections one hundred and ninety-one or one hundred and ninety-nine.

Effect of other offences admitted at previous trial.

(3) Every person who under section one hundred and sixty-three has been sentenced in respect of a service offence admitted by him shall not be tried by a service tribunal under this Act in respect of that offence.

PLACE OF COMMISSION OF OFFENCE.

No limitation.

58. Subject to section sixty-one, every person alleged to have committed a service offence may be charged, dealt with and tried under the Code of Service Discipline, whether the alleged offence was committed in Canada or out of Canada.

57. See Army Act (UK), Secs 46(7), 157, 162(6)
Air Force Act (UK), Secs 46(7), 157, 162(6)

58. See Naval Service Act, Sec 90
Army Act (UK), Sec 159
Air Force Act (UK), Sec 159

PLACE OF TRIAL.

No limitation.

59. Every person alleged to have committed a service offence may be charged, dealt with and tried under the Code of Service Discipline, either in Canada or out of Canada.

PERIOD OF LIABILITY UNDER CODE OF SERVICE DISCIPLINE.

Time bar.

60. (1) Except in respect of the service offences mentioned in subsection two, no person shall be liable to be tried by a service tribunal unless his trial begins before the expiration of a period of three years from the day upon which the service offence was alleged to have been committed.

Exceptions.

(2) Every person, subject to the Code of Service Discipline at the time of the alleged commission by him of a service offence of mutiny, desertion or absence without leave or a service offence for which the highest punishment that may be imposed is death, shall continue to be liable to be charged, dealt with and tried at any time under the Code of Service Discipline.

LIMITATIONS WITH RESPECT TO CERTAIN OFFENCES.

Murder, rape or manslaughter.

61. A service tribunal shall not try any person charged with an offence of murder, rape or manslaughter, committed in Canada.

JURISDICTION OF CIVIL COURTS.

No interference with civil juridiction.

62. (1) Nothing in the Code of Service Discipline affects the jurisdiction of any civil court to try a person for any offence triable by that court.

Civil sentence modified by service punishment.

(2) Where a person, sentenced by a service tribunal in respect of a conviction on a charge of having committed a service offence, is afterwards tried by a civil court for the same offence or for any other offence of which he might have been found guilty on that charge, the civil court shall in awarding punishment take into account any punishment imposed by the service tribunal for the service offence.

Remission in certain cases.

(3) Where a civil court that tries a person in the circumstances set out in subsection two either acquits or convicts the person of an offence, the unexpired term of any punishment of imprisonment for more than two years, imprisonment for less than two years or detention, imposed by the service tribunal in respect of that offence, shall be deemed to be wholly remitted as of the date of the acquittal or conviction by that civil court.

59. See Army Act (UK), Sec 159
Air Force Act (UK), Sec 159

60. See Militia Act, Sec 71(3)
Naval Service Act, Secs 91, 99
RCAF Act, Sec 12
Army Act (UK), Secs 158(1), 161
Air Force Act (UK), Secs 158(1), 161

61. See Army Act (UK), Sec 41 (Proviso)
Air Force Act (UK), Sec 41 (Proviso)

62. (1) and (2).
See Naval Service Act, Sec 121
Army Act (UK), Secs 41A, 162(1) and (2)
Air Force Act (UK), Secs 41A, 162(1) and (2)

62. (3). New

Part V.

SERVICE OFFENCES AND PUNISHMENTS.

Responsibility for Offences.

Parties to offences.

63. (1) Every person is a party to and guilty of an offence who

(a) actually commits it;

(b) does or omits an act for the purpose of aiding any person to commit the offence;

(c) abets any person in commission of the offence; or

(d) counsels or procures any person to commit the offence.

Intent to commit offence.

(2) Every person who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended, whether under the circumstances it was possible to commit such offence or not.

Misconduct of Commanders in Presence of Enemy.

Offences by commanders when in action.

64. Every officer in command of a vessel, aircraft, defence establishment, unit or other element of the Canadian Forces who

(a) when under orders to carry out an operation of war or on coming into contact with an enemy that it is his duty to engage, does not use his utmost exertion to bring the officers and men under his command or his vessel, aircraft, or his other equipment into action;

(b) being in action, does not, during the action, in his own person and according to his rank, encourage his officers and men to fight courageously;

(c) when capable of making a successful defence, surrenders his vessel, aircraft, defence establishment, equipment, unit or other element of the Canadian Forces to the enemy;

(d) being in action, improperly withdraws from the action;

(e) improperly fails to pursue an enemy or to consolidate a position gained;

(f) improperly fails to relieve or assist a known friend to the utmost of his power; or

(g) when in action, improperly forsakes his station,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, if he acted from cowardice is liable to suffer death or less punishment, and in any other case is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Part V

This Part prescribes service offences applicable to all three Services, with the maximum punishments considered appropriate for each offence. Where practicable, the principles embodied in the Criminal Code have been followed. The Part contains a scale and description of service punishments, with details of the circumstances in which specific punishments may be imposed. It concludes with provisions which make available to persons accused of having committed service offences, the same grounds of defence as are available to persons tried in the civil courts.

Cross-References to Existing Legislation

63. Criminal Code, Secs 69(1), 72(1)

64. See Naval Service Act, Secs 49, 50
Army Act (UK), Sec 4(1)
Air Force Act (UK), Sec 4(1) and (10)

Misconduct of any Person in Presence of Enemy.

Offences by any person in presence of enemy.

65. Every person who

(a) improperly delays or discourages any action against the enemy;

(b) goes over to the enemy;

(c) when ordered to carry out an operation of war, fails to use his utmost exertion to carry the orders into effect;

(d) improperly abandons or delivers up any defence establishment, garrison, place, equipment, post or guard;

(e) assists the enemy with equipment;

(f) improperly casts away or abandons any equipment in the presence of the enemy;

(g) improperly does or omits to do anything that results in the capture by the enemy of persons or the capture or destruction by the enemy of equipment;

(h) when on watch in the presence or vicinity of the enemy, leaves his post before he is regularly relieved or sleeps or is drunk;

(i) behaves before the enemy in such manner as to show cowardice; or

(j) knowingly does or omits to do anything with intent to imperil the success of His Majesty's Forces or of any forces co-operating therewith,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, and in any other case, if the offence was committed in action, is liable to suffer death or less punishment or, if the offence was committed otherwise than in action, to imprisonment for life or to less punishment.

Security.

Offences related to security.

66. Every person who

(a) improperly holds communication with or gives intelligence to the enemy;

(b) without due authority discloses in any manner whatsoever any information relating to the number, position, equipment, movements, preparations for movements, operations or preparations for operations of any of His Majesty's Forces or of any forces co-operating therewith;

(c) makes known the parole, watchword, password, countersign or identification signal to any person not entitled to receive it;

(d) gives a parole, watchword, password, countersign or identification signal different from that which he received;

65. See Naval Service Act, Secs 51, 52, 54
Army Act (UK), Secs 4, 5, 6
Air Force Act (UK), Secs 4, 5, 6

66. See Naval Service Act, Secs 54, 55
Army Act (UK), Secs 4, 5, 6, 36
Air Force Act (UK), Secs 4, 5, 6, 36

(e) without due authority alters or interferes with any identification or other signal;
(f) improperly occasions false alarms;
(g) when acting as sentry or lookout, leaves his post before he is regularly relieved or sleeps or is drunk;
(h) forces a safeguard or forces or strikes a sentinel; or
(i) knowingly does or omits to do anything with intent to prejudice the security of His Majesty's Forces or of any forces co-operating therewith,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, and in any other case is liable to imprisonment for life or to less punishment.

PRISONERS OF WAR.

Offences related to prisoners of war.

67. Every person who
(a) by want of due precaution, or through disobedience of orders or wilful neglect of duty, is taken prisoner;
(b) having been taken prisoner, fails to rejoin His Majesty's service when able to do so; or
(c) having been made a prisoner of war, serves with or aids the enemy,

is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, and in any other case is liable to imprisonment for life or to less punishment.

MISCELLANEOUS OPERATIONAL OFFENCES.

Offences related to operations.

68. Every person who
(a) does violence to any person bringing equipment to His Majesty's Forces or to any forces co-operating therewith;
(b) irregularly detains or appropriates to the unit or other element of the Canadian Forces with which he is serving any equipment being conveyed to any other unit or element of His Majesty's Forces or of any forces co-operating therewith;
(c) without orders from his superior officer, improperly destroys or damages any property;
(d) breaks into any house or other place in search of plunder; or
(e) commits any offence against the property or person of any inhabitant or resident of a country in which he is serving,

is guilty of an offence and on conviction, if he committed any such offence on active service, is liable to imprisonment for life or to less punishment, and in any other case is liable to dismissal with disgrace from His Majesty's service or to less punishment.

67. See Army Act (UK), Secs 4, 5
Air Force Act (UK), Secs 4, 5

68. See Army Act (UK), Secs 5, 6
Air Force Act (UK), Secs 5, 6

Spies for the Enemy.

Penalty.

69. Every person who is a spy for the enemy is guilty of an offence and on conviction is liable to suffer death or less punishment.

Mutiny.

Mutiny with violence.

70. Every person who joins in a mutiny that is accompanied by violence is guilty of an offence and on conviction is liable to suffer death or less punishment.

Mutiny without violence.

71. Every person who joins in a mutiny that is not accompanied by violence is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment and, in the case of a ringleader of the mutiny, to suffer death or less punishment.

Offences related to mutiny.

72. Every person who

(a) causes or conspires with any other person to cause a mutiny;

(b) endeavours to persuade any person to join in a mutiny;

(c) being present, does not use his utmost endeavours to suppress a mutiny; or

(d) being aware of an actual or intended mutiny, does not without delay inform his superior officer thereof,

is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Seditious Offences.

Advocating governmental change by force.

73. Every person who publishes or circulates any writing, printing or document in which is advocated, or who teaches or advocates, the use, without the authority of law, of force as a means of accomplishing any governmental change within Canada is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Insubordination.

Disobedience of lawful command.

74. Every person who disobeys a lawful command of a superior officer is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

69. See Naval Service Act, Sec 53

70. See Naval Service Act, Sec 57
Army Act (UK), Sec 7(3)
Air Force Act (UK), Sec 7(3)

71. See Naval Service Act, Sec 58
Army Act (UK), Sec 7(3)
Air Force Act (UK), Sec 7(3)

72. See Naval Service Act, Secs 59, 61, 62
Army Act (UK), Sec 7
Air Force Act (UK), Sec 7

73. See Criminal Code, Sec 133(4)

74. See Naval Service Act, Sec 64
Army Act (UK), Sec 9
Air Force Act (UK), Sec 9(1) and (2)

Striking or offering violence to a superior officer.

75. Every person who strikes or attempts to strike, or draws or lifts up a weapon against, or uses, attempts to use, or offers violence against a superior officer, is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Insubordinate behavior.

76. Every person who uses threatening or insulting language to or behaves with contempt toward a superior officer is guilty of an offence and on conviction is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Quarrels and disturbances.

77. Every person who quarrels or fights with any other person who is subject to the Code of Service Discipline, or who uses provoking speeches or gestures toward a person so subject tending to cause a quarrel or disturbance, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Disorders.

78. Every person who

(a) being concerned in a quarrel, fray or disorder, refuses to obey an officer, though of inferior rank, who orders him into arrest, or strikes or uses or offers violence to any such officer;

(b) strikes or uses or offers violence to any other person in whose custody he is placed, whether or not such other person is his superior officer and whether or not such other person is subject to the Code of Service Discipline;

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, station, camp, quarters or ship,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Desertion.

Offence.

79. (1) Every person who deserts or attempts to desert is guilty of an offence and on conviction, if he committed the offence on active service or under orders for active service, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for a term not exceeding five years or to less punishment.

Definition.

(2) A person deserts who

(a) being on or having been warned for active service or other important service, is absent without due authority with the intention of avoiding that service;

(b) having been warned that his vessel is under sailing orders, is absent without due authority, with the intention of missing that vessel;

75. See Naval Service Act, Sec 63
Army Act (UK), Sec 8
Air Force Act (UK), Sec 8

76. See Naval Service Act, Sec 64
Army Act (UK), Sec 8(2)
Air Force Act (UK), Sec 8(2)

77. See Naval Service Act, Sec 65

78. Army Act (UK), Sec 10
Air Force Act (UK), Sec 10

79. (1) See Naval Service Act, Secs 66, 67
Army Act (UK), Sec 12(1)
Air Force Act (UK), Sec 12(1)

79. (2) New

(c) absents himself without due authority from his unit or formation or from the place where his duty requires him to be, with the intention of not returning to that unit, formation or place;

(d) is absent without due authority from his unit or formation or from the place where his duty requires him to be and at any time during such absence forms the intention of not returning to that unit, formation or place; or

(e) while absent with due authority from his unit or formation or the place where his duty requires him to be, with the intention of not returning to that unit, formation or place, does any act, or omits to do anything, the natural and probable consequence of which act or omission is to preclude his return to that unit, formation or place at the time required.

Presumption of desertion.

(3) A person who has been absent without authority for a continuous period of six months or more shall, unless the contrary is proved, be presumed to have had the intention of not returning to his unit or formation or the place where his duty requires him to be.

Connivance at desertion.

80. Every person who

(a) being aware of the desertion or intended desertion of a person from any of His Majesty's Forces, does not without reasonable excuse inform his superior officer forthwith; or

(b) fails to take any steps in his power to cause the apprehension of a person known by him to be a deserter,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Absence Without Leave.

Offence.

81. (1) Every person who absents himself without leave is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Definition.

(2) A person absents himself without leave who

(a) without authority leaves his unit or formation or the place where his duty requires him to be;

(b) without authority is absent from his unit or formation or the place where his duty requires him to be; or

(c) having been authorized to be absent from his unit or formation or the place where his duty required him to be, fails to return to that unit, formation or place at the expiration of the period for which his absence was authorized.

79. (3) New

80. See Naval Service Act, Sec 68
Army Act (UK), Sec 14(2)
Air Force Act (UK), Sec 14(2)

81. See Naval Service Act, Act Secs 69, 70
Army Act (UK), Sec 15
Air Force Act (UK), Sec 15

False statement in respect of leave.

82. Every person who knowingly makes a false statement in respect of prolongation of leave of absence is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Disgraceful Conduct.

Scandalous conduct by officers.

83. Every officer who behaves in a scandalous manner unbecoming an officer is guilty of an offence and on conviction shall suffer dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service.

Cruel or disgraceful conduct.

84. Every person who behaves in a cruel or disgraceful manner is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding five years or to less punishment.

Traitorous utterances.

85. Every person who uses traitorous or disloyal words regarding His Majesty is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding seven years or to less punishment.

Abuse of inferiors.

86. Every person who strikes or otherwise ill-treats any person who by reason of rank or appointment is subordinate to him is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

False accusations or or statements.

87. Every person who

(a) makes a false accusation against an officer or man, knowing such accusation to be false; or

(b) when seeking redress under section thirty, knowingly makes a false statement affecting the character of an officer or man or knowingly, in respect of the redress so sought, suppresses any material facts,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Drunkenness.

88. Drunkenness, whether on duty or not on duty, is an offence and every person convicted thereof is liable to imprisonment for less than two years or to less punishment, except that, where the offence is committed by a man who is neither on active service nor on duty, no punishment of imprisonment, and no punishment of detention for a term in excess of ninety days, shall be imposed.

Malingering or maiming.

89. Every person who

(a) malingers or feigns or produces disease or infirmity;

(b) produces, aggravates, or delays the cure of, disease or infirmity by misconduct or wilful disobedience of orders; or

82. See Army Act (UK), Sec 27(4)
Air Force Act (UK), Sec 27(4)

83. See Naval Service Act, Sec 73
Army Act (UK), Sec 16
Air Force Act (UK), Sec 16

84. See Naval Service Act, Secs 72, 73
Army Act (UK), Sec 18(5)
Air Force Act (UK), Sec 18(5)

85. Army Act (UK), Sec 35
Air Force Act (UK), Sec 35

86. See Army Act (UK), Sec 37(1)
Air Force Act (UK), Sec 37(1)

87. See Army Act (UK), Sec 27(1) and (2)
Air Force Act (UK), Sec 27 (1) and (2)

88. See Naval Service Act, Sec 72
Army Act (UK), Sec 19
Air Force Act (UK), Sec 19

89. See Naval Service Act, Sec 80
Army Act (UK), Sec 18(1), (2) and (3)
Air Force Act (UK), Sec 18 (1), (2) and (3)

(*c*) wilfully maims or injures himself or any other person who is a member of His Majesty's Forces or of any forces co-operating therewith, whether at the instance of that person or not, with intent thereby to render himself or that other person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service,

is guilty of an offence and on conviction, if he commits the offence on active service or when under orders for active service, or in respect of a person on active service or under orders for active service, is liable to imprisonment for life or to less punishment, and in any other case, is liable to imprisonment for a term not exceeding five years or to less punishment.

Offences in Relation to Service Arrest and Custody.

Ill-treatment of person in custody.

90. Every person who unnecessarily detains any other person in arrest or confinement without bringing him to trial, or fails to bring that other person's case before the proper authority for investigation, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Negligent or wilful interference with lawful custody.

91. Every person who

(*a*) without proper authority sets free or authorizes or otherwise facilitates the setting free of any person in custody;

(*b*) negligently or wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard or keep in custody; or

(*c*) assists any person in escaping or attempting to escape from custody,

is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for a term not exceeding seven years or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Escape from custody.

92. Every person who, being in arrest or confinement or in prison or otherwise in lawful custody, escapes, or attempts to escape, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Obstruction—service police duties.

93. Every person who

(*a*) resists or wilfully obstructs an officer or man in carrying out any duty, performed by such officer or man with due authority, pertaining to the arrest, custody or confinement of a person subject to the Code of Service Discipline; or

90. See Army Act (UK), Sec 21(1)
Air Force Act (UK), Sec 21(1)

91. See Army Act (UK), Sec 20
Air Force Act (UK), Sec 20

92. See Army Act (UK), Sec 22
Air Force Act (UK), Sec 22

93. See Army Act (UK), Sec 6(3) *(c)*
Air Force Act (UK), Sec 6(3) *(c)*

(b) when called upon, refuses or neglects to assist an officer or man in the performance of any such duty,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Obstruction of civil power.

94. Every person who neglects or refuses to deliver over an officer or man to the civil power, pursuant to a warrant in that behalf, or to assist in the lawful apprehension of an officer or man accused of an offence punishable by a civil court is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Offences in Relation to Vessels.

Losing, stranding or hazarding vessels.

95. Every person who wilfully or negligently or through other default loses, strands or hazards, or suffers to be lost, stranded or hazarded any of His Majesty's Canadian Ships or other vessels of the Canadian Forces is guilty of an offence and on conviction is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Offences in relation to convoys.

96. Every officer who, while serving in one of His Majesty's Canadian Ships involved in the convoying and protection of vessels,

(a) fails to defend the vessels and goods under convoy;

(b) refuses to fight in the defence of the vessels in his convoy if they are attacked; or

(c) cowardly abandons or exposes the vessels in his convoy to hazards,

is guilty of an offence and on conviction is liable to suffer death or less punishment.

Offences in Relation to Aircraft.

Wrongful acts in relation to aircraft, etc.

97. Every person who

(a) in the use of or in relation to any aircraft or aircraft material, wilfully or negligently or by neglect of or contrary to regulations, orders or instructions, does any act or omits to do anything, which act or omission causes or is likely to cause loss of life or bodily injury to any person;

(b) wilfully or negligently or by neglect of or contrary to regulations, orders or instructions, does any act or omits to do anything, which act or omission results or is likely to result in damage to or destruction or loss of any of His Majesty's aircraft or aircraft material, or of aircraft or aircraft material of any forces co-operating with His Majesty's Forces; or

94. See Army Act (UK), Sec 39
Air Force Act (UK), Sec 39

95. See Naval Service Act, Sec 74

96. See Naval Service Act, Sec 75

97. See Army Act (UK), Sec 39A(1) *(a)*, *(b)*, *(e)* and *(f)*
Air Force Act (UK), Sec 39A(1) *(a)*, *(b)*, *(e)* and *(f)*

(c) during a state of war wilfully or negligently causes the sequestration by or under the authority of a neutral state or the destruction in a neutral state of any of His Majesty's aircraft, or aircraft of any forces co-operating with His Majesty's Forces,

is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Inaccurate certificate.

98. Every person who signs any certificate in relation to an aircraft or aircraft material without ensuring the accuracy thereof is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Low flying.

99. Every person who flies an aircraft at a height less than the minimum height authorized in the circumstances is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Disobedience of captain's orders.

100. (1) Every person who, when in an aircraft, disobeys any lawful command given by the captain of the aircraft in relation to the flying or handling of the aircraft or affecting the safety of the aircraft, whether or not the captain is subject to the Code of Service Discipline, is guilty of an offence and on conviction is liable to imprisonment for life or to less punishment.

Command in aircraft.

(2) For the purposes of this section

(a) every person whatever his rank shall when he is in an aircraft be under the command, as respects all matters relating to the flying or handling of the aircraft or affecting the safety of the aircraft, of the captain of the aircraft, whether or not the latter is subject to the Code of Service Discipline; and

(b) if the aircraft is a glider and is being towed by another aircraft, the captain of the glider shall so long as his glider is being towed be under the command, as respects all matters relating to the flying or handling of the glider or affecting the safety of the glider, of the captain of the towing aircraft, whether or not the latter is subject to the Code of Service Discipline.

OFFENCES IN RELATION TO VEHICLES.

Negligent or furious driving.

101. Every person who

(a) having the charge of a vehicle of the Canadian Forces, by wanton or furious driving or racing or other wilful misconduct or by wilful neglect, does or causes to be done any bodily injury to any person or damage to any property;

98. See Army Act (UK), Sec 39A(2) *(a)*
Air Force Act (UK), Sec 39A(2) *(a)*

99. See Army Act (UK), Sec 39A(2) *(b)*
Air Force Act (UK), Sec 39A (2) *(b)*

100. See Army Act (UK), Sec 39A(3)
Air Force Act (UK), Sec 39A(3)

101. New
See Criminal Code, Sec 285(1), (6) and (4)

(*b*) drives a vehicle of the Canadian Forces on a street, road, highway or any other place, whether public or private, recklessly or in a manner that is dangerous to any person or property having regard to all the circumstances of the case; or

(*c*) drives a vehicle of the Canadian Forces while intoxicated or under the influence of a drug or narcotic,

is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding five years or to less punishment.

Unauthorized use.

102. Every person who

(*a*) uses a vehicle of the Canadian Forces for an unauthorized purpose;

(*b*) without due authority uses a vehicle of the Canadian Forces for any purpose; or

(*c*) uses a vehicle of the Canadian Forces contrary to any regulation, order or instruction,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

OFFENCES IN RELATION TO PROPERTY.

Causing fires.

103. Every person who wilfully or negligently or by neglect of or contrary to regulations, orders or instructions, does any act or omits to do anything, which act or omission causes or is likely to cause fire to occur in any equipment, defence establishment or work for defence is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Stealing.

104. (1) Every person who steals is guilty of an offence and on conviction, if at the time of the commission of the offence he was, by reason of his rank, appointment or employment or as a result of any lawful command, entrusted with the custody, control or distribution of the thing stolen, is liable to imprisonment for a term not exceeding fourteen years or to less punishment, and in any other case is liable to imprisonment for a term not exceeding seven years or to less punishment.

Definition.

(2) For the purposes of this section,

(*a*) stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent

(i) to deprive the owner, or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest;

(ii) to pledge the same or deposit it as security;

(iii) to part with it under a condition as to its return which the person parting with it may be unable to perform; or

102. New

103. See Naval Service Act, Sec 78
Army Act (UK), Sec 39A(1)*(c)*
Air Force Act (UK) Sec 39A(1)*(c)*

104. See Naval Service Act, Sec 77
Army Act (UK), Secs 17, 18(4)
Air Force Act (UK), Secs 17, 18(4)
Criminal Code, Secs 347, 386(1), 359

(iv) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of such taking and conversion;

(b) stealing is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it;

(c) the taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment;

(d) it is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting.

Receiving.

105. Every person who receives or retains in his possession any property obtained by the commission of any service offence, knowing such property to have been so obtained, is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding seven years or to less punishment.

Destruction, loss or improper disposal.

106. Every person who

(a) wilfully destroys or damages, loses by neglect, improperly sells or wastefully expends any public property, non-public property or property of any of His Majesty's Forces or of any forces co-operating therewith;

(b) wilfully destroys, damages or improperly sells any property belonging to another person who is subject to the Code of Service Discipline; or

(c) sells, pawns or otherwise disposes of any cross, medal, insignia or other decoration granted by or with the approval of His Majesty,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Miscellaneous offences.

107. Every person who

(a) connives at the exaction of an exorbitant price for property purchased or rented by a person supplying property or services to the Canadian Forces;

(b) improperly demands or accepts compensation, consideration or personal advantage in respect of the performance of any military duty or in respect of any matter relating to the Department, the Canadian Forces or the Defence Research Board;

(c) receives directly or indirectly, whether personally or by or through any member of his family or person under his control, or for his benefit, any gift, loan, promise, compensation or consideration, either in money or otherwise, from any person, for assisting or favouring any person in the transaction of any business relating to any of His Majesty's Forces, or to any forces co-operating therewith or to any mess, institute

105. New
See Criminal Code, Sec 399
Naval Service Act, Sec 77
Army Act (UK), Sec 18(4)
Air Force Act (UK), Sec 18(4)

106. See Army Act (UK), Sec 24(1), (2), (3) and (4)
Air Force Act (UK), Sec 24(1), (2), (3) and (4)

107. See Naval Service Act, Secs 73, 75, 76
Army Act (UK), Secs 18(5), 23
Air Force Act (UK), Secs 18(5), 23

or canteen operated for the use and benefit of members of such forces;

(d) demands or accepts compensation, consideration or personal advantage for convoying ships or vessels entrusted to his care;

(e) being in command of a vessel or aircraft, takes or receives on board goods or merchandise that he is not authorized to take or receive on board; or

(f) commits any act of a fraudulent nature not particularly specified in the Code of Service Discipline,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

OFFENCES IN RELATION TO SERVICE TRIBUNALS.

"service tribunal".

108. (1) For the purposes of this section, "service tribunal", in addition to the tribunals mentioned in paragraph *(jj)* of section two, includes a board of inquiry, a commissioner taking evidence under this Act and an officer taking a summary of evidence in accordance with regulations.

Contempt of service tribunals.

(2) Every person who

(a) being duly summoned or ordered to attend as a witness before a service tribunal, makes default in attending;

(b) refuses to take an oath or make a solemn affirmation lawfully required by a service tribunal to be taken or made;

(c) refuses to produce any document in his power or control lawfully required by a service tribunal to be produced by him;

(d) refuses when a witness to answer any question to which a service tribunal may lawfully require an answer;

(e) uses insulting or threatening language or causes any interruption or disturbance in the proceedings of a service tribunal; or

(f) commits any other contempt of a service tribunal,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment; and where an offence under this section is committed at or in relation to a court martial, that court martial may, under the hand of the president, issue an order that the offender undergo, for a period not exceeding thirty days, a term of imprisonment or detention; and where any such order is issued the offender shall not be liable to any other proceedings under the Code of Service Discipline in respect of the contempt in consequence of which the order is issued.

108. See Army Act (UK), Sec 28
Air Force Act (UK), Sec 28

False evidence.

109. Every person who, when examined on oath or solemn affirmation before a service tribunal mentioned in section one hundred and eight, knowingly gives false evidence, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding seven years or to less punishment.

OFFENCES IN RELATION TO BILLETING.

Disturbances, etc., in billets.

110. Every person who

(a) ill-treats, by violence, extortion or making disturbance in billets or otherwise, any occupant of a house in which any person is billeted or of any premises in which accommodation for equipment has been provided; or

(b) fails to comply with regulations in respect of payment of the just demands of the person on whom he or any officer or man under his command is or has been billeted or the occupant of premises on which equipment is or has been accommodated,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

OFFENCES IN RELATION TO ENROLMENT.

Fraudulent enrolment.

111. Every person who, having been released from His Majesty's Forces by reason of a sentence of a service tribunal or by reason of misconduct, has afterwards been enrolled in the Canadian Forces without declaring the circumstances of his release is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

False answer on enrolment.

112. Every person who knowingly makes a false answer to any question set forth in any document required to be completed in relation to his enrolment is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Assisting unlawful enrolment.

113. Every person who is concerned in the enrolment of any other person, and knows or has reasonable cause to believe that by being enrolled such other person commits an offence under this Act, is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

MISCELLANEOUS OFFENCES.

Negligent performance of duties.

114. Every person who negligently performs a military duty imposed on him is guilty of an offence and on conviction is liable to dismissal with disgrace from His Majesty's service or to less punishment.

109. See Army Act (UK), Sec 29
Air Force Act (UK), Sec 29

110. See Army Act (UK), Sec 30(1) and (3)
Air Force Act (UK), Sec 30(1) and (3)

111. See Army Act (UK), Sec 32(1)
Air Force Act (UK), Sec 32(1)

112. See Army Act (UK), Sec 33
Air Force Act (UK), Sec 33

113. See Army Act (UK), Sec 34(1)
Air Force Act (UK), Sec 34(1)

114. See Naval Service Act, Sec 56

Offences in relation to documents.

115. Every person who

(a) knowingly or negligently makes or signs a document, required for official purposes, that is false or who orders the making or signing thereof;

(b) when signing a document required for official purposes, leaves in blank any material part for which his signature is a voucher; or

(c) knowingly and with intent to injure any person or with intent to deceive, suppresses, defaces, alters or makes away with any document or file kept, made or issued for any military or departmental purpose,

is guilty of an offence and on conviction, if he acted knowingly, is liable to imprisonment for a term not exceeding seven years or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Refusing vaccination, etc.

116. Every person who, upon receiving an order to submit to inoculation, re-inoculation, vaccination, re-vaccination, other immunization procedures, immunity tests, blood examination or treatment against any infectious disease, wilfully and without reasonable excuse disobeys that order is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment.

Negligent handling of dangerous substances.

117. Every person who wilfully or negligently or by neglect of or contrary to regulations, orders or instructions does any act or omits to do anything in relation to any matter or substance that may be dangerous to life or property, which act or omission causes or is likely to cause loss of life or bodily injury to any person or causes or is likely to cause damage to or destruction of any property, is guilty of an offence and on conviction, if he acted wilfully, is liable to imprisonment for life or to less punishment, and in any other case is liable to imprisonment for less than two years or to less punishment.

Conduct to the Prejudice of Good Order and Discipline.

Offence.

118. (1) Any act, conduct, disorder or neglect to the prejudice of good order and discipline is an offence and every person convicted thereof is liable to dismissal with disgrace from His Majesty's service or to less punishment.

Not intended to cover offences elsewhere provided for.

(2) No person may be charged under this section with any offence for which special provision is made in sections sixty-four to one hundred and seventeen but the conviction of a person so charged is not invalid by reason only of the

115. See Naval Service Act, Sec 79
Army Act (UK), Secs 25, 26(1)
Air Force Act (UK), Secs 25, 26(1)

116. New

117. New

118. (1) and (2) See Naval Service Act, Sec 87
Army Act (UK), Sec 40
Air Force Act (UK), Sec 40

charge being in contravention of this subsection unless it appears that an injustice has been done to the person charged by reason of the contravention; but the responsibility of any officer for that contravention is not affected by the validity of the conviction.

Contravention of Act, regulations etc., may constitute offence.

(3) Contravention by any person of

(a) any of the provisions of this Act;

(b) any regulations, orders or instructions published for the general information and guidance of that Service of the Canadian Forces to which that person belongs, or to which he is attached or seconded; or

(c) any general, garrison, unit, station, standing, local or other orders,

is an act, conduct, disorder or neglect to the prejudice of good order and discipline.

Attempts to commit offences.

(4) An attempt to commit any of the offences prescribed in sections sixty-four to one hundred and seventeen is, unless such attempt is in itself an offence punishable under any of those sections, an act, conduct, disorder or neglect to the prejudice of good order and discipline.

Saving provision.

(5) Nothing in subsections three or four shall affect the generality of subsection one.

Offences Punishable by Ordinary Law.

Service trial of civil offences.

119. (1) An act or omission

(a) that takes place in Canada and is punishable under Part XII of this Act, the *Criminal Code* or any other Act of the Parliament of Canada; or

(b) that takes place out of Canada and would, if it had taken place in Canada, be punishable under Part XII of this Act, the *Criminal Code* or any other Act of the Parliament of Canada,

is an offence under this Part and every person convicted thereof is liable to suffer punishment as provided in subsection two.

Punishment.

(2) Subject to subsection three, where a service tribunal convicts a person under subsection one, the service tribunal shall,

(a) if under Part XII of this Act, the *Criminal Code* or other Act of the Parliament of Canada, a minimum penalty is prescribed, impose a penalty in accordance with the enactment prescribing that minimum penalty; or

118. (3) New
See Army Act (UK), Sec 11
Air Force Act (UK), Sec 11

118. (4) and (5) New

119. (1) and (2) See Naval Service Act, Sec 89
Army Act (UK), Sec 41
Air Force Act (UK), Sec 41

(b) in any other case,

(i) impose the penalty prescribed for the offence by Part XII of this Act, the *Criminal Code* or that other Act; or

(ii) impose dismissal with disgrace from His Majesty's service or less punishment.

Ordinary rules apply.

(3) All provisions of the Code of Service Discipline in respect of a punishment of death, imprisonment for two years or more, imprisonment for less than two years, and a fine, shall apply in respect of penalties imposed under paragraph *(a)*, or sub-paragraph (i) of paragraph *(b)* of subsection two.

Saving provision.

(4) Nothing in this section shall be in derogation of the authority conferred by other sections of the Code of Service Discipline to charge, deal with and try a person alleged to have committed any offence set out in sections sixty-four to one hundred and eighteen and to impose the punishment for that offence mentioned in the section prescribing that offence.

CONVICTION OF COGNATE OFFENCE.

Conviction of related or less serious offences.

120. (1) A person charged with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged with attempting to desert may be found guilty of being absent without leave.

(3) A person charged with any one of the offences prescribed in section seventy-five may be found guilty of any other offence prescribed in that section.

(4) A person charged with any one of the offences prescribed in section seventy-six may be found guilty of any other offence prescribed in that section.

(5) A person charged with a service offence may, on failure of proof of an offence having been committed under circumstances involving a higher punishment, be found guilty of the same offence as having been committed under circumstances involving a lower punishment.

(6) Where a person is charged with an offence under section one hundred and nineteen and the charge is one upon which, if he had been tried by a civil court in Canada for that offence, he might have been found guilty of any other offence, he may be found guilty of that other offence.

PUNISHMENTS.

Scale of punishments.

121. (1) The following punishments may be imposed in respect of service offences:—

(a) death;

(b) imprisonment for two years or more;

119. (3) New

119. (4) New

120. See Naval Service Act, Secs 92, 93
Army Act (UK), Sec 56(3) to(6)
Air Force Act (UK), Sec 56(3) to(6)

121. (1) See Naval Service Act, Sec 97
Army Act (UK), Sec 44*(a)* to *(n)*
Air Force Act (UK), Sec 44*(a)* to *(n)*

(c) dismissal with disgrace from His Majesty's service;
(d) imprisonment for less than two years;
(e) dismissal from His Majesty's service;
(f) detention;
(g) reduction in rank;
(h) forfeiture of seniority;
(i) dismissal of an officer from the ship to which he belongs;
(j) forfeiture of service toward progressive increase in pay;
(k) fine;
(l) severe reprimand;
(m) reprimand;
(n) minor punishments,

and each of the above punishments shall be deemed to be a punishment less than every punishment preceding it in the above scale, in this Act referred to as the "scale of punishments".

Less Punishment.

Definition of "less punishment".

(2) Where a punishment is specified by the Code of Service Discipline as a penalty for an offence, and it is further provided in the alternative that on conviction the offender is liable to less punishment, the expression "less punishment" means any one or more of the punishments lower in the scale of punishments than the specified punishment.

Death.

Limitation on imposition of death penalty.

(3) A punishment of death may be imposed only by a General Court Martial, and may be imposed only with the concurrence of at least two-thirds of the members.

Imprisonment.

Conditions relating to imposition of punishment of imprisonment.

(4) The punishment of imprisonment for two years or more or imprisonment for less than two years is subject to the following conditions,

(a) every person who, on conviction of a service offence, is liable to imprisonment for life or for a term of years or other term, may be sentenced to imprisonment for a shorter term;

(b) a sentence that includes a punishment of imprisonment for two years or more imposed upon an officer shall be deemed to include a punishment of dismissal with disgrace from His Majesty's service, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal;

121. (2) See Naval Service Act, Sec 100
Army Act (UK), Sec 44, proviso (1)
Air Force Act (UK), Sec 44, proviso (1)

121. (3) See Naval Service Act, Sec 98(1) *(b)*
Army Act (UK), Sec 48(8)
Air Force Act (UK), Sec 48(8)

121. (4) See Naval Service Act, Secs 98(1) *(d)*, *(e)*, *(g)* *(i)*, *(k)*, 113
Army Act (UK), Secs 44, provisoes (2) and (4), 183(4)
Air Force Act (UK), Secs 44, provisoes (2) and (4), 183(4)
Criminal Code, Sec 1054

(c) a sentence that includes a punishment of imprisonment for less than two years imposed upon an officer shall be deemed to include a punishment of dismissal from His Majesty's service, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal;

(d) where a service tribunal imposes a punishment of imprisonment for two years or more upon a man, the service tribunal may in addition, notwithstanding any other provision of this Part, impose a punishment of dismissal with disgrace from His Majesty's service;

(e) where a service tribunal imposes a punishment of imprisonment for less than two years upon a man, the service tribunal may in addition, notwithstanding any other provision of this Part, impose a punishment of dismissal from His Majesty's service;

(f) in the case of a chief petty officer, petty officer or leading rating in the Royal Canadian Navy or a warrant officer or non-commissioned officer in the Canadian Army or the Royal Canadian Air Force, a sentence that includes a punishment of imprisonment for two years or more or imprisonment for less than two years shall be deemed to include a punishment of reduction in rank to the lowest rank to which under regulations he can be reduced, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal;

(g) a punishment of imprisonment for two years or more or imprisonment for less than two years shall be deemed to be a punishment of imprisonment with hard labour, but in the case of a punishment of imprisonment for less than two years, the Minister or such authorities as he may prescribe or appoint for that purpose may order that such punishment shall be without hard labour.

Dismissal With Disgrace.

Accompanying punishment.

(5) Where a service tribunal imposes a punishment of dismissal with disgrace from His Majesty's service upon an officer or man, the service tribunal may in addition, notwithstanding any other provision of this Part, impose a punishment of imprisonment for less than two years.

Consequences of dismissal with disgrace.

(6) A person upon whom a punishment of dismissal with disgrace from His Majesty's service has been carried out shall not, except in an emergency or unless that punishment is subsequently set aside or altered, be eligible to serve His Majesty again in any military or civil capacity.

121. (5) and (6) See Naval Service Act, Sec 98(1) *(f)*

Detention.

Conditions relating to imposition of detention.

(7) The punishment of detention is subject to the following conditions,

(a) detention shall not exceed two years and a person sentenced to detention shall not be subject to detention for more than two years consecutively by reason of more than one conviction;

(b) no officer may be sentenced to detention;

(c) in the case of a chief petty officer, petty officer or leading rating in the Royal Canadian Navy or a warrant officer or non-commissioned officer in the Canadian Army or the Royal Canadian Air Force, a sentence that includes a punishment of detention shall be deemed to include a punishment of reduction in rank to the lowest rank to which under regulations he can be reduced, whether or not the last mentioned punishment is specified in the sentence passed by the service tribunal.

Reduction in Rank.

Conditions-army and air force.

(8) The punishment of reduction in rank in the Canadian Army and the Royal Canadian Air Force is subject to the following conditions,

(a) in the case of a commissioned officer, it shall not be imposed upon an officer of or above the rank of lieutenant-colonel or wing commander and shall not involve reduction to a rank lower than commissioned rank; and

(b) in the case of a subordinate officer, it shall not involve reduction to a rank lower than an inferior grade of subordinate officer.

Conditions-navy.

(9) A punishment of reduction in rank in the Royal Canadian Navy shall apply only to a chief petty officer, petty officer or leading rating and shall not involve reduction to a rank lower than that to which under regulations the offender can be reduced.

Forfeiture of Seniority.

Sentence to specify period of forfeiture.

(10) Where an officer or man has been sentenced to forfeiture of seniority, the service tribunal imposing the punishment shall in passing sentence specify the period for which seniority is to be forfeited.

Dismissal from Ship.

Applies only to Royal Canadian Navy.

(11) The punishment of dismissal of an officer from the ship to which he belongs shall apply only to officers of the Royal Canadian Navy.

121. (7) See Naval Service Act, Sec 98(1) *(j) (k) (l)*, 113
Army Act (UK), Secs 44 proviso (1B), 183(4)
Air Force Act (UK), Secs 44 proviso (1B), 183(4)

121. (8) See Air Force Act (UK), Sec 44*(ee)*

121. (9) See Naval Service Act, Sec 97 *(j)*

121. (10) See Naval Service Act, Sec 97*(g)*

121. (11) See Naval Service Act, Sec 97*(h)*

Fine.

Conditions relating to fines.

(12) A fine shall be imposed in a stated amount and shall not exceed, in the case of an officer or man, three months basic pay, and in the case of any other person the sum of two hundred dollars, and the terms of payment of a fine shall lie within the discretion of the commanding officer of the person so punished.

Minor Punishments.

Governor In Council prescribes.

(13) Minor punishments shall be such as are prescribed in regulations made by the Governor in Council.

SENTENCES.

One sentence only to be passed.

122. Only one sentence shall be passed on an offender at a trial under the Code of Service Discipline and, where the offender is convicted of more than one offence, the sentence shall be good if any one of the offences would have justified it.

INCARCERATION UNDER MORE THAN ONE SENTENCE.

To be concurrent.

123. Where a person is under a sentence imposed by a service tribunal that includes a punishment involving incarceration and another service tribunal subsequently passes a new sentence that also includes a punishment involving incarceration, both punishments of incarceration shall, from the date of the pronouncement of the new sentence, run concurrently, but the punishment higher in the scale of punishments shall be served first.

IGNORANCE OF LAW.

No excuse.

124. The fact that a person is ignorant of the provisions of this Act, or of any regulations or of any order or instruction duly notified under this Act, is no excuse for any offence committed by him.

CIVIL DEFENCES.

Rules of civil courts applicable.

125. All rules and principles from time to time followed in the civil courts in proceedings under the *Criminal Code* that would render any circumstances a justification or excuse for any act or omission or a defence to any charge, shall be applicable to any defence to a charge under the Code of Service Discipline, except insofar as such rules and principles are altered by or are inconsistent with this Act.

121. (12) New

121. (13) See Naval Service Act, Sec 97*(l)*

122. See Criminal Code, Sec 1005

123. New.
See Naval Service Act, Sec 113

124. See Criminal Code, Sec 22

125. See Criminal Code, Sec 16

INSANITY AS A DEFENCE.

Natural imbecility or mental disease.

126. (1) No person shall be convicted of a service offence by reason of an act done or omitted by him when labouring under natural imbecility, or disease of the mind, to such an extent as to render him incapable of appreciating the nature and quality of the act or omission, and of knowing that such an act or omission was wrong.

Specific delusions.

(2) In respect of a person labouring under specific delusions, but in other respects sane, subsection one shall not apply unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act or omission.

Presumption of sanity.

(3) Every person shall be presumed to be sane at the time of doing or omitting to do any act until the contrary is proved.

Cross-References to Existing Legislation

126. See Criminal Code, Sec 19

PART VI.

ARREST.

Authority to Arrest.

General authority.

127. (1) Every person who has committed, is found committing, is suspected of being about to commit, or is suspected of or charged under this Act with having committed a service offence, may be placed under arrest.

Reasonable force authorized.

(2) Every person authorized to effect arrest under this Part may use such force as is reasonably necessary for that purpose.

Powers of officers.

128. (1) An officer may, without a warrant, in the circumstances mentioned in section one hundred and twenty-seven, arrest or order the arrest of

(a) any man;

(b) any officer of equal or lower rank; and

(c) any officer of higher rank who is engaged in a quarrel, fray or disorder.

Powers of men.

(2) A man may, without a warrant, in the circumstances mentioned in section one hundred and twenty-seven, arrest or order the arrest of

(a) any man of lower rank; and

(b) any man of equal or higher rank who is engaged in a quarrel, fray or disorder.

Arrest of offenders of other Services.

(3) An order given under subsection one or subsection two shall be obeyed although the person giving the order and the person to whom and the person in respect of whom the order is given do not belong to the same Service, component, unit or other element of the Canadian Forces.

Arrest of persons other than officers or men.

(4) Every person who is subject to the Code of Service Discipline, other than an officer or man, may without a warrant be arrested or ordered to be arrested by such person as any commanding officer may designate for that purpose.

Appointment and powers of shore patrol and provost.

129. Such officers and men as are appointed under regulations for the purposes of this section may,

(a) detain or arrest without a warrant any person who is subject to the Code of Service Discipline, regardless of the rank or status of that person, who has committed, is found committing, is suspected of being about to commit, or is suspected of or charged under this Act with having committed a service offence; and

(b) exercise such other powers as are prescribed in regulations made by the Governor in Council.

Issue of warrants.

130. (1) Subject to subsection two, every commanding officer, and every officer to whom the power of trying a charge summarily has been delegated under subsection six

Part VI.

This Part contains provisions relating to arrest in respect of service offences. Provision is also made for the prompt trial of accused persons held in custody.

Cross-References to Existing Legislation

127. (1) New
See Army Act (UK), Sec 45(1) (except proviso)
Air Force Act (UK), Sec 45(1) (except proviso)

127. (2) See Naval Service Act, Sec 95

128. (1), (2) and (3) See Army Act (UK), Sec 45(3)
Air Force Act (UK), Sec 45(3)

128. (4) New

129. See Army Act (UK), Sec 74

130. See Naval Service Act, Sec 95

of section one hundred and thirty-five or subsection six of section one hundred and thirty-six may by a warrant under his hand authorize any person to arrest any other person triable under the Code of Service Discipline who has committed, or is suspected of or charged under this Act with having committed a service offence.

Limitation.

(2) An officer authorized to issue a warrant under this section shall not, unless he has certified on the face of the warrant that the exigencies of the service so require, issue a warrant authorizing the arrest of any officer of rank higher than he himself holds.

Contents of warrants.

(3) In any warrant issued under this section the offence in respect of which the warrant is issued shall be stated and the names of more persons than one in respect of the same offence, or several offences of the same nature, may be included.

Saving provision.

(4) Nothing in this section shall be deemed to be in derogation of the authority that any person, including an officer or man, may have under other sections of this Act or otherwise under the law of Canada to arrest any other person without a warrant.

ACTION FOLLOWING ARREST.

Disposal of person arrested.

131. (1) A person arrested under this Part may forthwith on his apprehension be placed in civil custody or service custody or be taken to the unit or formation with which he is serving or to any other unit or formation of the Canadian Forces; and such force as is reasonably necessary for the purposes of this section may be used.

Delivery into custody.

(2) An officer or man commanding a guard or safeguard or an officer or man appointed under section one hundred and twenty-nine shall receive and keep a person who is committed to his custody by an officer, man or other person having power to arrest that person, but it shall be the duty of the officer, man or other person who commits a person into custody to deliver at the time of such committal, or as soon as practicable and in any case within twenty-four hours thereafter, to the officer or man into whose custody that person is committed, an account in writing, signed by himself, of the offence with which the person so committed is charged.

Report of custody.

(3) An officer or man who, pursuant to subsection two, receives a person committed to his custody shall, as soon as practicable and in any case within twenty-four hours thereafter, give in writing to the officer or man to whom it is his duty to report, the name of that person and an account of the offence alleged to have been committed by

131. (1) See Naval Service Act, Sec 95

131. (2) See Army Act (UK), Secs 21(2), 45(4)
Air Force Act (UK), Secs 21(2), 45(4)

131. (3) See Army Act (UK), Sec 21(3)
Air Force Act (UK), Sec 21(3)

that person so far as is known and the name and rank of the officer, man or other person by whom the person so committed was placed in custody, accompanied by any account in writing which has been submitted pursuant to subsection two.

LIMITATIONS IN RESPECT OF CUSTODY.

Report of delay of trial.

132. (1) Where a person triable under the Code of Service Discipline has been placed under arrest for a service offence and remains in custody for eight days without a summary trial having been held or a court martial for his trial having been ordered to assemble, a report stating the necessity for further delay shall be made by his commanding officer to the authority who is empowered to convene a court martial for the trial of that person, and a similar report shall be forwarded in the same manner every eighth day until a summary trial has been held or a court martial has been ordered to assemble.

Petition in respect of delay of trial.

(2) Every person held in custody in the circumstances mentioned in subsection one, who has been continuously so held for a period of twenty-eight days without a summary trial having been held or a court martial having been ordered to assemble, shall at the expiration of that period be entitled to direct to the Minister, or to such authority as the Minister may prescribe or appoint for that purpose, a petition to be freed from custody or for a disposition of the case and in any event that person shall be so freed when a period of ninety days continuous custody from the time of his arrest has expired, unless a summary trial has been held or a court martial has been ordered to assemble.

Limitation upon re-arrest.

(3) A person who has been freed from custody pursuant to subsection two shall not be subject to re-arrest for the offence with which he was originally charged, except on the written order of an authority having power to convene a court martial for his trial.

132. (1) See Army Act (UK), Sec 45(1)
Air Force Act (UK), Sec 45(1)

132. (2) and (3) New

PART VII.

SERVICE TRIBUNALS.

Application.

Commanding officer

133. (1) Every reference in this Part to a commanding officer shall be deemed to be a reference to the commanding officer of the accused person, or to such other commanding officer as may by regulations be empowered to act in lieu of the commanding officer of the accused person.

Meaning of ranks where specified.

(2) Every reference in this Part to the rank of an officer or man shall be construed in accordance with regulations made by the Governor in Council and every such reference shall be deemed to include a person who holds any equivalent relative rank, whether that person is enrolled in, or is attached, seconded or on loan to the Canadian Forces.

Investigation and Preliminary Disposition of Charges.

Immediate investigation required.

134. (1) Where a charge is laid against a person to whom this Part applies alleging that he has committed a service offence, the charge shall forthwith be investigated in accordance with regulations made by the Governor in Council.

Dismissal or other disposition.

(2) Where, after investigation, a commanding officer considers that a charge should not be proceeded with, he shall dismiss the charge; but otherwise shall cause it to be proceeded with as expeditiously as circumstances permit.

Summary Trials by Commanding Officer within the Royal Canadian Navy.

Persons triable.

135. (1) This section shall apply only in respect of persons who under Part IV are liable to be charged, dealt with and tried within the Royal Canadian Navy.

Jurisdiction of commanding officer.

(2) A commanding officer may in his discretion try an accused person by summary trial, but only if all of the following conditions are satisfied,

(a) the accused person is either a subordinate officer or a man;

(b) the offence is not one for which the punishment of death may be imposed;

(c) having regard to the gravity of the offence, the commanding officer considers that his powers of punishment are adequate;

Part VII

This Part makes provision for the constitution, powers and procedure of navy, army and air force tribunals.

Cross-References to Existing Legislation

133. New

134. (1) See Army Act (UK), Sec 45(5)
Air Force Act (UK), Sec 45(5)

134. (2) See Army Act (UK), Sec 46(1)
Air Force Act (UK), Sec 46(1)

135. (1) New

135. (2) See Naval Service Act, Sec 101(2), 102

(d) the accused person is not, pursuant to subsection nine, entitled to be tried by court martial; and

(e) the offence is not one which in regulations made by the Governor in Council the commanding officer is precluded from trying.

Sentences.

(3) A sentence passed by a commanding officer at a summary trial shall not include any of the following punishments,

(a) death;

(b) imprisonment for a period exceeding ninety days;

(c) detention for a period exceeding ninety days;

(d) any other punishment that by regulations made by the Governor in Council he is precluded from imposing.

Subordinate officers.

(4) A subordinate officer charged with having committed a service offence that in the opinion of the commanding officer is not sufficiently grave to justify trial by court martial, may be tried by summary trial under this section, but no punishment shall be imposed except forfeiture of seniority for a period not exceeding twelve months or forfeiture of service toward progressive increase in pay for a period not exceeding twelve months.

Jurisdiction in cases of detachment, etc.

(5) The authority of a commanding officer exercisable under this section may,

(a) in respect of persons on board a tender to a unit, be exercised in the case of a single tender absent from the unit, by the officer in command of the tender, and in the case of two or more tenders absent from the unit in company or acting together, by the officer in immediate command of the tenders;

(b) in respect of persons on board a boat belonging to the unit, be exercised, when the boat is absent on detached service, by the officer in command of the boat; and

(c) in respect of persons on detached service, either on shore or otherwise, be exercised by the officer in immediate command of those persons.

Delegation.

(6) A commanding officer may, subject to regulations made by the Governor in Council and to such extent as the commanding officer deems fit, delegate his powers under this section to any officer under his command, but an officer to whom powers are so delegated may not be authorized to impose punishments other than the following,

(a) a fine not exceeding ten dollars;

(b) a reprimand;

(c) minor punishments.

Limitation upon powers of punishment.

(7) Such punishments as are, in regulations made by the Governor in Council, specified as requiring approval before they may be imposed by a commanding officer, shall not be so imposed until approval has been obtained in the manner prescribed in such regulations.

135. (3) New
See Naval Service Act, Sec 101(2)

135. (4) See Naval Service Act, Sec 102

135. (5) See Naval Service Act, Sec 101(3)

135. (6) See Army Act (UK), Sec 46(9)
Air Force Act (UK), Sec 46(9)

135. (7) New

Evidence on oath.

(8) Where a commanding officer tries an accused person by summary trial, the evidence shall be taken on oath if the commanding officer so directs or the accused person so requests, and the commanding officer shall inform the accused person of his right so to request.

Election to be tried by court martial.

(9) Where a commanding officer tries a chief petty officer or a petty officer, first class, by summary trial and the commanding officer, either before or after any or all of the evidence has been heard, arrives at the conclusion that a finding of guilty,

(a) in the case of a chief petty officer or petty officer, first class, who is liable to be sentenced to the punishment of reduction in rank, would justify that punishment; or

(b) in the case of a chief petty officer or petty officer, first class, who under regulations is not liable to be sentenced to the punishment of reduction in rank, would justify the punishment of imprisonment for less than two years or detention,

the accused person shall, subject to paragraph *(a)* of subsection ten, have the right to elect to be tried by court martial rather than have the commanding officer continue and complete the summary trial, and the commanding officer shall inform him of that right.

Summary trial where court martial impracticable.

(10) *(a)* Where a chief petty officer or petty officer, first class, has, under subsection nine elected to be tried by court martial and, in the opinion of the senior naval officer present, the exigencies of naval service do not permit a court martial to be assembled within a reasonable period, that senior naval officer may, if he considers it necessary, authorize the commanding officer to deal with the case by summary trial.

Board of inquiry.

(b) Where in the circumstances mentioned in paragraph *(a)*, the commanding officer at a summary trial imposes the punishment of reduction in rank upon a chief petty officer or petty officer, first class, the senior officer in chief command shall order a board of inquiry to assemble forthwith to determine whether, having regard to the circumstances of the case, any one or more of the punishments lower in the scale of punishments than reduction in rank would be appropriate.

Reduction of sentence.

(c) Where a board of inquiry recommends a substituted punishment under paragraph *(b)*, the senior officer in chief command shall make an order to that effect and the substituted punishment shall have force and effect as if it had been imposed at the summary trial in the first instance, and the provisions of the Code of Service Discipline shall apply accordingly.

135. (8) Army Act (UK), Sec 46(6)
Air Force Act (UK), Sec 46(6)

135. (9) New

135. (10) New

SUMMARY TRIALS BY COMMANDING OFFICER WITHIN THE CANADIAN ARMY AND THE ROYAL CANADIAN AIR FORCE

Persons triable.

136. (1) This section shall apply only in respect of persons who under Part IV are liable to be charged, dealt with and tried within the Canadian Army or the Royal Canadian Air Force.

Jurisdiction of commanding officer.

(2) A commanding officer may in his discretion try an accused person by summary trial, but only if all of the following conditions are satisfied,

(a) the accused person is a man below the rank of warrant officer;

(b) the offence is not one for which the punishment of death may be imposed;

(c) having regard to the gravity of the offence, the commanding officer considers that his powers of punishment are adequate;

(d) the accused person is not, pursuant to subsection four, entitled to be tried by court martial; and

(e) the offence is not one which in regulations made by the Governor in Council the commanding officer is precluded from trying.

Sentences.

(3) Subject to the conditions set out in this section and in Part V relating to punishments, a commanding officer at a summary trial may pass a sentence in which any one or more of the following punishments may be included,

(a) detention for a period not exceeding ninety days, subject to the following provisions,

(i) a punishment of detention imposed by a commanding officer upon a non-commissioned officer shall not be carried into effect until approved by an officer not below the rank of brigadier or air commodore under whom the commanding officer who imposed the punishment is serving, and only to the extent so approved;

(ii) where a commanding officer imposes more than thirty days detention, the portion in excess of thirty days shall be effective only if approved by, and to the extent approved by, an officer not below the rank of brigadier or air commodore under whom the commanding officer who imposed the punishment is serving;

(b) reduction in rank, but a punishment of reduction in rank imposed by a commanding officer shall be effective only if approved by, and to the extent approved by, an officer, not below the rank of brigadier or air commodore, under whom the commanding officer who imposed the punishment is serving;

(c) forfeiture of seniority;

136. (1) New

136. (2) See Naval Service Act, Secs 101(2), 102
Army Act (UK), Sec 46(1)
Air Force Act (UK), Sec 46(1)

136. (3) See Army Act (UK), Sec 46(2)
Air Force Act (UK), Sec 46(2)

(*d*) forfeiture of service toward progressive increase in pay;
(*e*) a fine not exceeding basic pay for one month;
(*f*) severe reprimand;
(*g*) reprimand;
(*h*) minor punishments.

Election to be tried by court martial.

(4) Where a commanding officer tries an accused person by summary trial and the commanding officer, either before or after any or all of the evidence has been heard, arrives at the conclusion that a finding of guilty

(*a*) would involve a forfeiture of pay for absence without leave exceeding pay for seven days; or
(*b*) would justify
(i) a fine exceeding ten dollars; or
(ii) a punishment higher in the scale of punishments than a severe reprimand,

that person shall have the right to elect to be tried by court martial rather than have the commanding officer continue and complete the summary trial, and the commanding officer shall inform him of that right.

Evidence on oath.

(5) Where a commanding officer tries an accused person by summary trial, the evidence shall be taken on oath if the commanding officer so directs or the accused person so requests, and the commanding officer shall inform the accused person of his right so to request.

Delegation.

(6) A commanding officer may, subject to regulations made by the Governor in Council and to such extent as the commanding officer deems fit, delegate his powers under this section to any officer under his command, but an officer to whom powers are so delegated may not be authorized to impose punishments other than the following,

(*a*) a fine not exceeding ten dollars;
(*b*) a reprimand;
(*c*) minor punishments.

Limitation upon powers of punishment.

(7) Such punishments as are, in regulations made by the Governor in Council, specified as requiring approval before they may be imposed by a commanding officer, shall not be so imposed until approval has been obtained in the manner prescribed in such regulations.

Summary Trials by Superior Commander within the Canadian Army and the Royal Canadian Air Force.

Persons triable.

137. (1) This section shall apply only in respect of persons who under Part IV are liable to be charged, dealt with and tried within the Canadian Army or the Royal Canadian Air Force.

Jurisdiction of superior commander.

(2) Any officer of or above the rank of brigadier or air commodore, or any other officer prescribed or appointed by the Minister for that purpose, referred to in this section

136. (4) See Army Act (UK), Sec 46(8)
Air Force Act (UK), Sec 46(8)

136. (5) See Army Act (UK), Sec 46(6)
Air Force Act (UK), Sec 46(6)

136. (6) See Army Act (UK), Sec 46(9)
Air Force Act (UK), Sec 46(9)

136. (7) New

137. See Army Act (UK), Sec 47
Air Force Act (UK), Sec 47

as a "superior commander", may in his discretion try by summary trial an officer below the rank of major or squadron leader, or a warrant officer, charged with having committed a service offence, and in an emergency the Governor in Council may extend the provisions of this section to cases where the accused person is of the rank of major or squadron leader.

Dismissal or other disposition.

(3) A superior commander may, with or without hearing the evidence, dismiss a charge if he considers that it should not be proceeded with; but otherwise shall cause it to be proceeded with as expeditiously as circumstances permit.

Sentences.

(4) Subject to the conditions set out in this section and in Part V relating to punishments, a superior commander at a summary trial may pass a sentence in which any one or more of the following punishments may be included,

(a) forfeiture of seniority;

(b) forfeiture of service toward progressive increase in pay;

(c) fine;

(d) severe reprimand;

(e) reprimand.

Election to be tried by court martial.

(5) Where a superior commander tries an accused person by summary trial and the superior commander, either before or after any or all of the evidence has been heard, arrives at the conclusion that a finding of guilty would justify

(a) forefeiture of seniority;

(b) forfeiture of service toward progressive increase in pay;

(c) in the case of an officer, a fine exceeding fifty dollars; or

(d) in the case of a warrant officer, a fine exceeding twenty-five dollars,

the accused person shall have the right to elect to be tried by court martial rather than have the superior commander continue and complete the summary trial, and the superior commander shall inform him of that right.

Evidence on oath.

(6) Where a superior commander tries an accused person by summary trial, the evidence shall be taken on oath if the superior commander so directs or the accused person so requests, and the superior commander shall inform the accused person of his right so to request.

Convening of Courts Martial.

Convening authorities.

138. (1) The Minister, and such other authorities as he may prescribe or appoint for that purpose, may convene General Courts Martial and Disciplinary Courts Martial.

Officers of other Services may be appointed.

(2) An authority who convenes a court martial under subsection one may appoint as members of the court martial, officers of the Royal Canadian Navy, the Canadian Army or the Royal Canadian Air Force or officers of any navy, army or air force, who are attached, seconded or loaned to the Canadian Forces.

138. (1) See Militia Act, Sec 93(2)
Naval Service Act, Secs 104(9), 103(1)

138. (2) See RCAF Act, Sec 13
Army Act (UK), Sec 48(10)
Air Force Act, (UK) Sec 48(10)

General Courts Martial.

Jurisdiction.

139. A General Court Martial may try any person who under Part IV is liable to be charged, dealt with and tried upon a charge of having committed any service offence.

Number of members.

140. (1) A General Court Martial shall consist of not less than five officers and not more than such maximum number of officers as may be prescribed in regulations.

Appointment of president.

(2) The president of a General Court Martial shall be an officer of or above the naval rank of captain or of or above the rank of colonel or group captain and shall be appointed by the authority convening the General Court Martial or by an officer empowered by that authority to appoint the president.

Trial of commodore, etc.

(3) Where the accused person is of or above the rank of commodore, brigadier or air commodore, the president of a General Court Martial shall be an officer of or above the rank of the accused person, and the other members of the court martial shall be of or above the naval rank of captain or of or above the rank of colonel or group captain.

Trial of captain, etc.

(4) Where the accused person is of the naval rank of captain or of the rank of colonel or group captain, all of the members of a General Court Martial, other than the president, shall be of or above the rank of commander, lieutenant-colonel or wing commander.

Trial of commander, etc.

(5) Where the accused person is a commander, lieutenant-colonel or wing commander, at least two of the members of a General Court Martial, exclusive of the president, shall be of or above the rank of the accused person.

Judge advocate.

141. Such authority as is prescribed for that purpose in regulations shall appoint a person to officiate as judge advocate at a General Court Martial.

Ineligibility to serve on General Court Martial.

142. None of the following persons shall sit as a member of a General Court Martial,

(a) the officer who convened the court martial;

(b) the prosecutor;

(c) a witness for the prosecution;

(d) the commanding officer of the accused person;

(e) a provost officer;

(f) an officer who is under the age of twenty-one years;

(g) an officer below the naval rank of lieutenant, the army rank of captain or the air force rank of flight lieutenant;

(h) any person who prior to the court martial participated in any investigation respecting the matters upon which a charge against the accused person is founded; or

139. See Naval Service Act, Sec 101(1)
Army Act (UK), Sec 48(6)
Air Force Act (UK), Sec 48(6)

140. (1) See Naval Service Act, Sec 104(1) and (13)
Army Act (UK), Sec 48(3)
Air Force Act (UK), Sec 48(3)

140. (2), (3), (4), (5), See Naval Service Act, Sec 104(5), (6), (7) and (12)
Army Act (UK), Sec 48(9)
Air Force Act (UK), Sec 48(9)

141. New
See Naval Service Act, Sec 108

142. See Naval Service Act, Secs 104(2), (4), (8) and (11), 105
Army Act (UK), Sec 50(2) and (3)
Air Force Act (UK), Sec 50(2) and (3)

(*i*) within the Royal Canadian Navy, an officer of the reserve forces, unless he is on active service.

DISCIPLINARY COURTS MARTIAL.

Jurisdiction.

143. Subject to any limitations prescribed in regulations made by the Governor in Council, a Disciplinary Court Martial may try any person who under Part IV is liable to be charged, dealt with and tried upon a charge of having committed any service offence.

Punishment.

144. A Disciplinary Court Martial shall not pass a sentence including a punishment higher in the scale of punishments than dismissal with disgrace from His Majesty's service, or higher than such other punishment as may be prescribed in regulations; but no such other punishment shall be higher in the scale of punishments than dismissal with disgrace from His Majesty's service.

Number of members.

145. A Disciplinary Court Martial shall consist of not less than three officers and not more than such maximum number of officers as may be prescribed in regulations.

Appointment of president.

146. (1) The president of a Disciplinary Court Martial shall be appointed by the authority convening the Disciplinary Court Martial or by an officer empowered by that authority to appoint the president.

Rank of president.

(2) The president of a Disciplinary Court Martial shall be an officer of or above the rank of lieutenant-commander, major or squadron leader or of or above such higher rank as may be prescribed in regulations.

Judge advocate.

147. Such authority as may be prescribed for that purpose in regulations may appoint a person to officiate as judge advocate at a Disciplinary Court Martial.

Ineligibility to serve on Disciplinary Court Martial.

148. None of the following persons shall sit as a member of a Disciplinary Court Martial,

(*a*) the officer who convened the court martial;

(*b*) the prosecutor;

(*c*) a witness for the prosecution;

(*d*) the commanding officer of the accused person;

(*e*) a provost officer;

(*f*) an officer who is under the age of twenty-one years;

(*g*) any person who prior to the court martial participated in any investigation respecting the matters upon which a charge against the accused person is founded; or

(*h*) within the Royal Canadian Navy, an officer of the reserve forces, unless he is on active service.

143. New
See Naval Service Act, Sec 103(1)
Army Act (UK), Sec 48(6)
Air Force Act (UK), Sec 48(6)

144. New
See Naval Service Act, Sec 103(3)
Army Act (UK), Sec 48 (6)
Air Force Act (UK), Sec 48(6)

145. See Naval Service Act, Sec 103(2)
Army Act (UK), Sec 48(4)
Air Force Act (UK), Sec 48 (4)

146. See Naval Service Act, Sec 103(2)
Army Act (UK) Sec 48(9)
Air Force Act (UK), Sec 48(9)

147. New
See Naval Service Act, Sec 108

148. New
See Naval Service Act, Secs 104(4), (8) and (11), 105
Army Act (UK), Sec 50(2) and (3)
Air Force Act (UK), Sec 50(2) and (3)

Standing Courts Martial.

Constitution.

149. (1) The Governor in Council may in an emergency establish Standing Courts Martial and each such court martial shall consist of one officer, to be called the president, who is or has been a barrister or advocate of more than three years standing and who shall be appointed by or under the authority of the Minister.

Powers.

(2) Subject to any limitations prescribed in regulations, a Standing Court Martial may try any person who under Part IV is liable to be charged, dealt with and tried upon a charge of having committed a service offence, but a Standing Court Martial shall not pass a sentence including any punishment higher in the scale of punishments than imprisonment for less than two years.

Representation of Accused.

Defence.

150. At any proceedings before a court martial the accused person shall have the right to be represented in such manner as shall be prescribed in regulations.

Admission to Courts Martial.

Trials public.

151. (1) Subject to subsections two and three, courts martial shall be public and, to the extent that accommodation permits, the public shall be admitted to the trial.

Exception.

(2) Where the authority who convenes a court martial or the president of a court martial considers that it is expedient in the interests of public safety, defence or public morals that the public should be excluded during the whole or any part of a trial, either of them may make an order to that effect, and any such order shall be recorded in the minutes of the proceedings of the court martial.

Witnesses.

(3) Witnesses, other than the prosecutor and the accused person, shall not be admitted to a trial, except when under examination or by specific leave of the president of the court martial.

Clearing court.

(4) The president may, on any deliberation among the members, cause a court martial to be cleared of any other persons in accordance with regulations.

Rules of Evidence.

Trial in Canada.

152. (1) The rules of evidence at a trial by court martial held in Canada shall be the same as those from time to time followed in civil courts in the province of Canada in which the court martial is held, except insofar as such rules are inconsistent with this Act or regulations.

149. New

150. New

151. New
See Army Act (UK), Sec 53 (5)
Air Force Act (UK), Sec 53(5)

152. New
See Army Act (UK), Secs 127, 128
Air Force Act (UK), Sec 128

Trial outside Canada.

(2) Where a court martial is held out of Canada or in a ship beyond the territorial limits of Canada, the rules of evidence shall be the same as those from time to time followed in civil courts in the province in which the accused person states to the court martial that his ordinary place of residence is situated, except insofar as such rules are inconsistent with this Act or regulations.

Special case.

(3) Where, in the circumstances mentioned in subsection two, an accused person states that his ordinary place of residence is situated out of Canada, or makes no statement as to his ordinary place of residence, the court martial shall apply the rules of evidence from time to time followed in civil courts in the province in which the capital city of Canada is situated, except in so far as such rules are inconsistent with this Act or regulations.

Exclusion.

(4) A court martial, wherever held, shall not as respects the conduct of its proceedings or the reception or rejection of evidence or as respects any other matter or thing, be subject to any Act, law or regulation not in force in Canada.

Admission of documents and records.

153. (1) Such classes of documents and records as are prescribed in regulations made by the Governor in Council may be admitted as evidence of the facts therein stated at trials by court martial or in any proceedings before civil courts arising out of such trials, and the conditions governing the admissibility of such classes of documents and records or copies thereof shall be as prescribed in those regulations.

Statutory declarations admissible.

(2) A court martial may receive, as evidence of the facts therein stated, declarations made in the manner prescribed by section thirty-six of the *Canada Evidence Act*, subject to the following conditions,

(a) where the declaration is one that the prosecutor wishes to introduce, a copy shall be served upon the accused person at least seven days before the trial;

(b) where the declaration is one that the accused person wishes to introduce, a copy shall be served upon the prosecutor at least three days before the trial; and

(c) at any time before the trial the party upon whom the copy of the declaration has been served under paragraph *(a)* or *(b)* may notify the opposite party that he will not consent to the declaration being received by the court martial, and in that event the declaration shall not be received.

Witnesses at Courts Martial.

Procurement of attendance of witnesses.

154. (1) The commanding officer of the accused person, the authority who convenes a court martial, or, after the assembly of the court martial, the president, shall take all necessary action to procure the attendance of the witnesses

153. New

154. New

whom the prosecutor and the accused person request to be called and whose attendance can, having regard to the exigencies of the service, reasonably be procured, but nothing in this subsection shall require the procurement of the attendance of any witnesses, the request for whose attendance is deemed by any such commanding officer, authority who convenes a court martial or president to be frivolous or vexatious.

Procurement of attendance in exceptional cases.

(2) Where a request by the accused person for the attendance of a witness is deemed to be frivolous or vexatious, the attendance of that witness, if his attendance, having regard to the exigencies of the service, can reasonably be procured, shall be procured if the accused person pays in advance the fees and expenses of the witness at the rates prescribed in regulations, and if at the trial the evidence of the witness proves to be relevant and material, the president of the court martial or the authority who convened the court martial shall order that the accused person be reimbursed in the amount of the fees and expenses of the witness so paid.

Rights of accused preserved.

(3) Nothing in this section shall limit the right of the accused person to procure and produce at the trial at his own expense such witnesses as he may desire, if the exigencies of the service permit.

Evidence on Commission.

Appointment of commissioner.

155. (1) Where it appears to the Judge Advocate General, or to such person as he may appoint for that purpose, that the attendance at a trial by court martial of a witness for the prosecution is not readily obtainable because the witness is ill or is absent from the country in which the trial is held, or that the attendance of a witness for the accused person is not readily obtainable for any reason, the Judge Advocate General, or such person as he may appoint for that purpose, may appoint any officer or other qualified person, in this section referred to as a "commissioner", to take the evidence of the witness under oath.

Admissibility of commission evidence.

(2) The document containing the evidence of a witness, taken under subsection one and duly certified by the commissioner, shall be admissible in evidence at a court martial to the same extent and subject to the same objections as if the witness had given that evidence in person at the trial.

Personal attendance of witness.

(3) Where in the opinion of the president of a court martial, a witness whose evidence has been taken on commission, should in the interests of justice appear and give evidence before the court martial and that witness is not too ill to attend the trial and is not outside the country in which the trial is held, the president may require the attendance of that witness.

155. New

Commission evidence part of summary or abstract.

(4) The document mentioned in subsection two or a true copy thereof may be attached to the summary or abstract of evidence taken in respect of the charge against the accused person and, on being so attached, that document shall form part of the summary or abstract of evidence.

Cross-examination.

(5) At any proceedings before a commissioner the accused person and the prosecutor shall be entitled to be represented and the persons representing them shall have the right to examine and cross-examine any witness.

Copy to accused.

(6) The accused person shall, at least twenty-four hours before it is admitted at the court martial, be furnished without charge with a copy of the document mentioned in subsection two.

View by Court Martial.

President may authorize.

156. A court martial may, where the president considers it necessary, view any place, thing or person.

Objection to Members of Courts Martial.

Right of accused.

157. (1) When a court martial is assembled, the names of the president and other members shall be read over to the accused person who shall be asked if he objects to be tried by any of them, and if he objects the court martial shall decide whether the objection shall be allowed.

Replacements

(2) The procedure for the replacement of a president of a court martial or any other members of a court martial in respect of whom an objection has been allowed shall be as prescribed in regulations.

Oaths at Courts Martial.

Persons required to take oath.

158. (1) At every court martial an oath shall be administered to each of the following persons,

(a) the president and other members of the court martial;

(b) the judge advocate;

(c) the officers ordered to attend for purposes of instruction;

(d) court reporters;

(e) interpreters;

(f) witnesses,

in the manner and in the forms prescribed in regulations.

Affirmation in lieu of oath.

(2) If a person to whom an oath is required to be administered under subsection one,

(a) objects to take the oath and the president of the court martial is satisfied of the sincerity of the objection; or

(b) is objected to as incompetent to take the oath and the president of the court martial is satisfied that the

156. See Army Act (UK), Sec 53(7)
Air Force Act (UK), Sec 53(7)
Criminal Code, Sec 958(1)

157. See Naval Service Act, Sec 109
Army Act (UK), Sec 51
Air Force Act (UK), Sec 51

158. See Naval Service Act, Secs 103(4), 110, 111
Army Act (UK), Sec 52
Air Force Act (UK), Sec 52

oath would have no binding effect on the conscience of that person,

the president shall require that person, instead of being sworn, to make a solemn affirmation in the form prescribed in regulations and, for the purposes of this Act, a solemn affirmation shall be deemed to be an oath.

ADJOURNMENT AND DISSOLUTION.

President may adjourn.

159. A court martial may be adjourned whenever the president considers adjournment desirable.

Dissolution when numbers reduced.

160. (1) Where, after the commencement of a trial, a court martial is by death or otherwise reduced below the minimum number of members prescribed in this Act, it shall be deemed to be dissolved.

President unable to attend.

(2) Where, after the commencement of a trial, the president of a court martial dies or for any other reason cannot attend and the court martial is not thereby reduced below the minimum number of members prescribed in this Act, the authority who convened the court martial may appoint the senior member of the court martial to be the president and the trial shall proceed; but if the senior member of the court martial is not of sufficient rank to be appointed president, the court martial shall be deemed to be dissolved.

Illness of accused.

(3) Where, on account of the illness of the accused person, it is impossible to continue the trial, the court martial shall be dissolved.

Effect of dissolution.

(4) Where a court martial is dissolved pursuant to this section, the accused person may be dealt with as if the trial had never commenced.

AMENDMENT OF CHARGES.

May be made if no injustice.

161. (1) Where at any time during a trial by court martial, it appears to the president that there is a technical defect in a charge that does not affect the substance of the charge, the president, if he is of the opinion that the accused person will not be prejudiced in the conduct of his defence by an amendment, shall make such order for the amendment of the charge as he considers necessary to meet the circumstances of the case.

Procedure.

(2) Where an amendment to the charge has been made, the president of the court martial shall, if the accused person so requests, adjourn the court martial for such period as the president considers necessary to enable the accused person to meet the charge so amended.

Minute of amendment.

(3) Where a charge is amended, a minute of the amendment shall be endorsed upon the charge sheet and signed

159. See Naval Service Act, Sec 107
Army Act (UK), Sec 53(6)
Air Force Act (UK), Sec 53(6)

160. See Army Act (UK), Sec 53(1), (2), (3) and (4)
Air Force Act (UK), Sec 53(1), (2), (3) and (4)

161. New
See Criminal Code, Sec 893

by the president of the court martial; and the charge sheet so amended shall be treated for the purposes of the trial and all proceedings in connection therewith as being the original charge sheet.

Decisions by Courts Martial.

Majority vote.

162. (1) The finding and, subject to subsection three of section one hundred and twenty-one, the sentence of a court martial and the decision in respect of any other matter or question arising after the commencement of the trial shall be determined by the vote of a majority of the members.

Equality on finding.

(2) In the case of an equality of votes on the finding, the accused shall be found not guilty.

Equality on sentence.

(3) In the case of an equality of votes on the sentence or on any other matter or question arising after the commencement of the trial, except the finding, the president of the court martial shall have a second or casting vote.

Similar Offences.

May be considered in imposing sentence.

163. A court martial may at the request of the offender and in its discretion take into consideration, for the purposes of sentence, other service offences, similar in character to that of which the offender has been found guilty, that are admitted by him, as if he had been charged with, tried on and found guilty of such offences; but the sentence of the court martial sha l not include any punishment higher in the scale of punishments than the punishment that might be imposed in respect of any offence of which the offender has been found guilty.

Pronouncement of Findings and Sentence.

Effect.

164. The finding and sentence of a court martial shall at the conclusion of the trial be pronounced to the offender in open court and he shall be under the sentence as of the date of the pronouncement thereof.

Recommendations to Clemency.

Applicable in certain cases only.

165. Where a court martial has found a person guilty of an offence, prescribed in section sixty-four, sixty-five, sixty-six or sixty-seven, for which the punishment of death is mandatory, or in section eighty-three, for which the punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service is manda-

162. (1) New

162. (2) and (3) See Army Act (UK), Sec 53(8)
Air Force Act (UK), Sec 53(8)

163. New

164. New

165. See Army Act (UK), Sec 53(9)
Air Force Act (UK), Sec 53(9)

tory, or an offence to which paragraph *(a)* of subsection two of section one hundred and nineteen applies, the court martial may recommend clemency and the recommendation shall be attached to and form part of the minutes of the proceedings of the trial.

DECISION WHERE ACCUSED INSANE AT TRIAL.

Trial of issue of insanity.

166. (1) Where at any time after a trial by court martial commences and before the finding of the court martial is made, it appears that there is sufficient reason to doubt whether the accused person is then, on account of insanity, capable of conducting his defence, an issue shall be tried and decided by that court martial as to whether the accused person is or is not then, on account of insanity, unfit to stand or continue his trial.

Trial proceeds if accused sane.

(2) Where the decision of the court martial on an issue mentioned in subsection one is that the accused person is not then unfit to stand or continue his trial, the court martial shall proceed to try that person as if no such issue had been tried.

Disposal of accused in Canada.

(3) Where the decision of a court martial held in Canada is that the accused person is unfit to stand or continue his trial on account of insanity, the court martial shall order the accused person to be kept in strict custody, and he shall be treated in accordance with subsection five of section nine hundred and sixty-seven and section nine hundred and sixty-nine of the *Criminal Code*, as if the same decision had been made in respect of him by a civil court in the province of Canada in which that court martial was held.

Disposal of accused out of Canada.

(4) Where the decision of a court martial held out of Canada is that the accused person is unfit to stand or continue his trial on account of insanity, the court martial shall order that person to be kept in strict custody and he shall be transferred, as soon as conveniently may be, to the province of Canada in which he is domiciled, and upon transfer to that province he shall be treated in accordance with subsection five of section nine hundred and sixty-seven and section nine hundred and sixty-nine of the *Criminal Code*, as if the same decision had been made in respect of him by a civil court in that province; and, in the case of an accused person who is not domiciled in any province, the Minister may make such arrangements for the benefit and welfare of that person as to the Minister seem fit.

Saving of jurisdiction.

(5) No decision of a court martial that an accused person is unfit to stand or continue his trial by reason of insanity shall prevent that person being afterwards tried in respect of the offence or of any other offence of which he might have been found guilty on the same charge; and the period during which he is unfit to stand or continue his trial by reason of

166. New
Criminal Code, Sec 967
See Army Act (UK), Sec 130(1) and (3)
Air Force Act (UK), Sec 130(1) and (3)

insanity shall not be taken into account in applying to him in respect of that offence the provisions of section sixty.

Decision Where Accused Insane When Offence Committed.

Special finding.

167. (1) Where evidence is given at a court martial that a person charged with a service offence was insane at the time of the commission of that offence, the court martial, if it finds that person not guilty of the offence, shall make a special finding as to whether he was insane at the time of the commission of the offence and whether he was found not guilty by reason of insanity.

Disposal of accused in Canada.

(2) Where a court martial held in Canada makes a special finding under subsection one that an accused person was insane, it shall order that person to be kept in strict custody and he shall be treated in accordance with subsection two of section nine hundred and sixty-six and section nine hundred and sixty-nine of the *Criminal Code*, as if the same finding had been made in respect of him by a civil court in the province of Canada in which that court martial was held.

Disposal of accused out of Canada.

(3) Where a court martial held out of Canada makes a special finding under subsection one that an accused person was insane, it shall order that person to be kept in strict custody and he shall be transferred, as soon as conveniently may be, to the province of Canada in which he is domiciled, and upon transfer to that province he shall be treated in accordance with subsection two of section nine hundred and sixty-six and section nine hundred and sixty-nine of the *Criminal Code*, as if the same finding had been made in respect of him by a civil court in that province; and, in the case of an accused person who is not domiciled in any province, the Minister may make such arrangements for the benefit and welfare of that person as to the Minister seem fit.

Minutes of Proceedings of Courts Martial.

Delivery to offender.

168. A copy of the minutes of the proceedings of a court martial and of the form of the Statement of Appeal mentioned in section one hundred and eighty-eight shall be delivered without charge as soon as practicable after the conclusion of the trial to the person who has been tried and found guilty by that court martial.

167. New
Criminal Code Sec 966
See Army Act (UK), Sec 130(2) and (3)
Air Force Act (UK), Sec 130(2) and (3)

168. See Army Act (UK), Sec 124
Air Force Act (UK), Sec 124

Part VIII.

PROVISIONS APPLICABLE TO FINDINGS AND SENTENCES AFTER TRIAL.

Imprisonment and Detention.

Commencement.

169. (1) Subject to subsection three and sections one hundred and seventy-six and one hundred and seventy-seven, the term of a punishment of imprisonment for two years or more, imprisonment for less than two years or detention, shall commence on the date upon which the service tribunal pronounces sentence upon the offender.

Time counted.

(2) The only time which shall be reckoned toward the completion of a term of a punishment of imprisonment for two years or more, imprisonment for less than two years or detention shall be the time that the offender spends in civil custody or service custody while under the sentence in which that punishment is included.

Special case.

(3) Where a punishment mentioned in subsection two cannot lawfully be carried out by reason of a vessel being at sea or in a port at which there is no suitable place of incarceration, the offender shall as soon as practicable, having regard to the exigencies of the service, be sent to a place where the punishment can lawfully be carried out, and the period of time prior to the date of arrival of the offender at that place shall not be reckoned toward the completion of the term of the punishment.

Punishments Requiring Approval.

Death.

170. (1) A punishment of death imposed by a court martial shall be subject to approval by the Governor in Council and shall not be carried out unless so approved.

Dismissal.

(2) A punishment of dismissal with disgrace from His Majesty's service or of dismissal from His Majesty's service, whether it is expressly included in the sentence passed by a service tribunal or whether it is deemed to be included in the sentence pursuant to paragraph *(b)* or paragraph *(c)* of subsection four of section one hundred and twenty-one shall be subject to approval by the Minister or such authorities as are prescribed in regulations and shall not be carried out unless so approved; but any punishment of imprisonment for two years or more, imprisonment for less than two years or detention included in the sentence shall commence and be carried out under section one hundred and sixty-nine as

Part VIII.

This Part provides for the effective date of sentences and the carrying out of punishments. It also empowers service authorities to quash findings and alter sentences in circumstances where the ends of justice and the interest of the accused render that action desirable.

Cross-References to Existing Legislation

169. (1) See Naval Service Act, Sec 114(1)
Army Act (UK), Sec 68(1)

169. (2) New

169. (3) See Naval Service Act, Sec 114(3)

170. (1) Militia Act, Sec 93(3)
See Naval Service Act, Sec 98(1) *(c)*

170. (2) New

if the sentence had not included a punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service, as the case may be.

Effective date of dismissal.

(3) A punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service shall be deemed to be carried out as of the date upon which the release of the offender from the Canadian Forces is effected.

Substitution where punishment not approved.

(4) An authority mentioned in section one hundred and seventy-three shall have power to substitute a new punishment for

(a) a punishment of death that has not been approved under subsection one;

(b) a punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service that has not been approved under subsection two; or

(c) a punishment, imposed by a commanding officer at a summary trial, that has not been approved under subsection seven of section one hundred and thirty-five or subsection three or seven of section one hundred and thirty-six, as the case may be.

Quashing of Findings.

Authority.

171. (1) The Minister, and such other authorities as he may prescribe or appoint for that purpose, may quash any finding of guilty made by a service tribunal.

Effect upon sentence of complete quashing.

(2) Where, after a finding of guilty has been quashed, no other finding of guilty remains, the whole of the sentence passed by the service tribunal shall cease to have force and effect.

Effect upon sentence of partial quashing.

(3) Where, after a finding of guilty has been quashed, another finding of guilty remains, and any punishment included in the sentence passed by the service tribunal is in excess of the punishment authorized by this Act in respect of the findings of guilty which remain, or is, in the opinion of the authority who quashed the finding, unduly severe, he shall, subject to the conditions set out in section one hundred and seventy-five, substitute such new punishment or punishments as he considers appropriate.

Substitution of Findings.

Authority.

172. (1) The Minister, and such other authorities as he may prescribe or appoint for that purpose, may substitute a new finding for any finding of guilty, made by a service tribunal, that is illegal or cannot be supported by the evidence, if the new finding could validly have been made

170. (3) New

170. (4) New

171. See Army Act (UK), Sec 54(1) *(b)* and *(c)*

172. See Army Act (UK), Sec 70(1) *(ee)*
Air Force Act (UK), Sec 70(1) *(ee)*

by the service tribunal on the charge and if it appears that the service tribunal was satisfied of the facts establishing the offence specified or involved in the new finding.

Effect upon sentence.

(2) Where a new finding has been substituted for a finding made by a service tribunal and any punishment included in the sentence passed by the service tribunal is in excess of the punishment authorized by this Act in respect of the new finding, or is, in the opinion of the authority who substituted the new finding, unduly severe, he shall, subject to the conditions set out in section one hundred and seventy-five, substitute such new punishment or punishments as he considers appropriate.

SUBSTITUTION OF PUNISHMENTS.

Authority.

173. Where a service tribunal has passed a sentence in which is included an illegal punishment, the Minister, and such other authorities as he may prescribe or appoint for that purpose, may, subject to the conditions set out in section one hundred and seventy-five, substitute for the illegal punishment such new punishment or punishments as he considers appropriate.

MITIGATION, COMMUTATION AND REMISSION OF PUNISHMENTS.

Authority.

174. The Minister, and such other authorities as he may prescribe or appoint for that purpose, may, subject to the conditions set out in section one hundred and seventy-five, mitigate, commute or remit any or all of the punishments included in a sentence passed by a service tribunal.

CONDITIONS APPLICABLE TO NEW PUNISHMENTS.

Limitation upon new punishments.

175. The following conditions shall apply where under this Act a new punishment, by way of substitution or commutation, replaces a punishment imposed by a service tribunal,

(a) the new punishment shall not be any punishment that could not legally have been imposed by the service tribunal on the charges of which the offender was found guilty and in respect of which the findings have not been quashed or set aside by way of substitution;

(b) the new punishment shall not be higher in the scale of punishments than the punishment imposed by the service tribunal in the first instance and, if the sentence passed by the service tribunal included a punishment of incarceration, the new punishment shall not involve

173. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Sec 70(1) *(e)*
Air Force Act (UK), Sec 70(1) *(e)*

174. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Sec 57(2)
Air Force Act (UK), Sec 57(2)

175. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Secs 44(1A) and (1B), 57(2)
Air Force Act (UK), Secs 44(1A) and (1B), 57(2)

a period of incarceration exceeding the period comprised in that sentence;

(c) where the new punishment is detention and the punishment that it replaces is imprisonment for two years or more or imprisonment for less than two years, the term of detention from the date of alteration shall in no case exceed the term of imprisonment remaining to be served, and in any event shall not exceed a term of two years; and

(d) where the offence of which a person has been found guilty by a service tribunal is an offence, prescribed in section sixty-four, sixty-five, sixty-six or sixty-seven, for which the punishment of death is mandatory, or in section eighty-three, for which the punishment of dismissal with disgrace from His Majesty's service or dismissal from His Majesty's service is mandatory, or an offence to which paragraph *(a)* of subsection two of section one hundred and nineteen applies, the punishment may, subject to this section, be altered to any one or more of the punishments lower in the scale of punishments than the punishment provided for in the enactment prescribing the offence.

Effect of New Punishments.

Ordinary provisions to apply.

176. Where under the authority of this Act, a new punishment, by reason of substitution or commutation, replaces a punishment imposed by a service tribunal, the new punishment shall have force and effect as if it had been imposed by the service tribunal in the first instance and the provisions of the Code of Service Discipline shall apply accordingly; but where the new punishment involves incarceration, the term of the new punishment shall be reckoned from the date of substitution or commutation, as the case may be.

Suspension of Imprisonment or Detention.

Authority.

177. (1) Where an offender has been sentenced to imprisonment for two years or more, imprisonment for less than two years or detention, the carrying into effect of the punishment may be suspended by the Minister, or such other authorities as he may prescribe or appoint for that purpose; and the Minister or any authority so prescribed or appointed is referred to in this section as a "suspending authority".

Postponement of committal.

(2) Where, in the case of an offender upon whom any punishment mentioned in subsection one has been imposed, suspension of the punishment has been recommended, the authority empowered to commit the offender to a penitentiary, civil prison, service prison or detention barrack, as

176. See Naval Service Act, Sec 98(1) *(a)*
Army Act (UK), Sec 57(5)
Air Force Act (UK), Sec 57(5)

177. See Naval Service Act, Secs 98(1) *(a)*, 115
Army Act (UK), Sec 57A
Air Force Act (UK), Sec 57A

45643—10

the case may be, may postpone committal until the directions of a suspending authority have been obtained.

Suspension possible at any time.

(3) A suspending authority may, in the case of an offender upon whom any punishment mentioned in subsection one has been imposed, suspend the punishment whether or not the offender has already been committed to undergo that punishment.

Effect of suspension before committal.

(4) Where a punishment is suspended before the offender has been committed to undergo the punishment, he shall, if in custody, be discharged from custody and the term of the punishment shall not commence until the offender has been ordered to be committed to undergo that punishment.

Effect of suspension after committal.

(5) Where a punishment is suspended after the offender has been committed to undergo the punishment, he shall be discharged from the place in which he is incarcerated and the currency of the punishment shall be arrested from the day on which he is so discharged, until he is again ordered to be committed to undergo that punishment.

Review and remission.

(6) Where a punishment has been suspended, it may at any time, and shall at intervals of not more than three months, be reviewed by a suspending authority and if on such review it appears to the suspending authority that the conduct of the offender, since the punishment was suspended, has been such as to justify a remission of the punishment, he shall remit it.

Automatic remission.

(7) A punishment that has been suspended shall be deemed to be wholly remitted on the expiration of the period specified as the term of that punishment, unless the punishment has been put into execution prior to the expiration of that period.

Committal after suspension.

(8) A suspending authority may, at any time while a punishment is suspended, direct the authority who is empowered to commit the offender to commit him, and from the date of the committal order that punishment shall cease to be suspended.

Term where suspended punishment put into execution.

(9) Where a punishment that has been suspended under this section is put into execution, the term of the punishment shall be deemed to commence on the date upon which it is put into execution, but there shall be deducted from the term any time during which the offender has been incarcerated following pronouncement of the sentence.

COMMITTAL TO IMPRISONMENT OR DETENTION.

"committing authority".

178. (1) The Minister may prescribe or appoint authorities for the purposes of this section and any such authority is referred to in this section as a "committing authority".

Service prisons and detention barracks.

(2) Such places as are designated by the Minister for the purpose shall be service prisons and detention barracks and

178. See Militia Act, Secs 132, 133
Naval Service Act, Secs 114(2) and (4), 116, 118
RCAF Act, Sec 14(1)
Army Act (UK), Secs 58, 60(1), 61, 63, 65, 66, 67(2)

any hospital or other place for the reception of sick persons to which a person who is a service convict, service prisoner or service detainee has been admitted shall, as respects that person, be deemed to be part of the place to which he has been committed.

Warrants for committal.

(3) A committal order, in such form as is prescribed in regulations, made by a committing authority shall be a sufficient warrant for the committal of a service convict, service prisoner or service detainee to any lawful place of confinement.

Authority for transfer.

(4) A committing authority may from time to time by warrant order that a service convict, service prisoner or service detainee shall be transferred from the place to which he has been committed to undergo his punishment to any other place in which that punishment may lawfully be put into execution.

Custody pending committal and during transfer.

(5) Until he is delivered to the place where he is to undergo his punishment or while he is being transferred from one such place to another such place, a service convict, service prisoner or service detainee may be held in any place, either in service custody or in civil custody or at one time in service custody and at another time in civil custody, as occasion may require, and may be transferred from place to place by any mode of conveyance, under such restraint as is necessary for his safe conduct.

Committal to penitentiaries.

(6) Where a punishment of imprisonment for two years or more is to be put into execution, the service convict shall as soon as practicable be committed to a penitentiary, there to undergo his punishment according to law; except that a committing authority may, in accordance with regulations made by the Governor in Council, order that a service convict be committed to a service prison there to undergo his punishment or part of his punishment, and where a service convict has undergone part of his punishment in a service prison and a committing authority then orders him to be committed to a penitentiary, the service convict may be so committed notwithstanding that the unexpired portion of the term of his punishment is less than two years.

Committal to service prisons.

(7) Where a punishment of imprisonment for less than two years is to be put into execution, the service prisoner shall as soon as practicable be committed to a civil prison there to undergo his punishment according to law; except that a committing authority may, in accordance with regulations made by the Governor in Council, order that a service prisoner be committed to a service prison or detention barrack there to undergo his punishment or part of his punishment.

Committal to detention barrack.

(8) Where a punishment of detention is to be put into execution, the service detainee shall as soon as practicable be committed to a detention barrack there to undergo his punishment.

Temporary Removal from Incarceration.

Authority required.

179. Where the exigencies of the service so require, a service convict, service prisoner or service detainee may, by an order made by a committing authority mentioned in section one hundred and seventy-eight, be removed temporarily from the place to which he has been committed for such period as may be specified in that order but, until his return to that place, he shall be retained in service custody or civil custody, as occasion may require, and no further committal order shall be necessary upon his return to that place.

Rules Applicable to Service Convicts and Service Prisoners.

Rules of penitentiaries and civil prisons to apply.

180. While a service convict is undergoing punishment in a penitentiary or a service prisoner is undergoing punishment in a civil prison, he shall be dealt with in the same manner as other prisoners in the place where he is undergoing punishment, and all rules applicable in respect of a person sentenced by a civil court to imprisonment in a penitentiary or civil prison, as the case may be, shall insofar as circumstances permit, apply accordingly; but a service convict undergoing punishment in a penitentiary or a service prisoner undergoing punishment in a civil prison shall not be discharged therefrom until the expiration of the term of his punishment, as reduced for good conduct by virtue of any rules in effect in that penitentiary or civil prison, unless an authority mentioned in section one hundred and seventy-four or section one hundred and seventy-seven orders that he be discharged therefrom prior to the expiration of the term of his punishment.

Validity of Documents.

Errors in form may be corrected.

181. The custody of a service convict, service prisoner or service detainee is not illegal by reason only of informality or error in or in respect of a document containing a warrant, order or direction issued in pursuance of this Act, or by reason only that such document deviates from the prescribed form; and any such document may be amended appropriately at any time by the authority who issued it in the first instance or by any other authority empowered to issue documents of the same nature.

179. See Naval Service Act, Sec 117

180. See Army Act (UK), Secs 62, 67(1)

181. See Army Act (UK), Sec 172(4)
Air Force Act (UK), Sec 172(4)

INSANITY DURING IMPRISONMENT OR DETENTION.

Insane persons in penitentiaries or civil prisons.

182. (1) A service convict or service prisoner who, having been released from the Canadian Forces, is or becomes insane, mentally ill or mentally deficient while undergoing punishment in a penitentiary or a civil prison, shall be treated in the same manner as if he were a person undergoing a term of imprisonment in such penitentiary or civil prison by virtue of the sentence of a civil court.

Insane persons in service prisons or detention barracks.

(2) A service convict, service prisoner or service detainee who, having been released from the Canadian Forces, is or becomes insane, mentally ill or mentally deficient while undergoing punishment in a service prison or detention barrack, may, in the discretion of the commanding officer of that service prison or detention barrack, be made available to the Lieutenant-Governor of the province in which the service prison or detention barrack is situated, in order that he may be treated in the manner provided for in section nine hundred and seventy of the *Criminal Code*, and, pending action under that section, he shall be kept in strict custody until his case has been disposed of under that section, whether or not his term of imprisonment or detention has expired.

182. New
See Criminal Code, Sec 970
Army Act (UK), Sec 130(5)
Air Force Act (UK), Sec 130(5)

Part IX.

APPEAL, REVIEW AND PETITION.

General Provisions.

"legality" and "illegal".

183. For the purposes of this Part, the expressions "legality" and "illegal", shall be deemed to relate either to questions of law alone or to questions of mixed law and fact.

Exercise of powers of Judge Advocate General.

184. The powers, duties and functions of the Judge Advocate General under this Part may also be exercised by such other person as the Minister may authorize to act for the Judge Advocate General for that purpose.

Saving provision.

185. Nothing in this Part shall be in derogation of the powers conferred under Part VIII to quash findings or alter findings and sentences.

Right to Appeal.

Cases in which applicable.

186. Every person who has been tried and found guilty by a court martial shall, subject to subsection two of section one hundred and eighty-eight, have a right to appeal in respect of any or all of the following matters,

(a) the severity of the sentence;

(b) the legality of any or all of the findings; or

(c) the legality of the whole or any part of the sentence.

Other rights preserved.

187. The right of any person to appeal from the finding or sentence of a court martial shall be deemed to be in addition to and not in derogation of any rights that he has under the law of Canada.

Entry of Appeals.

Form.

188. (1) An appeal under this Part shall be stated on a form to be known as a Statement of Appeal which shall contain particulars of the grounds upon which the appeal is founded and shall be signed by the appellant.

Validity.

(2) A Statement of Appeal shall not be invalid by reason only of informality or the fact that it deviates from the prescribed form.

Time limits.

(3) No appeal under this Part shall be entertained unless the Statement of Appeal is delivered to a superior officer or to any person by whom the appellant is held in custody

(a) within fourteen days after delivery to the offender, pursuant to section one hundred and sixty-eight, of a copy of the minutes of the proceedings and of the form of the Statement of Appeal; or

Part IX.

This Part is new. It gives to an offender a right of appeal which is designed to place service personnel, as closely as practicable, in the same position as persons convicted by civil courts. When the appeal relates only to severity of sentence it will be dealt with by service authorities as at present. When the appeal raises a question of law or one of mixed law and fact it will be dealt with by the Court Martial Appeal Board, consisting of judges and other legally qualified persons, provision for which is made in this Part. A further appeal will lie to the Supreme Court of Canada in certain circumstances. Where no appeal has been entered, provision is made for an automatic review by service authorities of findings and sentences of service tribunals. In addition, provision is made for a petition for a new trial in the case of newly discovered evidence.

Cross-References to Existing Legislation

183. New

184. New

185. New

186. New

187. New

188. New

(b) where the finding or sentence in respect of which the offender intends to enter an appeal has been altered under section one hundred and seventy-two, one hundred and seventy-three or one hundred and seventy-four, within fourteen days after the date upon which notice of such alteration is given to the offender.

Where sent.

(4) All Statements of Appeal shall be forwarded to the Judge Advocate General.

PRELIMINARY DISPOSITION OF APPEALS.

When quantum of sentence only involved.

189. (1) Where an appeal relates only to the severity of the sentence, mentioned in paragraph *(a)* of section one hundred and eighty-six, the Judge Advocate General shall forward the Statement of Appeal to an authority who, under section one hundred and seventy-four, has power to mitigate, commute or remit punishments and that authority may dismiss the appeal or, subject to Part VIII, may mitigate, commute or remit the punishments comprised in the sentence.

Illegal findings.

(2) Where an appeal relates to the legality of the findings, as mentioned in paragraph *(b)* of section one hundred and eighty-six, the Statement of Appeal shall be referred by the Judge Advocate General to the Court Martial Appeal Board provided for in this Part, unless the appropriate chief of staff, acting on the certificate of the Judge Advocate General that all of the findings in respect of which an appeal has been made are illegal, quashes such findings.

Illegal sentences.

(3) Where an appeal relates to the legality of the sentence, mentioned in paragraph *(c)* of section one hundred and eighty-six, the Statement of Appeal shall be referred by the Judge Advocate General to the Court Martial Appeal Board, unless the Judge Advocate General certifies that there is no finding in respect of which any sentence could legally be passed, in which case the sentence shall be null and void.

COURT MARTIAL APPEAL BOARD.

Establishment.

190. (1) There shall be a Court Martial Appeal Board which shall hear and determine all appeals referred to it under this Part.

Constitution.

(2) The Court Martial Appeal Board shall consist of,

(a) a Chairman, who shall be a judge of the Exchequer Court or of a "superior court of criminal jurisdiction", as that expression is defined in the *Criminal Code;* and

(b) two or more other persons who shall be judges or retired judges of the Exchequer Court or of a "superior court of criminal jurisdiction", as that expression is defined in the *Criminal Code*, or barristers or advocates of not less than five years standing,

all of whom shall be appointed by the Governor in Council.

189. New

190. New

Tribunals.

(3) Where, in the opinion of the Minister, the exigencies of the situation so demand, the Minister may require the Chairman of the Court Martial Appeal Board to establish tribunals consisting of not less than three members of the Board, to sit and hear appeals at such times and places as the Minister may designate.

Constitution and powers of tribunals.

(4) The Chairman of the Court Martial Appeal Board shall establish such tribunals as the Minister may require under subsection three, and shall appoint one member of each tribunal as Chairman, and every tribunal shall exercise all the powers, duties and functions of the Board as prescribed by this Act, and all references in this Act to the Court Martial Appeal Board in respect of the hearing and dispositions of appeals shall be deemed to include such tribunals.

Judge Advocate General to attend as adviser.

(5) The Judge Advocate General shall on the hearing of all appeals sit with the Court Martial Appeal Board, not as a member, but for the purpose of advising on service law, regulations and legal procedure.

Provision for additional adviser.

(6) Where the chief of staff of the Service of the Canadian Forces within which an appellant was tried considers it to be desirable, that chief of staff may designate an officer in addition to the Judge Advocate General to sit with the Court Martial Appeal Board on the hearing of the appeal, not as a member, but for the purpose of advising on service procedure and customs and any other matter involving service considerations.

Procedure.

(7) The Chairman of the Court Martial Appeal Board or of any tribunal thereof may allow the hearing of evidence, including new evidence, on oath or otherwise as he may deem expedient, and the Board may sit in camera or in public, and for the performance of its duties shall have all the powers vested in a commissioner under Part I of the *Inquiries Act*.

Quorum and decision on appeal.

(8) The powers, duties and functions of the Court Martial Appeal Board shall be exercised at any sitting of the Board when not less than three members, including the Chairman, are present, and the decision on any appeal shall be determined by the vote of the majority of the members of the Board, and in the event of an equality of votes, the Chairman shall have a second or casting vote.

(9) *The Chairman and members of the Court Martial Appeal Board shall be paid such fees and allowances as may be prescribed by the Governor in Council.*

Disposition of Appeals by Court Martial Appeal Board.

Powers.

191. (1) Upon the hearing of an appeal respecting the legality of a finding of guilty on any charge, the Court Martial Appeal Board, if it allows the appeal, shall

(a) set aside the finding and direct a finding of not guilty to be recorded in respect of that charge; or

(b) direct a new trial on that charge, in which case the appellant shall be tried again as if no trial on that charge had been held.

Effect of setting aside finding of guilty.

(2) Where the Court Martial Appeal Board has set aside a finding of guilty and no other finding of guilty remains, the whole of the sentence shall cease to have force and effect.

Punishment where finding set aside.

(3) Where the Court Martial Appeal Board has set aside a finding of guilty but another finding of guilty remains, the Board shall forthwith refer the proceedings to the Minister, or to such other authority as he may prescribe or appoint for that purpose, who shall, subject to section one hundred and seventy-five, substitute for the punishment imposed by the court martial such new punishment or punishments as he considers appropriate and every punishment comprised in the sentence passed by the court martial shall thereupon cease to have force and effect; and section one hundred and seventy-six shall apply to the new punishment or punishments.

Substitution of new punishment where illegal punishment set aside.

192. Upon the hearing of an appeal respecting the legality of a sentence passed by a court martial, the Court Martial Appeal Board, if it allows the appeal, shall forthwith refer the proceedings to the Minister, or to such other authority as the Minister may prescribe or appoint for that purpose, who shall, subject to section one hundred and seventy-five, substitute for the punishment imposed by the court martial such new punishment or punishments as he considers appropriate and every punishment comprised in the sentence passed by the court martial shall thereupon cease to have force and effect; and section one hundred and seventy-six shall apply to the new punishment or punishments.

Special power to disallow appeal.

193. Notwithstanding anything in this Part, the Court Martial Appeal Board may disallow an appeal if, in the opinion of the Board, to be expressed in writing, there has been no substantial miscarriage of justice.

Power of service authorities preserved.

194. Where a punishment included in a sentence has been dealt with pursuant to subsection three of section one hundred and ninety-one or section one hundred and ninety-two, the new punishment shall be subject to mitigation, commutation, remission or suspension in the same manner and to the same extent as if it had been passed by the court martial that tried the appellant.

191. New

192. New

193. New
See Criminal Code, Sec 1014(2)

194. New

RULES OF APPEAL PROCEDURE.

Chairman may make.

195. (1) The Chairman of the Court Martial Appeal Board, with the approval of the Governor in Council, may make rules not inconsistent with this Act respecting,

(a) the seniority of members of the Board for the purpose of presiding at appeals;

(b) the practice and procedure to be observed at hearings;

(c) the conduct of appeals;

(d) the production of the minutes of the proceedings of any court martial in respect of which an appeal is taken;

(e) the production of all other documents and records relating to an appeal;

(f) the extent to which new evidence may be introduced;

(g) the circumstances in which the appellant may attend or appear before the Board on the hearing of his appeal, but no such rule shall deprive an appellant of the right to be present on the hearing of his appeal from a sentence of death; and

(h) provision for and payment of fees of counsel for the appellant.

Publication.

(2) No rule made under this section shall have effect until it has been published in the *Canada Gazette*.

APPEAL TO SUPREME COURT OF CANADA.

Cases in which appeals lie.

196. (1) A person whose appeal has been wholly or partially dismissed by the Court Martial Appeal Board or any tribunal thereof may, where there has been dissent in the Board or tribunal, appeal to the Supreme Court of Canada with leave of the Attorney General of Canada.

Application.

(2) An application for leave to appeal under subsection one shall be delivered to the Attorney General of Canada within thirty days of notice to the appellant of the decision of the Court Martial Appeal Board or tribunal, and the Attorney General of Canada may grant leave to appeal only if in his opinion a matter of importance affecting the public interest is involved.

Powers of Supreme Court of Canada.

(3) The Supreme Court of Canada shall, in respect of the hearing and determination of an appeal under this section, have the same powers, duties and functions as the Court Martial Appeal Board has under this Act, and sections one hundred and ninety-one to one hundred and ninety-four shall apply with such adaptations and modifications as the circumstances may require.

195. New

196. New

Review After Expiration of Right to Appeal.

Review by Judge Advocate General.

197. Upon the expiration of the period mentioned in subsection two of section one hundred and eighty-eight within which an appeal may be made, the proceedings of every court martial shall be reviewed by the Judge Advocate General in respect of any matter mentioned in paragraph *(b)* or *(c)* of section one hundred and eighty-six on which an appeal has not been made.

Procedure where illegality exists.

198. Where, upon the review mentioned in section one hundred and ninety-seven, the Judge Advocate General certifies that any finding or punishment is illegal, he shall refer the minutes of the proceedings of the court martial to the appropriate chief of staff for such action under this Act as that chief of staff may deem fit.

Petition for New Trial.

Where applicable.

199. (1) Every person who has been tried and found guilty by a court martial shall have a right to petition for a new trial on grounds of new evidence discovered subsequent to his trial.

Time limits.

(2) No petition under this section shall be entertained unless it is delivered to an officer designated for that purpose in regulations

(a) within one year after the date of the pronouncement of the finding; or

(b) within one year after any punishment of incarceration, undergone by the petitioner in consequence of his trial, has been carried out,

whichever is the later.

Disposal.

(3) Every petition under this section shall be forwarded to the Judge Advocate General who shall refer the petition with his recommendation to the appropriate chief of staff who, if he is of the opinion that the petition should be granted, shall order a new trial, in which case the petitioner shall be tried again as if no trial had been held.

New trial.

(4) When a new trial is held pursuant to subsection three and the petitioner is found guilty the sentence passed at the original trial shall be restored and shall have force and effect as if the new trial had not been ordered.

197. New

198. New

199. New

Part X.

MISCELLANEOUS PROVISIONS HAVING GENERAL APPLICATION.

Witnesses and Counsel at Courts Martial.

"court martial".

200. (1) For the purposes of this section, "court martial", in addition to the tribunals mentioned in paragraph *(g)* of section two, includes a commissioner taking evidence under this Act and an officer taking a summary of evidence in accordance with regulations; and references in this section to the president or members of a court martial shall be deemed to include references to any such commissioner or officer.

Summons to witnesses.

(2) Every person required to give evidence before a court martial may be summoned under the hand of the authority by whom the court martial was convened, established or appointed, or the Judge Advocate General, or under the hand of the president, judge advocate, commissioner taking evidence under this Act or officer taking a summary of evidence in accordance with regulations.

Production of documents.

(3) A person summoned under subsection two may be required to bring with him and produce at a court martial any documents in his possession or under his control relating to the matters in issue before the court martial.

Witness fees.

(4) A witness summoned or attending to give evidence before a court martial shall be paid such witness fees and allowances for expenses of attendance as are prescribed in regulations.

Misconduct of counsel.

(5) Any conduct of counsel before a court martial that would be liable to censure or be contempt of court if it took place before a civil court in the place where the court martial is held shall likewise be liable to censure or be contempt of court in the case of a court martial; and the regulations governing the procedure of courts martial shall be binding upon counsel appearing before courts martial, and wilful disobedience of those regulations shall, if persevered in, be deemed to be contempt of court.

Removal for contempt.

(6) A court martial may, by order under the hand of the president, a commissioner taking evidence under this Act or an officer taking a summary of evidence in accordance with regulations, cause counsel to be removed from the court martial for contempt, but an officer taking a Summary of Evidence shall not take action under this subsection without the approval of his commanding officer.

Oaths.

201. Every person when required to give evidence on oath under this Act shall take his oath in the form prescribed in regulations and that oath shall, in respect of any prosecution for perjury under the *Criminal Code*, have the same force and effect as an oath taken before a civil court.

Part X.

This Part embodies miscellaneous provisions which impose duties and obligations upon members of the general public in relation to the defence of Canada. It prescribes certain limitations upon the civil liabilities of service personnel. The prosecution and settlement of salvage claims is also provided for.

Cross-References to Existing Legislation

200. See Militia Act, Secs 95, 96
Naval Service Act, Sec 46(1)
Army Act (UK), Secs 125(1) and (3), 129(1) and (3)
Air Force Act (UK), Secs 125(1) and (3), 129(1) and (3)

201. See Army Act (UK), Sec 126(2)
Air Force Act (UK), Sec 126(2)

Disposal by Civil Authorities of Deserters and Absentees Without Leave.

"justice".

202. (1) For the purposes of this section "justice" means a justice as defined in the *Criminal Code*.

Powers of arrest on reasonable suspicion.

(2) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any constable, or if no constable can be immediately met with, for any officer, man or other person, to apprehend that suspected person and forthwith to bring him before a justice.

Issue of warrant.

(3) A justice, if he is satisfied by evidence on oath that a deserter or absentee without leave is, or is reasonably suspected to be, within his jurisdiction, may issue a warrant authorizing the deserter or absentee without leave to be apprehended and brought forthwith before him or any other justice.

Powers of justice.

(4) Where a person is brought before a justice charged with being a deserter or absentee without leave under this Act, that justice may examine into the case in like manner as if that person were brought before him accused of an indictable offence.

Disposal of suspected person.

(5) A justice, if satisfied either by evidence on oath or by the admission of a person brought before him under this section that he is a deserter or absentee without leave, shall cause him to be delivered into service custody in such manner as the justice may deem most expedient; and, until he can be so delivered, the justice may cause him to be held in civil custody for such time as appears to the justice reasonably necessary for the purpose of delivering him into service custody.

Verification of admission.

(6) Where a person has admitted that he is a deserter or absentee without leave and evidence of the truth or falsehood of the admission is not then forthcoming, the justice before whom that person is brought shall remand him for the purpose of obtaining information as to the truth or falsehood of the admission; and for that purpose the justice shall transmit to such authorities of the Canadian Forces as the Minister may prescribe, a report which shall contain such particulars and be in such form as may be prescribed by the Minister.

Remands.

(7) A justice, before whom a person is brought under this section, may from time to time remand that person for a period not exceeding eight days on each appearance before him, but the whole period during which a person is so remanded shall not be longer than appears to the justice reasonably necessary for the purpose of obtaining the information mentioned in subsection six.

202. See Army Act (UK), Sec 154
Air Force Act (UK), Sec 154(1)

Report following disposal.

(8) Where a justice before whom a person is brought under this section causes him to be delivered into service custody or to be held in civil custody, the justice shall transmit to such authorities of the Canadian Forces as the Minister may prescribe, a report which shall contain such particulars and be in such form as may be prescribed by the Minister.

Report where person delivered into service custody.

(9) Where a person surrenders himself to a constable and admits desertion or absence without leave, the constable in charge of the police station to which he is brought shall forthwith inquire into the case and, if it appears to him from the admission that such person is a deserter or absentee without leave, he may cause him to be delivered into service custody, without bringing him before a justice; and in that event the constable shall transmit to such authorities of the Canadian Forces as the Minister may prescribe, a report which shall contain such particulars and be in such form as may be prescribed by the Minister.

CERTIFICATE OF CIVIL COURTS.

Procedure.

203. Where any person subject to the Code of Service Discipline has at any time been tried by a civil court, the clerk of that court or other authority having custody of the records of the court shall, if required by any officer of the Canadian Forces, transmit to that officer a certificate setting forth the offence for which that person was tried, together with the judgment or order of the court thereon, and shall be allowed for that certificate the fee authorized by law.

DUTIES RESPECTING INCARCERATION.

Execution of warrants.

204. (1) Every warden, governor, gaoler, commanding officer, commandant or other keeper of a penitentiary, civil prison, service prison or detention barrack shall take cognizance of any warrant of committal purporting to be signed by a committing authority mentioned in section one hundred and seventy-eight and shall receive and detain, according to the exigency of that warrant, the offender mentioned therein and delivered into his custody and shall confine that person until discharged or delivered over in due course of law.

Delivery of Statements of Appeal.

(2) Any person mentioned in subsection one to whom a Statement of Appeal is delivered under section one hundred and eighty-eight shall cause the Statement of Appeal to be forwarded forthwith to the Judge Advocate General.

203. See Army Act (UK), Sec 164
Air Force Act (UK), Sec 164

204. See Militia Act, Sec 131
Naval Service Act, Sec 44
RCAF Act, Sec 14(2)
Army Act (UK), Secs 61(1), 66(1)

MANOEUVRES.

Minister may authorize.

205. (1) For the purpose of training the Canadian Forces, the Minister may authorize the execution of military exercises or movements, referred to in this section as "manoeuvres", over and upon such parts of Canada and during such periods as are specified.

Notice.

(2) Notice of manoeuvres shall be given to the inhabitants of any area concerned by appropriate publication.

Powers.

(3) Units and other elements of the Canadian Forces may execute manoeuvres on and pass over such areas as are specified under subsection one, stop or control all traffic thereover whether by water, land or air, draw water from such sources as are available, and do all things reasonably necessary for the execution of the manoeuvres.

Interference.

(4) Any person who wilfully obstructs or interferes with manoeuvres authorized under this section and any animal, vehicle, vessel or aircraft under his control may be forcibly removed by any constable or by any officer, or by any man on the order of any officer.

Bar of action.

(5) No action shall lie by reason only of the execution of manoeuvres authorized under this section.

EMERGENCY POWERS IN RELATION TO PROPERTY.

Control of property in emergency.

206. (1) When the Governor in Council by reason of an emergency declares it to be expedient for His Majesty to take control of property, including transportation or communications facilities in Canada or operating from Canada, the Minister may, by warrant under his hand, empower any person named in such warrant to take possession of property which he considers necessary for defence purposes or to assume the operation or management thereof for the service of His Majesty in such manner as the Minister directs; and all persons employed in whatever manner in connection with such property shall obey the directions of the Minister or of the person named in the warrant.

Duration.

(2) A warrant mentioned in subsection one shall remain in force only so long as the emergency exists.

Enforcement of contracts.

(3) Where action relating to any property has been taken under subsection one, all contracts and agreements, which would otherwise have been enforceable by or against the person who owns that property, including the directors, officers, servants and agents of that person, shall be enforceable by or against His Majesty.

205. New
See The Military Manoeuvres Act, Statutes of the United Kingdom, 60 & 61 Vict, Chap 43

206. See Militia Act, Secs 90, 92
Naval Service Act, Sec 20

Emergency powers of commanding officer.

207. When an emergency exists, the officer in command of any unit of the Canadian Forces or any officer duly authorized by him may, subject to regulations made by the Governor in Council, enter upon, take, impress, control, use, occupy, alter, remove or cause to be removed, destroy, desolate or lay waste any property imperatively required to be so dealt with immediately for the purpose of meeting the emergency.

Compensation.

208. *Any person who suffers loss, damage or injury by reason of the exercise of any of the powers conferred by sections two hundred and five, two hundred and six or two hundred and seven shall be compensated from the Consolidated Revenue Fund in accordance with regulations made by the Governor in Council.*

Exemption from Tolls.

Canadian Forces exempt.

209. (1) No duties or tolls, otherwise payable by law in respect of the use of any pier, wharf, quay, landing-place, highway, road, right of way, bridge or canal, shall be paid by or demanded from any unit or other element of the Canadian Forces or an officer or man when on duty or any person under escort or in respect of the movement of any equipment.

Exception.

(2) Nothing in this section shall affect the liability for payment of duties or tolls lawfully demandable in respect of any vehicles or vessels other than those belonging to or in the service of His Majesty.

Ships in Convoy.

Master of merchant ship to obey convoying officer.

210. Every master or other person in command of a merchant or other vessel under the convoy of any of His Majesty's Canadian Ships shall obey the directions of the commanding officer of the convoy or the directions of the commanding officer of any of His Majesty's Canadian Ships in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by any such commanding officer; and if he fails to obey such directions, that commanding officer may compel obedience by force of arms, without being liable for any loss of life or property that may result from the use of such force.

207. RCAF Act, Sec 10(1)
See Militia Act, Sec 7(1)

208. *See RCAF Act, Secs 10(2), 18*
Militia Act, Sec 7(2)

209. See Army Act (UK), Sec 143(1)

210. See Naval Service Act, Sec 45

Salvage.

Crown may claim for salvage services.

211. (1) Where salvage services are rendered by or with the aid of a vessel or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces, His Majesty may claim salvage for those services, and shall have the same rights and remedies in respect of those services as any other salvor would have had if the vessel or aircraft had belonged to him.

Consent of Minister to salvage claim.

(2) No claim for salvage services by the commander or crew or part of the crew of a vessel or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces shall be finally adjudicated upon, unless the consent of the Minister to the prosecution of claim is proved; and such consent may be given at any time before final adjudication.

Evidence of consent.

(3) Any document purporting to give the consent of the Minister for the purpose of this section shall be evidence of that consent.

Claim dismissed if no consent.

(4) Where a claim for salvage services is prosecuted and the consent of the Minister is not proved the claim shall be dismissed with costs.

Minister may accept offers of settlement for the Crown and others.

(5) The Minister may, upon the recommendation of the Attorney General of Canada, accept on behalf of His Majesty and the commander and crew or part of the crew, offers of settlement made with respect to claims for salvage services rendered by vessels or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces.

Distribution.

(6) The proceeds of any settlement made under subsection five shall be distributed in such manner as the Governor in Council may prescribe.

Canada Shipping Act, 1934 —limiting provision.

(7) Section five hundred and thirty-four of the *Canada Shipping Act, 1934*, shall not apply to or in respect of any claim for salvage services by His Majesty or by the commander or crew or part of the crew of a vessel or aircraft belonging to or in the service of His Majesty and used in the Canadian Forces.

Government Vessels Discipline Act.

When applicable.

212. Unless the Governor in Council otherwise directs, the *Government Vessels Discipline Act* shall not apply to His Majesty's Canadian Ships or to any other ship or vessel of the Canadian Forces or to the officers, men or other persons serving or engaged for service therein, or to officers and men serving in the regular forces, the active service forces, or the reserve forces when on service or on active service.

211. New
See Canada Shipping Act, 1934, Sec 534
Merchant Shipping (Salvage) Act, 1940,
Statutes of United Kingdom, 3 & 4 Geo VI,
Chap 43

212. See Naval Service Act, Sec 37

Limitation of Civil Liabilities.

Officers and men not to be taken out of His Majesty's service.

213. (1) An officer or man of the reserve forces on active service or an officer or man of the regular forces or active service forces is not liable to be taken out of His Majesty's service by any process, execution or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of

(a) a charge of or conviction for an offence punishable under the *Criminal Code*, or any other law of Canada or of a province of Canada, or an offence punishable according to the law of that part of His Majesty's dominions in which the offence was committed; or

(b) a judgment for a debt, damages or sum of money when the amount involved, exclusive of any costs, exceeds two hundred dollars.

Procedure on complaint of officer or man.

(2) All proceedings and documents in or incidental to a process, execution or order in contravention of this section are void; and where a complaint is made by an officer or man or by his commanding officer that such officer or man has been dealt with in contravention of this section by any process, execution or order issued out of any court, the officer or man or his commanding officer may complain to that court or to any court superior to it and the court or a judge thereof shall examine into the complaint and shall, if necessary, discharge the officer or man without fee, and may award reasonable costs to him which may be recovered as if such costs had been awarded in his favour in an action or other proceeding in such court.

Judgment and execution.

(3) Any person having a cause of action against an officer or man of the reserve forces on active service or an officer or man of the regular forces or active service forces may, notwithstanding anything in this section, after due notice in writing of his intention to commence action has been personally served upon the officer or man, or left at his usual place of abode, commence action and proceed to judgment, and may proceed to execution except as against the person, pay, allowances or personal equipment of such officer or man.

Exemption from jury service.

214. Every officer and man of the reserve forces on active service and every officer and man of the regular forces and active service forces is exempt from serving on a jury.

Limitation of actions.

215. (1) No action, prosecution or other proceeding lies against any person for an act done in pursuance or execution or intended execution of this Act or any regulations, or of any military or departmental duty or authority, or in respect

213. See Army Act (UK), Sec 144(1), (2) and (5)
Air Force Act (UK), Sec 144(1), (2) and (5)

214. Army Act (UK), Sec 147

215. See Militia Act, Sec 134(1)

of any alleged neglect or default in the execution of this Act, regulations or such duty or authority, unless it is commenced within six months next after the act, neglect or default complained of, or, in the case of continuance of injury or damage, within six months after the ceasing thereof.

Saving provision.

(2) Nothing in subsection one shall be in bar of proceedings against any person under the Code of Service Discipline.

Actions barred.

216. No action or other proceeding lies against any officer or man in respect of anything done or omitted by him in the execution of his duty under the Code of Service Discipline, unless he acted, or omitted to act, maliciously and without reasonable and probable cause.

216. New

Based on principle contained in provincial legislation such as *The Public Authorities Protection Act*, R.S.O., 1937, Chap 135, Sec 2

Part XI.

AID OF THE CIVIL POWER.

Definitions.

217. For the purposes of this Part,

(a) "Attorney General" means the Attorney General of any province of Canada, or the acting Attorney General of a province, or any minister of a government of a province performing for the time being the duties of a provincial Attorney General;

(b) "Officer Commanding a Command" means an officer commanding a Canadian Army Command if he is present in the command and able to act, or if he is not so present, or is from sickness or other cause unable to act, the officer appointed to administer the command or for the time being performing the duties of the officer commanding the command.

Canadian Forces liable to be called out to suppress riot.

218. The Canadian Forces, or any unit or other element thereof, or any officer or man, with equipment, are liable to be called out for service in aid of the civil power, in any case in which a riot or disturbance of the peace requiring such service occurs, or is, in the opinion of an Attorney General, considered as likely to occur, and that is beyond the powers of the civil authorities to suppress, prevent, or deal with.

Exception in case of certain reserves.

219. Nothing in this Part shall be deemed to impose liability to serve in aid of the civil power, without his consent, upon an officer or man of the reserve forces who is, by virtue of the terms of his enrolment, liable to perform duty on active service only.

Attorney General of province may requisition Canadian Army.

220. In any case where a riot or disturbance occurs, or is considered as likely to occur, the Attorney General of the province in which is situated the place where the riot or disturbance occurs, or is considered as likely to occur, on his own motion, or upon receiving notification from a judge of a superior, county or district court having jurisdiction in that place that the services of the Canadian Forces are required in aid of the civil power, may by requisition in writing, signed by him and addressed to the Officer Commanding a Command of the command in which that place is situated, require the Canadian Army or such part thereof as the authorities hereinafter mentioned consider necessary, to be called out on service in aid of the civil power.

Part XI.

This Part deals with aid of the civil power in cases of riot or disturbance of the peace. The liability upon the army, and in a supplemental capacity the air force, for aid in these cases has long been established by the Militia Act and The Royal Canadian Air Force Act. A liability similar to that imposed on the air force will by this Part be imposed on the navy. Aid to the civil power has been, and under the provisions of this Part would still be, primarily an army responsibility and the services of the navy and air force would be supplemental only.

Cross-References to Existing Legislation

217. New

218. See Militia Act, Sec 75

219. New

220. See Militia Act, Sec 76

Call out of Canadian Army in a command.

221. (1) Upon receiving a requisition in writing made by an Attorney General under section two hundred and twenty, the Officer Commanding a Command shall call out such part of the Canadian Army in his command as he considers necessary for the purpose of suppressing or preventing any actual riot or disturbance, or any riot or disturbance that is considered as likely to occur.

Call out of Canadian Army in other commands.

(2) Where the Officer Commanding a Command mentioned in subsection one considers that the services of parts of the Canadian Army in commands other than his command are necessary or desirable for the purpose of suppressing or preventing the riot or disturbance mentioned in the requisition, he shall notify the Chief of the General Staff of the number of officers and men, and of the equipment therefor, that he requires, as to which the Officer Commanding a Command shall be the sole judge; and upon being so notified the Chief of the General Staff may call out such parts of the Canadian Army and provide such equipment as in his judgment are available to meet the requirements of the Officer Commanding a Command and shall cause them to be despatched to the Officer Commanding a Command.

Call out of navy and air force.

(3) Where the Officer Commanding a Command mentioned in subsection one has called out or caused to be called out any part of the Canadian Army in aid of the civil power, and considers that the services of any part of the Royal Canadian Navy or of the Royal Canadian Air Force are necessary or desirable for the purpose of assisting that part of the Canadian Army so called out, he may address to the Minister, through the Chief of the General Staff, a request stating the nature and extent of the assistance from the Royal Canadian Navy or from the Royal Canadian Air Force which in the circumstances the Officer Commanding a Command requires; and the Chief of the Naval Staff or the Chief of the Air Staff, as the case may be, if the Minister so directs, shall call out such part of the Royal Canadian Navy or of the Royal Canadian Air Force, and equipment therefor, as the Minister considers necessary or desirable for the purpose of meeting the request.

Form of requisition.

222. A requisition of an Attorney General under this Part may be in the following form, or to the like effect, and the form may, subject to section two hundred and twenty-three, be varied to suit the facts of the case:—

CROSS-REFERENCES TO EXISTING LEGISLATION

221. (1) See Militia Act, Secs 77, 78(1)

221. (2) See Militia Act, Sec 78(2)

221. (3) New
See RCAF Act, Sec 9(1)

222. See Militia Act, Sec 80

Province of
To wit

Whereas information has been received by me from responsible persons (or a notification has been received by me from a judge of a (superior) (county) (district) court having jurisdiction in) that a riot or disturbance of the peace beyond the powers of the civil authorities to suppress (or to prevent or to deal with) and requiring the aid of the Canadian Forces to that end has occurred and is in progress (or is considered as likely to occur) at ;

And whereas it has been made to appear to my satisfaction that the Canadian Forces are required in aid of the civil power;

Now therefore I, , the Attorney General of , under and by virtue of the powers conferred by the National Defence Act, do hereby require you to call out the Canadian Army or such part thereof as you consider necessary for the purpose of suppressing (or preventing or dealing with) the riot or disturbance and, if it is deemed necessary or desirable by the appropriate authorities, I do hereby request that such other Services of the Canadian Forces as are under that Act liable to be called out in aid of the civil power be so called out for the purpose of assisting the Canadian Army;

And for and on behalf of the Province of , I the said , Attorney General, hereby undertake that all expenses and costs, incurred by His Majesty by reason of the Canadian Forces or any part thereof being called out on service in aid of the civil power pursuant to this requisition, shall be paid to His Majesty by the said province.

Dated at , this day of , 19 .

Attorney General.

What requisition must show.

223. (1) In a requisition made under this Part it shall be stated that information has been received by the Attorney General from responsible persons, or that a notification has been received by the Attorney General from a judge that a riot or disturbance beyond the powers of the civil authorities to suppress or to prevent or to deal with, as the case may be, has occurred, or is considered as likely to occur, and that the Canadian Forces are required in aid of the civil power; and the requisition shall further state that it has been made to appear to the satisfaction of the Attorney General that the Canadian Forces are so required.

223. See Militia Act, Secs 81, 79

Undertaking to pay costs.

(2) In a requisition made under this Part there shall be embodied an unconditional undertaking by the Attorney General that the province shall pay to His Majesty all expenses and costs incurred by His Majesty by reason of the Canadian Forces or any part thereof being called out for service in aid of the civil power, as by the requisition required.

Statements of fact to be binding on the province.

(3) Every statement of fact contained in a requisition made under this Part shall be conclusive and binding upon the province on behalf of which the requisition is made, and every undertaking or promise in the requisition shall be binding upon the province and not open to question or dispute by reason of alleged incompetence or lack of authority on the part of the Attorney General or for any other reason.

Inquiry and report by Attorney General.

(4) In every case where a requisition is made under this Part, the Attorney General of the province concerned shall, within seven days after the making of the requisition, cause an inquiry to be made into the circumstances which occasioned the calling out of the Canadian Forces or any part thereof, and shall send a report upon the circumstances to the Secretary of State.

Statements not open to dispute.

(5) A statement of fact contained in a requisition made under this Part shall not be open to dispute by the Officer Commanding a Command upon whom the requisition is made.

Officers and men have powers of constables.

224. Officers and men when called out for service in aid of the civil power shall, without further authority or appointment and without taking oath of office, be held to have and may exercise, in addition to their powers and duties as officers and men, all of the powers and duties of constables, so long as they remain so called out, but they shall act only as a military body, and shall be individually liable to obey the orders of their superior officers.

Duration of aid of civil power.

225. The Canadian Forces or any part thereof called out in aid of the civil power shall remain on duty in such strength as the Officer Commanding a Command, who has carried into effect a requisition of an Attorney General made under this Part, deems necessary or orders, until notification is received from the Attorney General that the Canadian Forces are no longer required in aid of the civil power; and the Officer Commanding a Command may, from time to time as in his opinion the exigencies of the situation require, increase or diminish the number of officers and men called out; except that officers and men of the Royal Canadian Navy and the Royal Canadian Air Force called out to assist the Canadian Army in aid of the

224. See Militia Act, Sec 82
RCAF Act, Sec 9(2)

225. See Militia Act, Sec 83

civil power may be withdrawn at such time and to such extent as the Chief of the Naval Staff or the Chief of the Air Staff, as the case may be, under the direction of the Minister, may order.

Province to pay expenses.

226. All expenses and costs incurred by His Majesty by reason of any of the Canadian Forces being called out under this Part in aid of the civil power, shall be paid to His Majesty by the province the Attorney General of which made the requisition requiring the Canadian Army to be called out.

Advances in first instance.

227. *Such moneys as are required to meet the expenses and costs occasioned by the calling out of the Canadian Forces as provided for in this Part and for the services rendered by them shall, pending payment by the province liable under section two hundred and twenty-six, be advanced in the first instance out of the Consolidated Revenue Fund by the authority of the Governor in Council, but shall be payable by and recoverable from the province to and by His Majesty as moneys paid by His Majesty to and for the use of the province at the request of the province.*

226. See Militia Act, Sec 84(1)

227. *See Militia Act, Sec 85*

Part XII.

OFFENCES TRIABLE BY CIVIL COURTS.

Application.

Liability to civil trial.

228. (1) Every person, including an officer or man, shall be liable to be tried in a civil court in respect of any offence prescribed in this Part.

Special provision.

(2) No charge against an officer or man in respect of any offence prescribed in this Part shall, if the complainant is any other officer or man, be tried by a civil court unless the consent thereto in writing of the commanding officer of such first-mentioned officer or man has first been obtained.

Special limitation on prosecutions.

229. No prosecution in a civil court shall be commenced against a person in respect of an offence prescribed in this Part after the expiration of six months from the date of commission of the offence charged, except for any of the offences mentioned in section two hundred and thirty-nine.

Offences.

Breach of regulations respecting defence establishments, etc.

230. Every person who contravenes regulations respecting the access to, exclusion from, and safety and conduct of any persons in, on or about any defence establishment, work for defence or equipment is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

False answer on enrolment.

231. Every person who knowingly makes a false answer to any question relating to his enrolment that has been put to him by or by direction of the person before whom he appears for the purpose of being enrolled in the Canadian Forces is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

False medical certificates.

232. Every medical practitioner who signs a false medical certificate or other document in respect of

(a) the examination of a person for the purpose of enrolment in the Canadian Forces;

(b) the service or release of an officer or man; or

Part XII.

This Part prescribes certain offences, relating to the defence of Canada, which are capable of being committed by members of the public as well as by service personnel.

Cross-References to Existing Legislation

228. New
See Militia Act, Sec 126(1) and (2)

229. See Militia Act, Sec 126(4)

230. New
See Militia Act, Secs 53, 123
Naval Service Act, Sec 29

231. See Army Act (UK), Sec 99

232. See Militia Act, Sec 103

(c) the disability or alleged disability of a person, purported to have arisen or to have been contracted during, in the course of, or as a result of the service of such person as an officer or man,

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Personation.

233. Every person who falsely personates any other person in respect of any duty, act or thing required to be performed or done under this Act by the person so personated is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Representation of desertion.

234. Every person who falsely represents himself to any military or civil authority to be a deserter from His Majesty's Forces is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Failure to attend parade.

235. (1) Every officer or man of the reserve forces who without lawful excuse neglects or refuses to attend any parade, drill or training at the place and hour appointed therefor is guilty of an offence and is liable on summary conviction for each offence, if an officer to a fine of ten dollars, and if a man to a fine of five dollars.

Each absence an offence.

(2) Absence from any parade, drill or training mentioned in subsection one shall, in respect of each day on which such absence occurs, be a separate offence.

Neglecting personal equipment.

236. Every officer or man of the reserve forces who fails to keep in proper order any personal equipment or who appears at drill, parade or on any other occasion with his personal equipment out of proper order, unserviceable or deficient in any respect is guilty of an offence and is liable on summary conviction to a fine not exceeding twenty-five dollars for each offence.

Interruption of drill or training.

237. Every person who without reasonable excuse interrupts or hinders the Canadian Forces at drill, training or while on the march is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each offence; and may be taken into custody and detained by any person by the order of an officer until such drill, training or march is over for the day.

233. See Militia Act, Sec 112

234. See Army Act (UK), Sec 152

235. See Militia Act, Sec 115

236. See Milltia Act, Sec 118

237. See Militia Act, Secs 116, 121 *(f)* and *(g)*
RCAF Act, Sec 17

Hampering manœuvres.

238. Every person who without reasonable excuse obstructs or interferes with manœuvres authorized under section two hundred and five is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars.

Unlawfully dealing with property.

239. (1) Every person who

(a) unlawfully disposes of or removes any property;

(b) when lawfully required, refuses to deliver up any property that is in his possession; or

(c) except for lawful cause, the proof of which lies on him, has in his possession any property,

is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each offence.

Definition.

(2) For the purposes of this section, "property" means any public property under the control of the Minister, non-public property, and property of any of His Majesty's Forces or of any forces co-operating therewith.

Assisting or harbouring deserters or absentees.

240. (1) Every person who

(a) procures, persuades, aids, assists or counsels an officer or man to desert or absent himself without leave; or

(b) in an emergency, aids, assists, harbours or conceals an officer or man who is a deserter or an absentee without leave and who does not satisfy the court that he did not know that such officer or man was a deserter or an absentee without leave,

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

Certificate of Judge Advocate General.

(2) A certificate signed by the Judge Advocate General, or such person as he may appoint for that purpose, that an officer or man was convicted under this Act, of desertion or absence without leave or had been continuously absent without leave for six months or more, and setting forth the date of commencement and the duration of such desertion, absence without leave or continuous absence without leave, shall for the purposes of proceedings under this section be evidence that the officer or man was a deserter or absentee without leave during the period mentiondd in the certificate.

Aid to intending deserters or absentees.

241. Every person who, knowing that an officer or man is about to desert or absent himself without leave, aids or assists him in his attempt to desert or absent himself without leave is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

238. New

239. (1) See Militia Act, Sec 119

239. (2) New

240. (1) See Naval Service Act, Sec 43 *(a)* and *(c)*
Army Act (UK), Sec 153(1) and (3)
Criminal Code, Sec 82

240. (2) New

241. See Naval Service Act, Sec 43 *(b)*
Army Act (UK), Sec 153(2)

Miscellaneous offences.

242. Every person who

(a) wilfully obstructs, impedes or otherwise interferes with any other person in the execution of any duty that such other person is required under this Act or regulations to perform;

(b) counsels any other person not to perform any duty that such other person is required under this Act or regulations to perform;

(c) does an act to the detriment of any other person in consequence of such other person having performed a duty that he is required under this Act or regulations to perform;

(d) interferes with or impedes, directly or indirectly, the recruiting of the Canadian Forces;

(e) wilfully produces any disease or infirmity in, or maims or injures himself or any other person with a view to enabling himself or such other person to avoid service in the Canadian Forces;

(f) with intent to enable any other person to render himself, or to induce the belief that such other person is, permanently or temporarily unfit for service in the Canadian Forces, supplies to or for such other person any drug or preparation calculated or likely to render such other person, or lead to the belief that such other person is, permanently or temporarily unfit for such service; or

(g) gives or receives, or is in any way concerned in the giving or receiving, of any valuable consideration in respect of enrolment, release or promotion in the Canadian Forces,

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

Offence of contempt of court.

243. (1) Every person who

(a) on being duly summoned as a witness under section two hundred and after payment or tender of the fees and expenses of his attendance prescribed in regulations, makes default in attending;

(b) being in attendance as a witness before a court martial mentioned in section two hundred,

(i) refuses to take an oath or affirmation legally required of him,

(ii) refuses to produce any document in his power or under his control legally required to be produced by him, or

(iii) refuses to answer any question that legally requires an answer;

(c) uses insulting or threatening language before a court martial mentioned in section two hundred, or causes

242. See Militia Act, Sec 121 *(d)* and *(e)*
Army Act (UK), Sec 153A
Criminal Code, Sec 167(1)

243. See Militia Act, Sec 130
Naval Service Act, Sec 46(3)
Army Act (UK), Secs 126(1) and (3), 129(2)
Air Force Act (UK), Secs 126(1) and (3), 129(2)

any interference or disturbance in its proceedings, or prints observations or uses words likely to influence improperly the members of or witnesses before that court martial or to bring that court martial into disrepute, or in any other manner whatsoever displays contempt of that court martial; or

(d) being in attendance as counsel before a court martial mentioned in section two hundred, is in contempt of court within the meaning of subsection five of that section,

is guilty of an offence and the court martial may, by a certificate setting forth the facts thereof, refer the offence of such person to a civil court, in the place where the court martial is held, that has power to punish witnesses guilty of like offences in that civil court.

Disposal of offender.

(2) Any civil court to which an offence mentioned in this section has been referred shall cause to be brought before it the person certified to have committed that offence, and shall inquire into the circumstances set forth in the certificate mentioned in subsection one, and, after examination of any witnesses who may be produced for or against the person so accused and after hearing any statement that may be offered in defence, shall, if it seems just, punish the person in like manner as if he had committed the offence in a proceeding in that civil court.

Failure to obey directions respecting property taken over, etc.

244. Every person employed in connection with any property, control of which has been taken by His Majesty under section two hundred and six, who does not obey the directions of the Minister or such person as is named in any warrant issued by the Minister is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Breach of regulations respecting billeting, etc.

245. Every person who contravenes regulations respecting the quartering, billeting and encamping of a unit or other element of the Canadian Forces, or of an officer or man is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars.

Improper exaction of tolls.

246. Every person who receives or demands a duty or toll in contravention of section two hundred and nine is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

244. New

245. See Militia Act, Sec 86

246. See Army Act (UK), Sec 143(3)

Failure to comply with convoy orders.

247. Every person who fails to comply with directions given under section two hundred and ten is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

247. New

Part XIII.

SPECIAL PROVISIONS

Deserters and Absentees.

Certain deserters and absentees deemed never to have served.

248. (1) Every member of the Naval Forces of Canada, the Canadian Army and the Royal Canadian Air Force and every person called out for compulsory military service under *The National Resources Mobilization Act, 1940*, who, while serving on active service beyond Canada at any time after the ninth day of September, one thousand nine hundred and thirty-nine, or while serving on active service within Canada at any time between the thirty-first day of December, one thousand nine hundred and forty-five, and the first day of October, one thousand nine hundred and forty-six, deserted or absented himself without leave and is still absent on the date that this section comes into force, shall for all purposes be deemed never to have been enlisted or enrolled in or appointed to or have served with the naval, army or air forces of Canada during the war that commenced in September, one thousand nine hundred and thirty-nine.

Pay, etc., of such persons.

(2) Notwithstanding that any person mentioned in subsection one is deemed never to have served in the naval, army or air forces of Canada, all pay and allowances, rations, kit and equipment at any time paid or issued to him or on his behalf shall be deemed to have been paid or issued with due authority.

Amendment to The Royal Canadian Air Force Act.

Definition of "officer".

249. Paragraph *(e)* of section two of *The Royal Canadian Air Force Act*, chapter fifteen of the statutes of 1940, is repealed and the following substituted therefor:—

"*(e)* "officer" means a person who holds His Majesty's commission in or who is a subordinate officer in the Royal Canadian Air Force or who is attached or seconded to the Royal Canadian Air Force as an officer;"

Repeal.

Existing legislation.

250. *The Royal Military College Act*, the *Militia Act*, the *Department of National Defence Act*, *The Royal Canadian Air Force Act* and *The Naval Service Act, 1944*, or any portion thereof, may be repealed by proclamation of the Governor in Council.

Part XIII.

This Part contains two clauses of a transitory nature and includes provision for the repeal of certain existing legislation and the coming into force of various portions of the Bill.

Cross-References to Existing Legislation

248. New

249. New
See RCAF Act, Sec 2 *(e)*

250. New

COMMENCEMENT OF ACT.

Proclamation.

251. Sections one, two hundred and eleven, two hundred and forty-eight, two hundred and forty-nine and two hundred and fifty of this Act shall come into force when this Act is assented to, section two hundred and eleven shall operate retrospectively to the eighth day of December, one thousand nine hundred and forty-seven, section two hundred and forty-nine shall operate retrospectively to the first day of October, one thousand nine hundred and forty-six, and the other sections of this Act shall come into force on a day or days to be fixed by proclamation of the Governor in Council.

251. New

First Session, Twenty-First Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 224.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending the 31st March, 1950.

AS PASSED BY THE HOUSE OF COMMONS, 10th December, 1949.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
44968 1949

1st Session, 21st Parliament, 13 George VI, 1949.

THE HOUSE OF COMMONS OF CANADA.

BILL 224.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending the 31st March, 1950.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it appears by messages from His Excellency, Field Marshal The Right Honourable Viscount Alexander of Tunis, etc., etc., Governor General of Canada, and the estimates accompanying the said messages, that the sums hereinafter mentioned are required to defray certain expenses of the public service of Canada, not otherwise provided for, for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, and for other purposes connected with the public service: May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that:—

Short title.

1. This Act may be cited as *The Appropriation Act, No. 7, 1949.*

$440,983,724.09 granted for 1949-50.

2. From and out of the Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole four hundred and forty million, nine hundred and eighty-three thousand, seven hundred and twenty-four dollars and nine cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being the amount of each of the items voted, set forth in Schedule A to this Act, less the amounts voted on account of the said items by *The Appropriation Act, No. 1, 1949, The Appropriation Act, No. 4, 1949, The Appropriation Act, No. 5, 1949,* and *The Appropriation Act, No. 6, 1949:*

Proviso.

Governor General's warrants.

Provided the amount hereby authorized to be paid and applied in respect to items 215, 339 and 434 set forth in said Schedule A, shall be deemed to include and not to be in addition to, the amount authorized for each such item by Governor General's warrants issued during the fiscal year ending March 31, 1950, prior to the fifteenth day of September, 1949.

$7,485,744.34 Supplementary Estimates (Newfoundland) granted for 1949-50.

3. From and out of the Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole seven million, four hundred and eighty-five thousand, seven hundred and forty-four dollars and thirty-four cents towards defraying the several charges and expenses of

the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being the amount of each of the several items voted, set forth in Schedule B to this Act, less the amounts voted on account of the said items by *The Appropriation Act, No. 3, 1949*, *The Appropriation Act, No. 4, 1949*, *The Appropriation Act, No. 5, 1949*, and *The Appropriation Act, No. 6, 1949*.

$56,546,333.34 Further Supplementary Estimates granted for 1949-50.

4. From and out of the Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole fifty-six million, five hundred and forty-six thousand, three hundred and thirty-three dollars and thirty-four cents towards defraying the several charges and expenses of the public service, from the first day of April, one thousand nine hundred and forty-nine, to the thirty-first day of March, one thousand nine hundred and fifty, not otherwise provided for, and being the amount of each of the several items voted, set forth in Schedule C to this Act, less the amounts voted on account of the said items by *The Appropriation Act, No. 5, 1949*, and *The Appropriation Act, No. 6, 1949*. Provided the amount hereby authorized to be paid and applied in respect of item 764 set forth in said Schedule C shall be deemed to include and not to be in addition to, the amount authorized for such item by Governor General's warrant of August the tenth, 1949.

Proviso.

Governor General's warrant.

Power to raise loan of $200,000,000 for public works and general purposes and to pay and redeem treasury bills and deposit certificates.

1931, c. 27.

5. (1) The Governor in Council may, in addition to the sums now remaining unborrowed, and negotiable of the loans authorized by Parliament, by any Act heretofore passed, raise by way of loan, under the provisions of *The Consolidated Revenue and Audit Act, 1931*, by the issue and sale or pledge of securities of Canada, in such form, for such separate sums, at such rate of interest and upon such other terms and conditions as the Governor in Council may approve, such sum or sums of money, not to exceed in the whole the sum of two hundred million dollars, as may be required for public works and general purposes, and in addition such sum or sums of money as may be required to pay and redeem treasury bills and Dominion of Canada deposit certificates maturing from time to time.

Chargeable to Consolidated Revenue Fund.

(2) The principal raised by way of loan under this Act and the interest thereon shall be a charge upon and payable out of the Consolidated Revenue Fund.

Lapse of prior borrowing powers.

(3) All borrowing powers authorized by section five of chapter seventy-eight of the statutes of 1947-48 which are outstanding and unused shall expire on the date of the coming into force of this Act.

Account to be rendered in detail.

6. A detailed account of the sums expended under the authority of this Act shall be laid before the House of Commons of Canada during the first fifteen days of the then next session of Parliament.

SCHEDULE A.

Based on the Main Estimates, 1949-50. The amount hereby granted is $440,983,724.09 being the amount of each of the items in the Estimates as contained in this Schedule, less the amounts voted on account of the said items by *The Appropriation Act No. 1, 1949*, *The Appropriation Act, No. 4, 1949*, *The Appropriation Act, No. 5, 1949*, and *The Appropriation Act, No. 6, 1949*.

SUMS granted to His Majesty, by this Act for the financial year ending 31st March, 1950, and the purposes for which they are granted.

No. of Vote	Service	Amount	Total
		$	$
	AGRICULTURE		
	ADMINISTRATION SERVICE		
1	Departmental Administration	282,160	
2	Publicity and Extension Division	242,760	
3	Advisory Committee on Agricultural Services	5,000	
4	Contributions to Commonwealth Bureaux	86,139	
	SCIENCE SERVICE		
5	Science Service Administration	680,070	
6	Animal and Poultry Pathology	353,515	
7	Bacteriology and Dairy Research	125,335	
8	Botany and Plant Pathology	1,154,500	
9	Agricultural Chemistry	368,823	
10	Agricultural Entomology, including a payment of $3,500 to the Commonwealth Biological Control Laboratory, Belleville, Ontario, for special services	1,321,926	
11	Forest Entomology	1,087,490	
12	Plant Protection	639,320	
	EXPERIMENTAL FARMS SERVICE		
13	Experimental Farms Service Administration	113,470	
14	Central Experimental Farm	1,330,560	
15	Branch Farms and Stations and Illustration Stations	3,819,403	
	PRODUCTION SERVICE		
16	Production Service Administration	51,915	
	Health of Animals—		
17	Administration of Animal Contagious Diseases Act, and Meat and Canned Foods Act	2,868,297	
18	Compensation for Animals Slaughtered	1,042,500	
19	Live Stock and Poultry	1,261,343	
20	Plant Products— Seeds, Feeds, Fertilizers, Insecticides and Fungicides Control, including grant of $40,000 to Canadian Seed Growers' Association	1,166,052	
21	Grants to Fairs and Exhibitions, under such terms and conditions as may be approved by the Governor in Council and subject to allocation by the Treasury Board	475,900	
22	Grants to Agricultural Organizations, as detailed in the Estimates	43,500	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	AGRICULTURE—*Concluded*		
	MARKETING SERVICE		
23	Marketing Service Administration	150,090	
24	Agricultural Economics	390,120	
25	Dairy Products	594,077	
26	Subsidies for Cold Storage Warehouses under the Cold Storage Act, and Grants, in the amounts detailed in the Estimates	1,201,923	
27	Fruit, Vegetables and Maple Products, and Honey, including Grant of $5,000 to Canadian Horticultural Council	928,660	
28	Live Stock and Live Stock Products	1,113,750	
29	Marketing of Agricultural Products, including temporary appointments that may be required to be made notwithstanding anything contained in the Civil Service Act, the amount available for such appointments not to exceed $6,000	75,000	
	SPECIAL		
30	Prairie Farm Rehabilitation Act and Water Storage	3,000,000	
31	Major Irrigation and Water Conservation Projects in the Prairie Provinces	7,500,000	
32	Prairie Farm Assistance Act Administration	500,000	
33	To provide for assistance to encourage the improvement of cheese and cheese factories	1,700,000	
34	To provide assistance for the replacement of maple production equipment	500,000	
35	To provide for Administrative Expenses, Agricultural Prices Support Act, 1944	60,000	
36	To reclaim and to prevent the flooding of valuable Agricultural lands in the valley of the Lillooet River, near Pemberton, B.C.	312,000	
37	Land Reclamation and Development in British Columbia under such terms and conditions as may be approved by the Governor in Council	917,500	
38	Land Protection and Reclamation; Clearing and Settlement of New Lands under such terms and conditions as may be approved by the Governor in Council	200,000	
39	Emergency Protection and Reclamation of Maritime Dykelands under such terms and conditions as may be approved by the Governor in Council	50,000	
40	Maritime Marshland Rehabilitation Act, and necessary surveys in connection therewith	400,000	
41	For assistance in construction of potato warehouses under regulations to be approved by the Governor in Council	100 000	
42	Agricultural Products Act—To provide for losses incurred in respect of the purchase, sale and export of agricultural products under the Agricultural Products Act, including authority for the Minister of Finance, at the request of the Minister of Agriculture, from time to time, to pay amounts in the aggregate not exceeding $40,000,000 out of any unappropriated money in the Consolidated Revenue Fund as recoverable advances	100,000	
	DEMOBILIZATION AND RECONVERSION		
43	Freight Assistance on Western Feed Grains	4,750,000	
44	Agricultural Lime Assistance	410,000	
45	Dairy Products Board	22,022	
46	Meat Board, including Quality Premiums on A and B1 Grade Hog Carcasses	5,877,133	
47	Special Products Board	24,000	
			49,396,253
	AUDITOR GENERAL'S OFFICE		
48	Salaries and Expenses of Office		550,081

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	CHIEF ELECTORAL OFFICER		
49	Salaries and Expenses of Office		39,668
	CIVIL SERVICE COMMISSION		
50	Salaries and Contingencies of the Commission		1,379,143
	EXTERNAL AFFAIRS		
	A—Department and Missions Abroad		
51	Departmental Administration	2,170,510	
52	Passport Office Administration	161,907	
53	Representation Abroad—including payment of salaries of High Commissioners, Ambassadors, Ministers Plenipotentiary, Consuls, Secretaries and Staff appointed as directed by the Governor General in Council, notwithstanding anything to the contrary in the Civil Service Act or any of its amendments	5,172,363	
54	To authorize the use during the fiscal year 1949–50 in payment for the acquisition, improvement or furnishing of properties for Canadian Government offices and residences in foreign countries of inconvertible foreign currencies from deposits of such currencies which may be used only for governmental or other limited purposes in these countries and which have been received by the Government of Canada from other governments in settlement of claims arising out of military operations or war expenditures	1	
55	To provide for hospitality in connection with visitors from abroad	25,000	
56	To provide for relief of distressed Canadian citizens abroad and for the reimbursement of the United Kingdom for relief expenditures incurred by its Diplomatic and Consular Posts on Canadian account	15,000	
57	Canadian Representation at International Conferences	225,000	
58	Expenses of the Canadian Delegation to the International Civil Aviation Organization, including salaries of the Canadian Delegate and Staff, notwithstanding anything to the contrary in the Civil Service Act or any of its amendments	22,300	
59	Canadian Section of Canada-U.S. Permanent Joint Board on Defence	2,500	
60	Grant to United Nations Society in Canada	5,000	
	B—General		
	The Canadian Government's Assessment for Membership in the following International or Commonwealth Organizations		
61	United Nations	1,335,000	
	Specialized Agencies—		
62	Food and Agricultural Organization of the United Nations	191,000	
63	International Labour Organization	190,500	
64	United Nations Educational, Scientific and Cultural Organization	306,500	
65	World Health Organization	108,000	
	Commonwealth Organizations—		
66	Commonwealth Communications Council	8,100	
67	Commonwealth Economic Committee	21,500	
68	Commonwealth Shipping Committee	700	
	International Joint Commission		
69	To provide for preliminary studies and surveys of the Mid-western Watershed (Revote)	26,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	EXTERNAL AFFAIRS—*Concluded*		
	B—General—*Concluded*		
	Demobilization and Reconversion		
70	To provide for the Canadian Government's contribution to the International Refugee Organization	5,425,000	
			15,411,881
	FINANCE		
71	Departmental Administration	1,326,285	
72	Bank Inspection (Inspector General of Banks' Office)	27,920	
73	Royal Canadian Mint, including Canada's Assay Office, Vancouver, B.C.	1,065,000	
	Superannuation and Retirement Benefits		
74	Superannuation and Retirement Acts, Administration	200,402	
75	Government's contribution to the Superannuation Fund	5,100,000	
	Public Debt Charges		
	Servicing of Public Debt.		
76	Commission for payment of interest on public debt, Services of Fiscal Agents, London, Registrar's Fees, etc.	386,400	
	Miscellaneous Grants and Contributions		
77	Canadian General Council of the Boy Scouts	15,000	
78	Canadian Council of the Girl Guides Association	9,000	
79	Royal Astronomical Society of Canada	2,000	
80	Royal Canadian Academy of Arts	2,025	
81	Canadian Writers Foundation	4,000	
82	Grant toward expenses of the Empire Press Union Conference to be held in Ottawa in 1950	65,000	
	General		
83	To provide for expenses of the Tariff Board	98,840	
84	To provide for the expenses of the Comptroller of the Treasury's Office	10,459,000	
85	Farmers' Creditors Arrangement Act, 1943, and Municipal Improvements Assistance Act, 1938, Administration	39,631	
86	The Farm Improvement Loans Act, 1944, and the Veterans' Business and Professional Loans Act, 1946—Administration	52,795	
87	Foreign Exchange Control Board—Administration	252,700	
88	Telephone Service at Ottawa	415,000	
89	To provide, subject to the approval of the Treasury Board, for salaries, reclassifications, increases and other pay list items	20,000,000	
90	Unforeseen expenses, expenditure thereof to be subject to approval of the Treasury Board and a detailed statement to be laid before Parliament within fifteen days of next session	80,000	
91	To provide for the Government's contribution, as an Employer, to the Unemployment Insurance Fund in respect of Government Employees paid through the Central Pay Office	950,000	
	Demobilization and Reconversion		
	Wartime Prices and Trade Board—		
92	Administration	2,986,825	
93	Commodity Prices Stabilization Corporation	5,000,000	
94	Advances to the Canadian Wheat Board for payments in respect of flour or food containing wheat for human consumption in Canada	6,000,000	
	Employees Plan—		
95	For Purchase of Canada Savings Bonds—Administration	89,710	
96	To provide, subject to the approval of the Treasury Board, for replacement of bonds lost in mails and for reimbursement of accounts incorrectly charged with repayments	2,500	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	FINANCE—*Concluded*		
	DEMOBILIZATION AND RECONVERSION—*Concluded*		
97	To provide for expenses of the Cabinet Committee on Dominion-Provincial Relations	30,000	
98	To provide for the payment of premiums on Government of Canada Sterling Securities	10,000	
99	To provide, subject to the approval of the Treasury Board, for miscellaneous losses arising from the sale or distribution of War Savings Stamps, War Savings Certificates, Victory Bonds or Canada Savings Bonds	3,000	
100	To provide, subject to the approval of the Treasury Board, for miscellaneous and unforeseen expenses and for the temporary provision of recoverable advances for working capital purposes and for the readvancing of any such advances repaid	1,000,000	
			55,673,033
	FISHERIES		
101	Departmental Administration	360,900	
102	Fisheries Inspection, including Fishery Officers and Guardians, Fisheries Patrol and Protection Services	2,983,000	
103	Educational Extension Service, including grant of $3,000 to Lunenburg Fisheries Exhibition	190,000	
104	Fish Culture Development	693,400	
105	Oyster and Clam Culture	73,700	
	Fisheries Research Board of Canada—		
106	Operation and Maintenance	1,132,040	
107	Construction and Improvements	181,800	
108	To provide for Canadian share of expenses of the International Fisheries Commission appointed under Treaty dated January 29th, 1937, between Canada and the United States for the preservation of the North Pacific Halibut Fisheries	35,000	
109	To provide for Canadian share of expenses of the International Pacific Salmon Fisheries Commission appointed under Treaty dated May 26th, 1930, between Canada and the United States for the protection, preservation and extension of the Sockeye Salmon Fisheries of the Fraser River System	169,500	
110	To provide for Canadian share of expenses of the International Pacific Salmon Fisheries Commission to overcome obstructions to the ascent of sockeye salmon at Hell's Gate Canyon and for investigating and overcoming obstructions to such salmon at other points on the Fraser River Watershed (Revote)	150,000	
111	To provide for transportation, dressing and dyeing and other expenses incidental to receiving and disposing of fur seal skins accruing to Canada pursuant to Provisional Fur Seal Agreement between Canada and the United States by exchange of notes dated December 26th, 1947	550,000	
112	To provide for the destruction of Harbour Seals	30,000	
	SPECIAL		
113	To provide for the extension of educational work in co-operative producing and selling among fishermen	80,000	
114	To provide for the administration expenses of the Fisheries Prices Support Act, 1944	170,000	
115	To provide for assistance in the construction of vessels of the dragger and/or long liner type, subject to such terms and conditions as may be approved by the Governor in Council	100,000	
116	To provide for assistance in the construction of bait freezing and storage facilities, subject to the approval of the Governor in Council	100,000	
117	To provide for investigation into transportation and storage facilities in wholesale and retail handling of fish and fish products	25,000	
			7,024,340

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	GOVERNOR-GENERAL AND LIEUTENANT-GOVERNORS		
118	Office of the Secretary to the Governor-General, including the salary of the Secretary to the Governor-General at $7,600 additional to salary authorized by R.S.C. chap. 182..	.....	114,905
	INSURANCE		
119	Departmental Administration.....	271,834	
120	Expenses of work in the interests of Fire Prevention.....	21,285	
			293,119
	JUSTICE		
	A—Department		
121	Departmental Administration.....	256,281	
122	Remission Service, including remuneration to members of the Royal Canadian Mounted Police Force (to be expended under Order in Council, and not to exceed $1,600) for assistance to this Service, and an amount of $17,100 to reimburse the Royal Canadian Mounted Police Force the amounts disbursed by them in ordinary pay and allowances to their men on loan to this Service.....	109,347	
123	Administration of Justice— Miscellaneous Expenditure.....	10,000	
124	Expenses of Litigated Matters.....	25,000	
125	Annual contribution to the Canadian Law Library, London, England.....	750	
	Supreme Court of Canada—		
126	Administration.....	104,372	
	Exchequer Court of Canada—		
127	Administration.....	76,155	
	Yukon Territorial Court—		
128	Administration.....	5,000	
129	Payments of gratuities to the widows or other dependents of judges who die while in office.....	15,000	
130	Combines Investigation Branch.....	199,200	
131	Bankruptcy Act Administration.....	38,346	
	General		
132	To provide for the Revision, Classification and Consolidation of the Public General Statutes of Canada.....	75,000	
133	To provide for the Revision of the Criminal Code.....	50,000	
134	To provide for expenses in connection with Espionage Prosecutions.....	35,000	
	Demobilization and Reconversion		
135	To provide for expenses of Commission of Inquiry into Japanese Property Claims.....	65,000	
136	To provide for expenses in connection with Prize Courts.....	2,000	
	B—Penitentiaries		
	Office of the Commissioner of Penitentiaries		
137	Administration of the Office of the Commissioner of Penitentiaries, including $25,000 for Grants to recognized Prisoners' Aid Societies, as may be approved by the Governor in Council.....	227,926	
138	Operation and maintenance of penitentiaries, including administration, construction, purchase of land, supplies, equipment and livestock; maintenance, discharge and transfer of convicts; compensation to discharged convicts permanently disabled while in penitentiaries.....	6,107,490	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	JUSTICE—*Concluded*		
	B—PENITENTIARIES—*Concluded*		
	OFFICE OF THE COMMISSIONER OF PENITENTIARIES—*Concluded*		
139	To provide for the construction, by contract, of a power plant at Collin's Bay penitentiary, Ontario	315,000	
140	To provide for the acquisition and development of property for the establishment of a new penal institution in the Province of Quebec	200,000	
	PENSIONS AND OTHER BENEFITS		
141	William Tatton	564	
			7,917,431
	LABOUR		
	A—DEPARTMENT		
142	Departmental Administration	735,337	
143	Annuities Act	785,871	
144	Fair Wages, Conciliation, Industrial Relations, Industrial Disputes Investigations, including the administration of legislation relating thereto, and for activities *re* promotion of co-operation in industry between Labour and Management	308,617	
145	Canada Labour Relations Board—Formerly included in Demobilization and Reconversion as the Wartime Labour Relations Board	17,500	
146	International Labour Conferences	58,205	
147	Labour Gazette and other publications authorized by Labour Department Act	103,810	
	Vocational Training Co-ordination Act, 1942—		
148	Administration	44,100	
149	Expenditures for vocational training under the Vocational Training Co-ordination Act, 1942, and agreements between the Dominion and Provinces approved by the Governor in Council, including projects for training of persons to fit them for gainful employment, youth training, apprenticeship training, vocational training at secondary school level, foremanship and supervisory training and for training of members of His Majesty's Forces and other persons to fit them for skilled Armed Service occupations and to authorize the Minister of Labour to enter into an agreement with any Province with the approval of the Governor in Council for such training, as well as to provide for undischarged commitments of previous years	3,762,000	
150	To provide for the effective organization and use of agricultural manpower, including recruiting, transporting and placing workers on farms and related industries and assistance to the Provinces pursuant to agreements that may be entered into by the Minister of Labour with the Provinces and approved by the Governor in Council—Formerly included in Demobilization and Reconversion	360,000	
	Demobilization and Reconversion		
151	To provide for expenses relating to Placement of Labour Planning; Co-ordination of Stevedoring, including authority to continue the Regional Boards known as "Advisory Boards Labour Department" to act in an advisory capacity to the Minister of Labour for the co-ordination of the work of the various divisions of the Department of Labour and the Immigration Branch of the Department of Mines and Resources	127,420	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	LABOUR—*Concluded*		
	A—Department—*Concluded*		
	Demobilization and Reconversion—*Concluded*		
152	Technical Personnel Division— Administration (formerly Bureau of Technical Personnel and Placement of University Graduates)	38,640	
153	Vocational Training for discharged members of Canada's Armed Forces; payments to the Provinces for capital expenditure for vocational schools, buildings and equipment; and to provide for Dominion contributions towards replacement by a Province or Municipality of machinery used in War Emergency Training; including undischarged commitments of previous years	3,515,000	
154	To provide the necessary financial requirements to complete activities for the relocation, maintenance and welfare of persons of the Japanese race in Canada and to carry out the provisions of agreements entered into with the Provinces in reference to the foregoing and to continue the appointments of necessary temporary assistance required in administering the project	220,350	
155	To provide for payment to the National Film Board for educational films for exhibition	24,000	
156	To provide for expenses that may be incurred in the arranging for and the movement of workers from outside Canada to work on farms and other essential industry in Canada when Canadian labour is not available to meet the need; including costs connected with the supervision and welfare of persons already immigrated to Canada under former authorized labour movements and administrative expenses connected therewith	895,675	
	B—Unemployment Insurance Act, 1940		
157	Administration, including expenditures incurred in connection with the activities of the National Employment Service as delegated by the Minister of Labour in accordance with Section 88 of the Act	19,645,631	
158	Government's contribution to the Unemployment Insurance Fund	18,750,000	
	Demobilization and Reconversion		
159	To provide for the transfer of labour to and from places where employment is available in agriculture and industry and expenses incidental thereto	225,000	
			49,617,156
	LEGISLATION		
	The Senate		
	The Speaker of the Senate—		
160	Allowance in lieu of Residence	3,000	
161	General Administration	306,617	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	LEGISLATION—*Concluded*		
	HOUSE OF COMMONS		
	The Speaker of the House of Commons—		
162	Allowance in lieu of Residence	3,000	
	Deputy Speaker of the House of Commons—		
163	Allowance in lieu of Apartments	1,500	
164	General Administration—Estimates of the Clerk	800,730	
165	Estimates of the Sergeant-at-Arms	475,690	
166	Subscriptions to Publications of the Commonwealth Parliamentary Association to be distributed to Members of the House of Commons, and to provide for the Canadian share of expenses of the Commonwealth Parliamentary Association	10,000	
167	To provide hereby, notwithstanding anything contained in the Consolidated Revenue and Audit Act or the provisions of the Senate and House of Commons Act respecting the Independence of Parliament, for payment out of the Consolidated Revenue Fund to each Member of the House of Commons appointed by the Governor in Council to be a Parliamentary Assistant (which appointment shall not render such Member ineligible or disqualify him as a Member of the House of Commons) to assist a Minister of the Crown in such manner and to such extent as the Minister may determine and to represent his Department in the House of Commons in the absence of the Minister therefrom, a salary of four thousand dollars per annum and pro rata for any period less than a year	56,000	
168	To provide for an annual allowance to the Deputy Chairman of Committees	2,000	
	GENERAL		
169	Printing of Parliament, including salaries of staff of the Joint Distribution Office	265,428	
	LIBRARY OF PARLIAMENT		
170	General Administration	125,348	
	PENSIONS AND OTHER BENEFITS		
171	Pension to the unmarried sister of the late Colonel Harry Baker, M.P.	700	
			2,050,013
	MINES AND RESOURCES		
172	Departmental Administration	365,500	
	SPECIAL PROJECTS		
173	Director of Special Projects—Administration	29,235	
174	International Boundary Commission	47,397	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	MINES AND RESOURCES—*Continued*		
	MINES, FORESTS AND SCIENTIFIC SERVICES BRANCH		
175	Branch Administration	100,670	
	Bureau of Mines—		
176	Bureau of Mines Administration	43,500	
177	Mineral Resources Investigations	1,598,850	
178	Explosives Act Administration	65,900	
179	Investigations of Radio-active Ores	268,130	
	Dominion Forest Service—		
180	Dominion Forest Service Administration	59,280	
181	Forest Research and Investigations	762,990	
182	Forest Products Research	535,030	
183	Grant to Canadian Forestry Association	4,000	
	Eastern Rockies Forest Conservation Board—		
184	To provide for the salaries and expenses of Dominion members of the Board and their alternates and sundry expenses in connection with the maintenance and operation of the Ottawa Office of the Board	23,000	
185	Dominion contribution towards annual maintenance, including staff and expenses	175,000	
186	Forest Insects Control Board	13,225	
	Geological Survey of Canada—		
187	Geological Survey Administration and Miscellaneous Services	128,625	
188	Geological Surveys	1,130,365	
	Surveys and Mapping Bureau—		
189	Surveys and Mapping Bureau Administration	31,640	
190	Topographical Surveys, including expenses of the Canadian Board on Geographical Names	1,196,240	
191	Canadian Hydrographic Service	3,478,314	
192	Geodetic Survey of Canada	662,775	
193	Legal Surveys, including grant of $350 to assist in printing the publication of the Canadian Institute of Surveying	499,136	
194	To provide for the payment of fees of the Board of Examiners for Dominion Land Surveyors, of the Secretary and of the Sub-Examiners and for travelling expenses, stationery, printing, rent, etc. (the fees of B. W. Waugh, J. E. R. Ross and J. L. Rannie, members of the Board, and A. W. W. Cole, Secretary, are to be paid out of this sum)	2,100	
195	Map Compilation and Reproduction	399,510	
	Dominion Water and Power Bureau—		
196	Dominion Water and Power Bureau, including the Administration of the Dominion Water Power and Irrigation Acts, and including grant of $350 to the International Executive Council, World Power Conference	513,700	
197	To provide for studies and surveys of the Columbia River Watershed in Canada	350,000	
198	Lake of the Woods Control Board	11,880	
199	To provide for the expenses incurred under the agreement between the Dominion, Ontario and Manitoba, confirmed by the Lac Seul Conservation Act, 1928, moneys expended to be largely reimbursed	17,750	
200	To provide for acquiring flowage easements and discharging claims of owners of riparian lands in Ontario below the outlets of the Lake of the Woods affected by regulation under the Lake of the Woods Control Board Act (Revote)	500	
201	To provide for excavation of a flood channel at Dalles Rapids in Winnipeg River in Ontario to reduce flooding of riparian property affected by regulation under the Lake of the Woods Control Board Act	170,000	
202	Geographical Bureau	136,200	
203	National Museum of Canada	177,500	
	Dominion Observatories—		
204	Dominion Observatory, Ottawa	312,630	
205	Dominion Astrophysical Observatory, Victoria, B.C.	63,859	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	MINES AND RESOURCES—*Continued*		
	LANDS AND DEVELOPMENT SERVICES BRANCH		
206	Branch Administration	82,800	
	Northwest Territories and Yukon Services—		
	MacKenzie Division—		
207	General Administration, Operation and Maintenance of Services, including Wood Buffalo Park	745,414	
208	Forest Conservation, including Wood Buffalo Park	336,395	
	Roads, Buildings and Water Systems—Construction and Improvements—		
209	Roads	197,000	
210	Buildings (Revote $51,100)	681,128	
211	Water and Sewages	367,383	
	Arctic Division—		
212	Administration	177,160	
213	Buildings	104,000	
	Yukon Division—		
214	Administration	166,500	
215	Roads	1,460,000	
216	Buildings	171,000	
217	Coal Development	90,000	
218	Lands Division— Administration of Dominion, Ordnance and Admiralty, and Public Lands; Seed Grain Collections	254,335	
	National Parks Services—		
219	National Parks and Historic Sites Services	10,062,324	
220	Grant to the Jack Miner Migratory Bird Foundation	5,000	
221	Grant to aid in the development of the International Peace Garden in Manitoba	15,000	
	Dominion Wildlife Service—		
222	Wildlife Resources Conservation and Development, including Administration of the Migratory Birds Convention Act	259,520	
	Engineering and Construction Division—		
223	Engineering and Construction Services	399,319	
224	Cranberry Portage Road—To provide for the 1949-50 Dominion contribution to the cost of Section B, Cranberry Portage to Cuprus Mines, of the proposed road between the Pas and Flin Flon in Manitoba in accordance with the terms of an agreement between the Dominion and the Province of Manitoba dated September 30, 1948	305,000	
	INDIAN AFFAIRS BRANCH		
225	Branch Administration	138,790	
226	Indian Agencies	2,451,709	
	Reserves and Trusts—		
227	Administration	261,615	
	Welfare—		
228	Welfare of Indians	3,002,528	
229	Grants to Agricultural Exhibitions and Indian Fairs	7,200	
	Education—		
230	Indian Education, and to authorize commitments against future years in the amount of $200,000	4,157,433	
231	Grants to Residential Schools	2,470,017	
232	Grant to provide additional services to Indians of British Columbia	100,000	
233	Fur Conservation—Formerly included under Special Estimates.	351,795	
	IMMIGRATION BRANCH		
234	Administration of the Immigration Act	646,775	
235	Field and Inspectional Service, Canada	3,161,812	
236	Field and Inspectional Service, Abroad	1,307,416	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	MINES AND RESOURCES—*Concluded*		
	DEMOBILIZATION AND RECONVERSION		
	Mines, Forests and Scientific Services Branch		
237	Payments to Royal Canadian Air Force and Commercial companies for air photography, and to defray the expenses of the Interdepartmental Committee on Air Surveys	1,240,000	
238	Construction and equipment of an extension to the Metallurgical Laboratories, Booth Street, Ottawa, including consulting, engineering and design fees	80,000	
			48,630,799
	NATIONAL DEFENCE		
	GENERAL SERVICES		
239	Grants to Military Associations, Institutes and Others, as detailed in the Estimates	227,150	
240	Miscellaneous Maintenance and Adjustments (War of 1914–18)	32,275	
241	Battlefields Memorials	54,605	
	PENSIONS AND OTHER BENEFITS		
	Civil Pensions—		
242	Robert Allen	193	
243	Walter Pettipas	516	
244	Florence Walker	360	
245	Michael Mountain	420	
246	Mrs. Alice Smuck	480	
247	Mrs. Mary Whittington	200	
248	Mrs. Eleanor F. Nixon	1,288	
	Militia Pension Act		
249	Government's contribution to the Permanent Forces Pension Fund	9,046,347	
	DEMOBILIZATION AND RECONVERSION		
250	To provide for the Defence Forces of the Navy, Army and Air Services, and to authorize total commitments for this purpose of $547,497,388, including authority, notwithstanding section 29 of the Consolidated Revenue and Audit Act, to make commitments for the current year of $401,942,006, and commitments for future years of $145,555,382, against which commitments it is estimated that actual expenditures in 1949–50 will not exceed	339,442,006	
251	Defence Research and Development, subject to allocation by the Treasury Board, and to authorize total commitments for this purpose of $24,439,660, including authority notwithstanding Section 29 of the Consolidated Revenue and Audit Act, to make commitments for the current year of $21,679,660 and commitments for future years of $2,760,000 against which commitments it is estimated that actual expenditure in 1949–50 will not exceed	21,179,660	
			369,985,500
	NATIONAL HEALTH AND WELFARE		
252	Departmental Administration	794,605	
	NATIONAL HEALTH BRANCH		
	Health Services		
253	National Health Branch— Administration	126,015	
254	Food and Drugs	682,015	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL HEALTH AND WELFARE—*Continued*		
	NATIONAL HEALTH BRANCH—*Continued*		
	Health Services—*Concluded*		
255	Proprietary or Patent Medicines	26,585	
256	Opium and Narcotic Drugs	139,860	
257	Quarantine and Leprosy	272,797	
258	Laboratory of Hygiene	340,014	
259	Immigration Medical Inspection	842,773	
260	Child and Maternal Health	96,005	
261	Public Health Engineering	158,640	
262	Treatment of Sick Mariners	524,610	
263	Industrial Health	125,180	
264	Civil Service Health	202,709	
265	Nutrition	143,635	
266	Venereal Disease Control	42,164	
267	Health Insurance Studies	56,451	
268	Dental Health	52,748	
269	Hospital Designs	24,810	
270	Mental Health	90,725	
271	Blindness Control	46,120	
272	Epidemiology	25,880	
273	Grants to Institutions Assisting Sailors, in the amounts detailed in the Estimates	2,600	
274	Medical Services—Indians and Eskimos	10,713,316	
275	Civil Aviation Medicine	44,015	
	Health Grants		
276	General Health Grants:		
	To provide for the following grants to the Provinces, under terms and conditions approved by the Governor in Council—		
	Health Survey Grant to assist the Provinces in surveying present health services and facilities, including hospitals, and in studying ways and means of improving and extending the same; to be distributed on the basis of a flat amount of $5,000 to each Province and the balance according to population but the total payment available to any Province in no case to be less than $15,000	150,000	
	Hospital Construction Grant to assist the Provinces in the provision of adequate accommodation for hospital and health services; to be distributed on the basis of $1,000 per bed for active treatment beds, $1,500 per bed for chronic or convalescent beds, or in the case of other health facilities on an equivalent basis; Provinces to match or exceed Dominion contribution which shall in no case exceed one-third of total cost	13,000,000	
	General Public Health Grant to assist the Provinces in strengthening general public health services; to be distributed on the basis of 40 cents per capita of population, to Provinces which maintain at least their standard and extent of service in this field as at March 31, 1948	5,143,600	
	Tuberculosis Control Grant to assist the Provinces in an accelerated and intensified effort toward the eradication of tuberculosis and to extend progressively the provision of free treatment; to be distributed on the basis of a flat amount of $25,000 to each Province and the balance to be divided 50% on the basis of population and 50% on the basis of the average number of deaths from tuberculosis in each Province over the previous five years.	3,000,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL HEALTH AND WELFARE—*Concluded*		
	NATIONAL HEALTH BRANCH—*Concluded*		
	Health Grants—*Concluded*		
276	General Health Grants—*Concluded*		
	Mental Health Grant to assist the Provinces in the prevention of mental illness and in extending progressively the provision of free treatment; to be distributed on the basis of a flat amount of $25,000 to each Province and the balance according to population	4,000,000	
	Venereal Disease Control Grant to assist the Provinces in extending and intensifying their present efforts toward the control of venereal disease; to be distributed on the basis of a flat amount of $4,000 to each Province and the balance according to population	500,000	
	Crippled Children Grant to assist the Provinces in an intensive program for the prevention and correction of crippling conditions in children, rehabilitation and training; to be distributed on the basis of a flat amount of $4,000 to each Province and the balance according to population	500,000	
	Professional Training Grant to assist the Provinces in the training of personnel for public health and hospital staffs; to be distributed on the basis of a flat amount of $4,000 to each Province and the balance according to population	500,000	
	Public Health Research Grant to assist the Provinces in stimulating and developing public health research	200,000	
	Cancer Control Grant to assist the Provinces in programs for the control of cancer; to be distributed according to population, with any such programs for cancer control to be approved and the cost thereof to be divided equally between the Dominion and the Province concerned	3,500,000	
	WELFARE BRANCH		
277	Welfare Branch Administration	36,155	
	Family Allowances—		
278	Administration	1,808,198	
	Old Age Pensions (including Pensions to the Blind).		
279	Administration	65,610	
	National Physical Fitness—		
280	Administration	60,887	
281	Assistance to Provinces	85,689	
282	Assistance to Schools of Social Work	50,000	
	MISCELLANEOUS GRANTS		
	Grant to:		
283	Canadian Welfare Council	12,600	
284	Canadian National Committee for Mental Hygiene	10,000	
285	Health League of Canada	10,000	
286	Canadian Public Health Association	5,000	
287	Canadian National Institute for the Blind	45,000	
288	L'Association Canadienne Francaise des Aveugles	6,000	
289	L'Institut Nazareth de Montreal	4,050	
290	Montreal Association for the Blind	4,050	
291	Canadian Tuberculosis Association	20,250	
292	Victorian Order of Nurses	13,100	
293	St. John Ambulance Association	4,050	
294	Canadian Red Cross Society	10,000	
295	Canadian Paraplegic Association	15,000	
			48,333,511

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SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL REVENUE		
	A—Department		
	Customs and Excise Divisions		
296	General Administration	1,506,165	
297	Inspection, Investigation and Audit Services	2,198,195	
298	Ports, Outports and Preventive Stations, including pay for overtime, notwithstanding anything in the Civil Service Act, and buildings and rentals for temporary purposes	14,581,241	
299	To provide for payment of expenses, law costs, refunds and awards arising out of seizures and charges of contravention of Customs or Excise laws	300,000	
	Taxation Division		
300	General Administration	1,983,384	
301	Internal Inspection and Verification	1,412,260	
302	District Offices	27,745,888	
	Income Tax Appeal Board—		
303	Administration Expenses	50,000	
	Miscellaneous		
304	Amount to be paid to the Department of Justice to be disbursed by and accounted for to it for Customs, Excise and Income Tax Secret Investigation Services	15,000	
	B—International Shortwave Broadcasting Station		
305	Maintenance and Operation	1,781,850	
306	Acquisition and Alterations: Equipment, Land and Structures, including Supervision	971,250	
			52,545,233
	POST OFFICE		
307	Departmental Administration	1,441,235	
308	Post Offices, including salaries and other expenses of Headquarters and Staff Post Offices and supplies and equipment for Revenue Post Offices	37,804,896	
309	Inspection and Investigation	1,684,665	
310	Railway Mail Service	15,614,667	
311	Air and Land Mail Services	22,743,141	
312	Audit of Revenue, Money Order, Postal Note and Savings Bank Business; issue of Postage Stamps and Postal Notes	2,168,600	
	Pensions and Other Benefits		
313	To provide for the payment of compassionate allowances to employees injured while in the performance of their duties or to other persons injured while performing duties in any way connected with the Postal Service, or in protecting His Majesty's mails, or to the dependents of such employees or other persons who may be killed while so engaged; payments to be made only on the specific authority of the Governor in Council	5,000	
			81,462,204
	PRIME MINISTER'S OFFICE		
314	Salaries of Staff and Allowances	.....	115,065

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PRIVY COUNCIL OFFICE		
315	General Administration	151,485	
	FEDERAL DISTRICT COMMISSION		
316	Maintenance and improvement of grounds adjoining Government Buildings, Ottawa, and improvements to the Parkway System under the control of the Federal District Commission	270,500	
317	Expenses of the National Capital Planning Committee	100,000	
318	To authorize payment of the second instalment to a special account in the Consolidated Revenue Fund, known as the National Capital Fund, established under Vote No. 809, Appropriation Act, No. 4, 1947-48	2,500,000	
			3,021,985
	PUBLIC ARCHIVES		
319	General Administration and Technical Services		176,393
	PUBLIC PRINTING AND STATIONERY		
320	Departmental Administration	60,000	
321	Printing, Binding and Distributing the Annual Statutes	30,000	
322	Canada Gazette	130,000	
323	Plant Equipment and Replacements	30,000	
324	Distribution of Official Documents	95,000	
325	Printing and Binding Official Publications for sale and distribution to Departments and the Public	230,000	
			575,000
	PUBLIC WORKS		
326	Departmental Administration	264,135	
	ARCHITECTURAL BRANCH		
327	Branch Administration	373,105	
328	Ottawa—Maintenance and Operation of Dominion Public Buildings and Grounds, including rents, repairs, furniture, heating, etc., and to authorize commitments against future years in the amount of $500,000	8,711,199	
329	Maintenance and Operation of Dominion Public Buildings and Grounds, other than at Ottawa, including rents, repairs, furniture, heating, etc., and to authorize commitments against future years in the amount of $500,000	11,289,644	
	Construction, Repairs and Improvements of Public Buildings		
	Nova Scotia		
330	Dartmouth Public Building—Addition and alterations (Revote $15,000)	39,000	
	Dominion—Public Building—(Revote)	25,000	
	Halifax—Accommodation for Customs (Revote)	100,000	
	Halifax Customs Building—Improvements and elevator (Revote $21,000)	25,000	
	Halifax—Postal Station at Armdale (Revote)	43,000	
	Halifax—Office Building	150,000	
	Kentville Public Building—Addition and alterations	15,000	
	Kingston—Public Building (Revote $23,000)	53,500	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Continued*		
	Construction, Repairs and Improvements of Public Buildings—*Continued*		
	New Brunswick		
	Andover—Customs and Immigration Buildings (Revote $40,000)	100,000	
	Fredericton—Public Building—Site and preliminary work towards construction of building (Revote $73,500)	150,000	
	Moncton Public Building—Addition and alterations (Revote $50,000)	150,000	
	North Head Public Building—Addition and alterations (Revote $25,000)	32,000	
	Sackville Public Building—Addition and alterations	10,000	
331	Saint John Public Building—Addition and alterations	500,000	
	St. Leonard—Customs and Immigration Buildings (Revote $50,000)	100,000	
	St. Stephen—Public Building—(Revote $20,000)	50,000	
	Sussex Public Building—Addition and fittings (Revote $27,000)	35,000	
	West Saint John—Terminal Building for Customs and Immigration (Revote $200,000)	675,000	
	Prince Edward Island		
332	Charlottetown—Public Building (Revote $100,000)	150,000	
	Summerside—Public Building (Revote $50,000)	100,000	
	Maritime Provinces Generally		
333	Dominion Public Buildings—Improvements and repairs and to authorize commitments against future years in the amount of $100,000	535,000	
	Quebec		
	Armstrong—Customs and Immigration Building (Revote)	50,000	
	Baie Comeau—Public Building (Revote)	90,000	
	Chandler—Public Building (Revote $25,000)	71,000	
	Cowansville—Public Building (Revote $50,000)	100,000	
	Dominion Public Buildings—Improvements and repairs and to authorize commitments against future years in the amount of $100,000	900,000	
	Donnacona—Public Building (Revote $35,000)	91,500	
	Drummondville—Public Building (Revote)	146,000	
	Granby Public Building—Addition, alterations and improvements (Revote $15,000)	30,000	
	Joliette Public Building—Addition (Revote)	50,000	
	Lacolle (Blackpool)—Building for Customs	190,000	
334	Levis—Public Building	100,000	
	Maniwaki Public Building—Addition and alterations (Revote $14,000)	39,000	
	Masson—Public Building (Revote $35,000)	50,000	
	Matane Public Building—Addition, alterations and improvements (Revote)	40,000	
	Mont Joli—Public Building (Revote $50,000)	140,000	
	Montmagny—Public Building (Revote $50,000)	100,000	
	Montmorency Village—Site for Public Building	10,000	
	Montreal—Building for British and Foreign Mail (Revote $255,000)	400,000	
	Montreal—Longueuil Postal Station—Addition and alterations (Revote $37,000)	50,000	
	Montreal—Mount Royal Postal Station	60,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Continued*		
	Construction, Repairs and Improvements of Public Buildings—*Continued*		
	Quebec—Concluded		
	Montreal—Notre Dame de Grace Postal Station—Addition and alterations (Revote)	56,000	
	Montreal—Postal Station "B" (Revote $350,000)	450,000	
	Montreal—Postal Terminal—Addition (Revote $95,000)	500,000	
	Montreal—St. Henri Postal Station—Site (Revote)	25,000	
	Montreal—Site for Youville Postal Station	50,000	
	Noranda—Public Building (Revote)	70,000	
	Quebec—Marine Stores Building—Elevator (Revote $16,000)	25,000	
	Rimouski—Public Building (Revote $55,000)	75,000	
334	Rock Island Customs and Immigration Building—Addition to site (Revote)	60,000	
	St. Felicien—Public Building	10,000	
	St. Georges de Beauce—Addition to public building site (Revote)	15,000	
	St. Henri de Levis—Public Building (Revote $25,000)	40,000	
	St. Jerome—Public Building	50,000	
	Ste. Therese de Blainville Public Building—Addition and alterations (Revote)	25,000	
	Sherbrooke—Public Building (Revote)	200,000	
	Thetford Mines Public Building—Addition, alterations and repairs (Revote $60,000)	130,000	
	Three Rivers Public Building—Addition (Revote $45,000)	200,000	
	Val d'Or—Public Building (Revote $70,000)	253,000	
	Ontario		
	Barrie—Public Building (Revote)	80,000	
	Belleville—Public Building (Revote $52,000)	100,000	
	Brantford Public Building—Elevator (Revote)	8,500	
	Chapleau—Public Building (Revote $25,000)	91,500	
	Chatham—Public Building (Revote $50,000)	150,000	
	Cornwall—Public Building (Revote $50,000)	150,000	
	Delhi—Public Building (Revote $25,000)	120,000	
	Dominion Public Buildings—Improvements and repairs and to authorize commitments against future years in the amount of $100,000	900,000	
	Dundas Public Building—Addition and alterations (Revote $20,000.)	40,000	
	Fergus Public Building—Addition and alterations (Revote $29,000.)	55,000	
	Fort Erie Customs Building—Addition and alterations (Revote $50,000.)	75,000	
335	Geraldton—Public Building (Revote $24,500.)	120,000	
	Hamilton—Office Building (Revote $100,000.)	300,000	
	Little Current—Public Building (Revote $50,000.)	142,500	
	Ottawa—Additions to Mines and Resources sites on Booth and Le Breton Streets (Revote $33,000)	200,000	
	Ottawa—Building for Department of Veterans Affairs (Revote $100,000)	300,000	
	Ottawa—Central Experimental Farm—Accommodation for Staff (Revote $6,500)	10,000	
	Ottawa—Central Experimental Farm—Insecticide Building	35,000	
	Ottawa—Departmental Office Building (Revote $175,000)	350,000	
	Ottawa—East Block—Improvements	200,000	
	Ottawa—Fuel Research Laboratory—Alterations and improvements (Revote)	50,000	
	Ottawa—Improvements to heating in Woods and Canadian Buildings (Revote $70,000)	85,000	
	Ottawa—Laboratory accommodation for Department of Mines and Resources	110,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Continued*		
	Construction, Repairs and Improvements of Public Buildings—*Continued*		
	Ontario—Concluded		
	Ottawa—Toward Accommodation for Department of Mines and Resources	50,000	
	Ottawa—New Supreme Court Building—Rehabilitation, completion and furnishing (Revote)	200,000	
	Ottawa—Records Storage Building—Alterations and improvements	340,000	
	Ottawa—Testing Laboratory for Department of Public Works (Revote $50,000)	223,000	
	Pelee Island — Building for Department of National Revenue (Revote $5,000)	16,000	
	Pembroke—Public Building (Revote $25,000)	100,000	
	Peterborough—Public Building (Revote $50,000)	100,000	
	Picton Public Building—Addition and alterations (Revote)	25,000	
335	Port Arthur Public Building—Purchase of Site (Revote)	50,000	
	Port Colborne Public Building—Addition and alterations (Revote)	26,000	
	Sault Ste. Marie—Public Building	265,000	
	Sudbury—Public Building Site (Revote)	165,000	
	Tecumseh—Public Building (Revote $31,000)	35,000	
	Toronto—City Delivery Building—Extension, restoration, mechanical equipment and addition to site (Revote $150,000)	300,000	
	Toronto—Postal Station on St. Clair Avenue (Revote $85,000)	125,000	
	Toronto—Postal Station "E" (Revote $30,000)	100,000	
	Welland Public Building—Addition, fittings and improvements (Revote $50,000)	250,000	
	Manitoba		
	Brandon Public Building—Addition and alterations (Revote)	30,000	
	Dominion Public Buildings—Improvements and repairs and to authorize commitments against future years in the amount of $50,000	205,000	
	Flin Flon—Public Building (Revote $100,000)	184,000	
336	Grandview—Public Building (Revote)	49,000	
	Pine Falls—Public Building (Revote $35,000)	40,000	
	Winnipeg—Postal accommodation at Canadian National Railways Station (Revote $75,000)	100,000	
	Winnipeg—Public Building—Site (Revote)	150,000	
	Saskatchewan		
	Dominion Public Buildings—Improvements and repairs and to authorize commitments against future years in the amount of $50,000	250,000	
	Ituna—Public Building (Revote)	25,000	
	Langenburg—Public Building	20,000	
	North Portal—Building for Customs and Immigration (Revote $65,000)	115,000	
337	Prince Albert Public Building—Addition and alterations (Revote)	120,000	
	Regina—Accommodation for the Taxation Division of the Department of National Revenue	200,000	
	Rosetown—Public Building (Revote)	25,000	
	Saskatoon—Public Building—Addition and alterations	150,000	
	St. Walburg—Public Building (Revote $20,000)	70,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
	PUBLIC WORKS—*Continued*	$	$
	ARCHITECTURAL BRANCH—*Concluded*		
	Construction, Repairs and Improvements of Public Buildings—*Concluded.*		
	Alberta		
	Chief Mountain—Customs and Immigration Building (Revote $75,000)	120,000	
	Coutts—Buildings for Customs and Immigration (Revote $133,000)	175,000	
	Dominion Public Buildings—Improvements and repairs and to authorize commitments against future years in the amount of $50,000	205,000	
338	Edmonton—Addition and alterations to South Edmonton Postal Station (Revote)	45,000	
	Edmonton—Postal Terminal (Revote $50,000)	400,000	
	Edmonton—Public Building (Revote $80,000)	150,000	
	Leduc—Public Building (Revote)	25,000	
	Macleod—Public Building (Revote $25,000)	60,000	
	Peace River Public Building—Local improvements (Revote)	8,500	
	Red Deer—Public Building (Revote $50,000)	100,000	
	British Columbia		
	Abbotsford—Public Building	91,000	
	Dominion Public Buildings—Improvements and repairs, and to authorize commitments against future years in the amount of $50,000	400,000	
	Douglas—Buildings for Customs and Immigration (Revote)	120,000	
	Haney—Public Building (Revote $47,000)	132,000	
	Huntingdon—Buildings for Customs and Immigration	10,000	
	Kingsgate—Customs and Immigration Building (Revote)	100,000	
	Ladner—Public Building	80,000	
	Langley Prairie Public Building (Revote $75,000)	129,000	
	Nanaimo—Public Building	50,000	
	North Vancouver—Postal Station	225,000	
	Ocean Falls—Public Building (Revote $40,000)	75,000	
339	Osoyoos—Customs and Immigration Buildings (Revote $40,000)	100,000	
	Smithers—Public Building (Revote)	25,000	
	Vancouver—Alvin Estates Building—Purchase, alterations and extension (Revote $800,000)	1,100,000	
	Vancouver—Begg Building—Purchase, alterations and extension (Revote $380, 000)	620,000	
	Vancouver—Post Office Building Site (Revote $250,000)	350,000	
	Vancouver—Addition and Alterations to Postal Station at Sea Island Airport	17,000	
	Vancouver—Building for Customs	100,000	
	Victoria—Public Building (Revote $50,000)	350,000	
	White Rock—Public Building (Revote $25,000)	65,000	
	Generally		
340	Dominion Immigration Buildings—Repairs, Improvements, etc	125,000	
341	Dominion Quarantine Stations—Maintenance and repairs	50,000	
342	Experimental Farms and Science Laboratories—Replacements, repairs and improvements to buildings	350,000	
343	Building for National Film Board (Revote)	25,000	
344	London, England—Clerk's Table for the New British House of Commons (Revote $7,500)	9,400	
345	National Capital Planning Service	125,000	
346	National Printing Bureau (Revote $440,000)	600,000	
347	Public Buildings Generally—Repairs, alterations, fittings and improvements and to authorize commitments against future years in the amount of $200,000	1,000,000	
348	Veterans' Hospitals—Repairs, improvements and alterations	175,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH		
349	Branch Administration	327,655	
350	Engineering, including salaries of Engineers, Clerks, etc.	1,306,903	
	Dredging		
351	General Superintendence	16,440	
352	Maritime Provinces	1,595,510	
353	Ontario and Quebec	1,759,090	
354	Manitoba, Saskatchewan, Alberta and Northwest Territories	417,240	
355	British Columbia and Yukon	701,440	
	Maintenance and Operation of Graving Docks, Locks and Dams, etc.		
356	Champlain Graving Dock	314,313	
357	Esquimalt Graving Dock	127,460	
358	Esquimalt Old Dry Dock	9,000	
359	Lorne Graving Dock	364,646	
360	Selkirk—Repair Slip	6,750	
361	Locks and Dams	377,370	
362	Snagboats	98,841	
	Maintenance and Operation of Roads and Bridges		
363	Burlington Channel Bridge	56,970	
364	Kingston, LaSalle Causeway	166,756	
365	New Westminster Bridge	51,245	
366	Generally	82,958	
	Construction, Repairs and Improvements—Harbours and Rivers		
	Nova Scotia		
	Anderson's Cove—Breakwater repairs (Revote $6,000)	20,000	
	Arrow Point—Breakwater extension	24,000	
	Aspotogan—Wharf	6,500	
	Babin's Cove (Arichat)—Breakwater	20,000	
	Baddeck—Wharf reconstruction (Revote $50,000)	55,000	
	Ballantyne's Cove—Breakwater repairs (Revote $42,800)	46,000	
	Battery Point—Breakwater extension (Revote)	20,000	
	Bay St. Lawrence—Harbour repairs and improvements (Revote $100,000)	211,500	
	Black Point—Wharf repairs and improvements	48,000	
	Boudreauville—Breakwater-wharf extension	8,000	
367	Breen's Pond—Breakwater replacement (Revote $52,000)	55,000	
	Broad Cove—Groyne extension	8,000	
	Broad Cove Marsh—Harbour improvements	38,000	
	Cape John—Breakwater (Revote)	50,000	
	Capstick—Breakwater reconstruction (Revote $59,400)	70,000	
	Chapel Cove—Groyne extension	8,000	
	Chester Ironbound—Breakwater extension (Revote $26,000)	28,000	
	Clarkes Harbour—Dredging	85,000	
	Comeauville—Groyne	6,000	
	Cook's Beach—Harbour protection	12,000	
	Cow Bay (Port Morien)—Breakwater reconstruction and dredging (Revote)	155,000	
	Crescent Beach—Improvements and extension to beach protection	7,500	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Continued*		
	Nova Scotia—Continued		
	Digby—Repairs to piers	30,000	
	Dingwall—Dredging	130,000	
	Dover—Wharf extension (Revote)	27,000	
	Drum Head—Wharf replacement (Revote $161,500)	173,000	
	East Ferry—Breakwater replacement (Revote $60,000)	70,000	
	Eastern Passage—Dredging (Revote $47,600)	50,000	
	Fall's Point (Woods Harbour)—Wharf extension (Revote)	115,000	
	Ferry Landings at Tiverton, East Ferry, Freeport and Westport (Revote)	300,000	
	Gabarus—Breakwater-wharf replacement	135,000	
	Glace Bay—Breakwater reconstruction	126,000	
	Grand Etang—Pier extension (Revote)	10,000	
	Hampton—Breakwater repairs	63,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken	755,000	
	Ingonish Beach—Wharf reconstruction	38,000	
	Ingonish Ferry—Wharf repairs and improvements (Revote)	30,000	
	Iona—Wharf improvements	13,000	
	John Volger's Shore—Breakwater extension	12,000	
	King's Bay—Breakwater replacement	65,000	
	Larry's River—Breakwater extension	7,000	
	Little Anse—Breakwater replacement (Revote)	206,000	
	Little Harbour—Breakwater-wharf	20,000	
	Little Harbour (L'Ardoise)—Breakwater extension	21,000	
	Little Judique Ponds—Breakwater repairs	21,000	
	Liverpool—Wharf (Revote)	35,000	
	Livingstone Cove—Wharf reconstruction (Revote $60,000)	72,000	
	Lower East Pubnico—Wharf improvements	14,000	
367	Lunenburg (Battery Point)—Breakwater reconstruction (Revote $10,000)	60,000	
	McDonald's Cove—Breakwater extension	35,000	
	Malagash—Wharf extension	38,000	
	Margaree Harbour—Breakwater extension	61,000	
	Mauger's Beach—Replacing protection of Halifax Harbour (Revote $10,300)	12,000	
	Mill Cove—Breakwater extension (Revote)	55,000	
	Neil's Harbour—Breakwater repairs (Revote)	135,000	
	New Glasgow—Wharf repairs (Revote)	28,500	
	New Harbour—Wharf replacement	42,000	
	North Sydney—Breakwater repairs (Revote $6,000)	24,000	
	North Sydney—Towards wharf and shed	150,000	
	North West Cove (Scatari Island)—Breakwater reconstruction (Revote $70,000)	83,000	
	North West Cove (Tancook)—Breakwater extension (Revote)	35,000	
	Owl's Head—Wharf extension	12,000	
	Parker's Cove—Breakwater repairs	68,000	
	Petit de Grat—Breakwater	6,500	
	Pictou—Towards restoration of harbour facilities	200,000	
	Pleasant Bay (The Ponds)—Pier Reconstruction	25,000	
	Point Michaud—Breakwater replacement	20,000	
	Port Felix—Wharf replacement (Revote $20,000)	23,000	
	Port Hawkesbury—Wharf repairs (Revote)	50,000	
	Port Maitland—Towards breakwater reconstruction and extension (Revote $23,500)	180,000	
	Port Mouton—Breakwater replacement	50,000	
	Pugwash—Wharf repairs (Revote $75,500)	307,000	
	Seal Harbour—Dredging (Revote)	58,000	
	Seaside (Harbour View)—Breakwater replacement (Revote $24,500)	35,000	
	Shad Bay—Wharf replacement (Revote $11,000)	12,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Continued*		
	Nova Scotia—Concluded		
	Short Beach—Breakwater repairs (Revote)	85,000	
	Sydney Harbour (South Bar)—To purchase property	13,000	
	Wadden Cove—Breakwater replacement (Revote $13,500)	15,000	
367	Willow Cove (Port Mouton)—Dredging	45,000	
	Windsor—Shear dam reconstruction and extension	16,000	
	Yarmouth Bar—Towards breakwater reconstruction (Revote $100,000)	200,000	
	Prince Edward Island		
	Alberton—To take over and reconstruct wharf	11,000	
	Anglo Rustico—Wharf	10,000	
	Annandale—Boat basin (Revote)	6,000	
	Canoe Cove—Breakwater repairs (Revote $18,000)	23,000	
	Charlottetown—Towards wharf reconstruction and improvements (Revote $238,000)	350,000	
	Fishing Cove (Cape Egmont) —Wharf and breakwater (Revote $47,000)	88,000	
	Graham's Pond—Breakwater repairs, extension and protection block	27,000	
368	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken, and to authorize commitments against future years in the amount of $35,000	125,000	
	Launching Pond—Boat Harbour (Revote)	57,000	
	Little Sands—Wharf reconstruction (Revote $70,000)	90,000	
	North Lake—Reconstruction of breakwaters (Revote $71,000)	75,000	
	Souris—Breakwater repairs (Revote $50,000)	58,000	
	Souris—Railway wharf—Towards reconstruction and dredging	200,000	
	Summerside—Railway wharf—Repairs to wharf and reconstruction of shed (Revote $84,000)	113,000	
	Summerside—To take over and reconstruct Holman's wharf (Revote)	20,000	
	Tignish—Repairs to breakwaters	65,000	
	Tracadie Harbour—Towards breakwater reconstruction	50,000	
	Wood Islands—Harbour Improvements (Revote $11,000)	25,000	
	New Brunswick		
	Barachois—Wharf improvements and dredging (Revote $25,000)	29,000	
	Blue Cove—Breakwater repairs (Revote $40,000)	60,000	
	Botsford—Breakwater extension (Revote $50,000)	110,000	
	Buctouche—Dredging (Revote $31,000)	115,000	
	Burnt Church—Wharf repairs (Revote $25,000)	50,000	
	Campbellton—Dredging (Revote)	10,000	
	Caraquet—Towards harbour improvements and repairs (Revote $100,000)	160,000	
369	Cape Bald—Towards replacement of breakwater approach	100,000	
	Chockfish—Wharf (Revote)	11,000	
	Cocagne Bar (Cormierville)—Breakwater-wharf (Revote $25,000)	26,000	
	Escuminac—Breakwater repairs (Revote $21,300)	22,500	
	Grande Anse—Pier repairs	90,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken, and to authorize commitments against future years in the amount of $65,000	200,000	
	Little Shippigan—Wharf extension (Revote $70,000)	85,000	
	Mace's Bay—Breakwater (Revote $100,000)	189,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Continued*		
	New Brunswick—Concluded		
	Malloch's Beach—Breakwater extension (Revote $65,000)	83,000	
	Neguac Church—Wharf extension (Revote $50,000)	61,000	
	North Head (Grand Manan)—Towards wharf	200,000	
	Petit Rocher—Breakwater repairs (Revote)	141,000	
	Pointe du Chene—Repairs to wharf and breakwater	74,000	
	Richibucto—Wharf Improvements	135,000	
	Richibucto Cape—Repairs and improvements to harbour works (Revote $3,500)	7,500	
369	St. Andrews—Wharf Improvements (Revote $100,000)	260,000	
	St. Mary's (Shippigan Island)—Towards breakwater	150,000	
	Seal Cove—Breakwater (Revote $100,000)	334,000	
	Seal Cove—Repairs to breakwaters (Revote)	19,500	
	Shippigan—Savoy Landing—Towards wharfage facilities, subject to an agreement to be entered into with the Provincial Government as to division of costs (Revote)	205,000	
	Stonehaven—Breakwater repairs and improvements (Revote $30,000)	36,000	
	Tracadie—Wharf (Revote)	21,000	
	Welchpool—Wharf replacement (Revote $133,000)	143,000	
	Quebec		
	Baie Comeau—Wharf improvements (The agreement made by the Minister of Public Works on the tenth day of January 1949 with Quebec North Shore Paper Co. for payment of an annual amount until 1989, in lieu of wharfage dues and tolls is hereby ratified, notwithstanding the Government Harbours and Piers Act C. 89 of R.S.C. 1927) (Revote $318,000)	500,000	
	Baie de la Trinité—Dredging (Revote)	141,000	
	Baie des Sables—Wharf extension (Revote $43,000)	230,000	
	Baie Ste. Catherine—Towards wharf reconstruction	150,000	
	Barachois de Malbaie (Bridgeville)—Jetty reconstruction (Revote)	114,000	
	Blanc Sablon—Wharf (Revote $125,000)	300,000	
	Boischatel—Wharf reconstruction	63,000	
	Cap Chat—Wharf extension (Revote $85,000)	310,000	
	Cap Sante—Wharf reconstruction (Revote)	9,000	
	Chandler—Wharf extension, subject to contribution by the Gaspesia Sulphite Co. (Revote $210,000)	370,000	
370	Chateau Richer—Wharf repairs	27,000	
	Cloridorme—Wharf (Revote $50,000)	270,000	
	Deauville (Little Magog Lake)—Wharf	15,000	
	Entry Island, M.I.—Wharf (Revote $32,000)	40,000	
	Ferme Neuve—Wharf	9,500	
	Forestville—Shed on Wharf	7,000	
	Gascons (Anse a Mercier)—Wharf extension	59,000	
	Grandes Bergeronnes (Pointe a John)—Wharf extension	53,000	
	Grande Entree—Breakwater (Revote $47,000)	115,000	
	Grande Riviere—Reconstruction of harbour works and dredging (Revote $284,000)	359,000	
	Grande Vallee—Jetty reconstruction	23,000	
	Grande Vallee—Towards deep water wharf (Revote $50,000)	300,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken, and to authorize commitments against future years in the amount of $125,000	600,000	
	Iberville—Wharf reconstruction	27,000	
	L'Anse a Beaufils—Jetty extension	38,000	
	L'Anse a Brillant—Harbour improvements	14,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Continued*		
	Quebec—Concluded		
	L'Anse au Griffon—Reconstruction of jetties	45,000	
	La Sarre—Wharf	6,300	
	La Tabatiere—Wharf extension (Revote $39,000)	46,000	
	Les Eboulements—Wharf improvements	23,000	
	Levis—Towards reconstruction of wharf (Revote $200,000)	350,000	
	Marsouins—Towards wharf extension	200,000	
	Matane—Towards breakwater reconstruction	200,000	
	Matane—Towards wharf reconstruction (Revote $100,000)	350,000	
	Mechins—Towards wharf extension	250,000	
	Mont Louis—Wharf repairs	33,000	
	Montmagny—Wharf reconstruction (Revote)	57,000	
	Natashquan—Wharf reconstruction and improvements (Revote $173,000)	188,000	
	Newport (L'Anse a Blondel)—Breakwater	36,000	
	North Temiskaming Bridge—Improvements	20,500	
	Norway Bay—Wharf replacement	57,000	
	Notre Dame du Portage—Wharf reconstruction and extension (Revote $50,000)	170,000	
	Paspebiac—Harbour repairs and improvements (Revote $19,000)	37,500	
	Petit Gaspe—Wharf extension	11,000	
	Petite Riviere Est—Harbour improvements	31,000	
	Pointe Basse, M.I.—Breakwater-wharf replacement (Revote $113,000)	120,000	
	Pointe au Pere—Wharf repairs	44,000	
370	Port Daniel—Fishing harbour (Revote $50,000)	120,000	
	Quebec, Inner Louise Basin—Wharf repairs (Revote)	30,000	
	Ragueneau—Wharf extension and improvements	105,000	
	Richelieu River—Dredging (Revote $177,000)	200,000	
	Rimouski—Towards wharf reconstruction (Revote $280,000)	720,000	
	Riviere au Renard—Wharf repairs and improvements	22,000	
	Riviere au Tonnerre—Dredging (Revote)	60,000	
	Riviere Colombier (Anse Noire)—Wharf enlargement (Revote $30,000)	36,000	
	Riviere des Mille Iles—Dredging (Revote)	40,000	
	Riviere Ouelle (Pointe aux Orignaux)—Wharf reconstruction (Revote $100,000)	155,000	
	Riviere Pentecote—Redredging (Revote)	90,000	
	Riviere Whalen (Cap des Rosiers)—Fishing harbour (Revote $105,000)	306,000	
	Ruisseau Chapados—Harbour improvements (Revote $55,000)	60,000	
	Ruisseau LeBlanc—Breakwater reconstruction (Revote $95,000)	98,000	
	Ste. Anne des Monts—Wharf reconstruction and extension (Revote $680,000)	1,030,000	
	St. Francois du Lac—Wharf repairs (Revote)	32,000	
	St. Jean, I.O.—Wharf reconstruction (Revote $5,000)	13,000	
	St. Jean Port Joli—Towards wharf reconstruction	75,000	
	St. Joachim de Tourelle (Anse des Quinze Collets)—Breakwater	30,000	
	St. Joseph d'Alma—Wharf reconstruction (Revote $18,400)	35,000	
	St. Michel de Bellechasse—Wharf repairs (Revote $52,000)	58,000	
	Sorel—Harbour repairs and improvements (Revote $355,000)	614,000	
	Tadoussac (Anse Tadoussac)—Towards wharf reconstruction	200,000	
	Vercheres—Harbour repairs and improvements (Revote $30,000)	157,000	
	Ville Marie—Wharf	31,000	
	Ontario		
	Amethyst Harbour—Wharf	11,000	
371	Belleville—Harbour improvements	23,000	
	Britt—Wharf (Revote $8,600)	12,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction Repairs and Improvements—Harbours and Rivers—*Continued*		
	Ontario—Continued		
	Brockville—Breakwater reconstruction (Revote)	98,000	
	Burditt Lake (Clearwater Lake) —Wharf	8,000	
	Byng Inlet—Wharf (Revote)	7,300	
	Charlton—Wharf	5,400	
	Christian Island—Wharf extension (Revote $10,300)	12,000	
	Cockburn Island—Reconstruction of harbour works (Revote $56,000)	61,000	
	Collingwood—Harbour reconstruction and improvements (Revote $100,000)	265,000	
	Dawson's Point (New Liskeard)—Wharf	7,000	
	Dryden—Wharf (Revote)	10,000	
	Fort William—Dredging (Revote $60,000)	486,000	
	Fort William—Wharf	35,000	
	Goderich—Redredging and repairs to harbour works (Revote $30,000)	148,000	
	Gore Bay—Wharf extension	39,000	
	Hamilton—Harbour improvements (Revote $630,000)	1,000,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken, and to authorize commitments against future years in the amount of $75,000	350,000	
	Honora—Wharf replacement (Revote $3,500)	8,000	
	Island Grove—Wharf (Revote)	23,000	
	Lion's Head—Wharf repairs	25,000	
	Macdiarmid—Breakwater replacement	25,000	
	Matachewan—Wharf	6,000	
	Meaford—Repairs to harbour wall	30,000	
	Michipicoten—Dredging	80,000	
371	Midland to Parry Sound—Towards dredging inside channel (Revote $152,000)	162,000	
	Millhaven—Wharf enlargement	21,000	
	New Liskeard—Breakwater-Wharf	8,000	
	Nipigon—Wharf extension and dredging (Revote)	57,000	
	Oshawa—Redredging	150,000	
	Ottawa (Rideau River)—Repairs to walls (Revote $56,400)	59,000	
	Owen Sound—Harbour improvements (Revote)	105,000	
	Pelee Island—Wharf reconstruction (Revote $50,000)	80,000	
	Penetanguishene—Harbour improvements (Revote $22,000)	35,000	
	Port Arthur—Dredging (Revote $160,000)	165,000	
	Port Arthur—Breakwater	500,000	
	Port Bruce—Reconstruction of Pier (Revote $38,000)	65,000	
	Port Burwell—Reconstruction of Pier (Revote $24,000)	325,000	
	Port Colborne—Breakwater repairs (Revote $24,000)	85,000	
	Port Dover—Repairs to West Pier	51,000	
	Port Lambton—Harbour improvements	35,000	
	Port Maitland—Repairs to Harbour Works	35,000	
	Portsmouth—Wharf reconstruction	96,000	
	Port Stanley—Towards pier reconstruction	100,000	
	Salmon Point—Breakwater extension (Revote $17,100)	23,000	
	Sand Point—Wharf repairs (Revote $39,000)	43,000	
	Sioux Narrows—Wharf	9,000	
	South Baymouth—Harbour improvements (Revote $52,000)	65,000	
	Squaw Bay—Wharf replacement	19,000	
	Stella (Amherst Island)—Wharf enlargement	12,000	
	Stokes Bay—Wharf repairs	29,000	
	Tobermory—Warehouse and lighting on wharf	14,000	
	Toronto—Harbour maintenance (Revote $15,000)	59,000	
	Toronto—Harbour improvements (Revote $310,000)	560,000	
	Trenton—Wharf extension	20,000	
	Wallaceburg—Extension to wharf and warehouse (Revote $31,500)	38,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Continued*		
	Ontario—Concluded		
	Waupoos—Waupoos Island—Wharves	17,600	
371	Wheatley (Muddy Creek)—Fishing harbour (Revote $37,000)	80,000	
	Whitby—Repairs to harbour works (Revote)	50,000	
	Manitoba		
	Assiniboine River—Dyking and cut off (Revote $34,000)	78,000	
	Athapapuskow Lake—Wharf	6,000	
	Gimli—Breakwater reconstruction	35,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken	60,000	
	Hnausa—Jetty reconstruction	26,000	
372	Hnausa—Wharf reconstruction (Revote)	39,000	
	Lac du Bonnet—Wharf reconstruction	35,000	
	St. Andrews—River breakwater (Revote)	41,000	
	St. Andrews Lock and Dam—Improvements to bridge (Revote $35,000)	106,000	
	The Pas—Wharf reconstruction (Revote)	24,000	
	Winnipegosis—Wharf and haulout slip (Revote $9,000)	11,000	
	Saskatchewan, Alberta and Northwest Territories		
	Alberta Beach, Alberta—Wharf repairs (Revote)	24,000	
	Bell Rock (Fort Smith), Northwest Territories—Wharf (Revote $119,000)	215,000	
	Cold Lake, Alberta—Towards harbour improvements (Revote)	23,000	
	Fort Fitzgerald, Alberta—Wharf repairs and extension	60,000	
373	Fort Franklin, Northwest Territories—Wharf repairs and extension (Revote)	22,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken	25,000	
	Hay River, Northwest Territories—Wharf	57,000	
	Waskesiu Lake, Saskatchewan—Harbour improvements (Revote $28,000)	37,000	
	Waterways, Alberta—Reconstruction of wing dams (Revote)	23,000	
	Yellowknife, Northwest Territories—Wharf (Revote $8,000)	9,000	
	British Columbia and Yukon		
	Alert Bay—Wharf	79,000	
	Arrow Park West—Wharf reconstruction	24,000	
	Balmoral—Wharf (Revote)	14,000	
	Bear River, Bedwell Sound—Float	7,000	
	Beaton—Wharf reconstruction	20,000	
	Bella Coola—Scow grid and loading platform	26,000	
	Blubber Bay—Wharf reconstruction	51,000	
	Bull Harbour (Hope Island)—Float	8,000	
374	Campbell River—Fishing harbour (Revote $100,000)	275,000	
	Campbell River—Wharf replacement (Revote)	77,000	
	Chemainus—Harbour improvements (Revote)	10,000	
	Comox—Wharf replacement (Revote $100,000)	132,000	
	Davis Bay (Wilson Creek)—Breakwater and float (Revote)	17,000	
	Dodge Cove, Digby Island—Wharf	23,000	
	Fraser River—Towards improvements (Revote)	605,000	
	Fraser River (Kirkland Island)—Replacement and extension of channel protection (Revote $13,000)	200,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Concluded*		
	ENGINEERING BRANCH—*Concluded*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Concluded*		
	British Columbia and Yukon—Concluded		
	Fraser River and Vancouver Harbour—Dredging (Revote $82,000)	525,000	
	Gambier Island (Camp Georgia)—Wharf (Revote)	24,000	
	Half Moon Bay—Wharf repairs and improvements	10,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken, and to authorize commitments against future years in the amount of $75,000	425,000	
	Lewes River, Yukon—Towards taking over, reconstructing and maintaining dam (Revote)	37,000	
	Lyall Harbour—Wharf repairs and improvements	13,000	
	Nanaimo—Dredging (Revote $60,000)	593,000	
	Nanoose Bay—Breakwater	88,000	
	New Westminster—Wharf reconstruction and improvements (Revote $125,000)	176,000	
	Okanagan Flood Control Project—Towards Dominion Government's share of cost (Revote $25,000)	500,000	
	Port Alberni—Dredging (Revote $40,000)	85,000	
	Port Alberni—Harbour improvements (Revote $376,000)	460,000	
374	Port Clements—Wharf repairs (Revote)	38,000	
	Prince Rupert—Roadway and renewal of fishermen's floats (Revote)	72,000	
	Prince Rupert (Fairview Bay)—Breakwater (Revote $75,000)	250,000	
	Qualicum Beach (French Creek)—Boat harbour	75,000	
	Robert's Creek—Wharf repairs and improvements (Revote)	54,000	
	Ruskin—Wharf replacement (Revote)	8,000	
	Sandspit—Wharf renewal (Revote)	75,000	
	Sechelt—Wharf repairs and improvements (Revote)	56,000	
	Shawinigan Lake—Wharf and floats	15,000	
	Snug Cove—Floats	8,000	
	Sointula—Breakwater and floats	62,000	
	Squamish—Wharf repairs and improvements	30,000	
	Stewart—Wharf repairs (Revote)	50,000	
	Tofino—Harbour repairs and improvements (Revote $20,000)	34,000	
	Trail—Landing (Revote)	8,000	
	Ucluelet West—Improvements	20,000	
	Vananda—Wharf replacement (Revote)	57,000	
	Victoria—Dredging—(Revote $121,000)	165,000	
	Zeballos—Wharf replacement	124,000	
	Generally		
375	Fraser River—50% of cost of investigations to be carried out by the Dominion Provincial Board Fraser River Basin	85,000	
376	Protection Works Generally—To provide for remedial works where damages are caused by, or endanger, navigation or Federal Government structures	500,000	
	GENERAL		
377	National Gallery of Canada	186,785	
378	Miscellaneous works not otherwise provided for, not more than $5,000 to be expended upon any one work	300,000	
379	To supplement, on approval of Treasury Board except where less than $500 is required, any of the appropriations of the Department of Public Works	300,000	
380	To provide for balances required to complete any projects undertaken in previous fiscal years and for which no specific provision is made in the fiscal year 1949-50	100,000	
			87,094,955

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	RECONSTRUCTION AND SUPPLY		
	A—Department		
381	Departmental Administration—Formerly under Demobilization and Reconversion	98,180	
382	Public Projects Branch—Formerly under Departmental Administration, Demobilization and Reconversion	123,380	
383	Canadian Government Travel Bureau—To assist in Promoting the Tourist Business in Canada	1,298,277	
	Demobilization and Reconversion		
384	Reconstruction Projects, subject to allocation by the Treasury Board	1,000,000	
385	To provide for contribution towards cost of Subway at Sudbury, Ontario, to implement agreement entered into in 1939 (Revote)	100,000	
	Housing Development, including commitments of previous years—		
386	To provide for payments of amounts owing under guarantees pursuant to Item 571 of Schedule A to the Appropriation Act No. 5, 1947 (and pursuant to corresponding items in previous Appropriation Acts) to approved lending institutions in respect of loans made for the purpose of financing the conversion of existing houses into multiple family houses, such payments to be made out of unappropriated moneys in the Consolidated Revenue Fund	1	
387	Emergency Shelter—Administration	350,000	
	B—National Film Board		
	National Film Board, including the Motion Picture Bureau—		
388	General Administration, including Technical Administration	249,084	
389	Production of Films, including authority to finance temporarily work performed for other public authorities or other agencies as the public interest requires	784,000	
390	Distribution of Films	829,826	
391	Production and Distribution of Other Visual Materials	121,000	
			4,953,748
	ROYAL CANADIAN MOUNTED POLICE		
392	General Administration	297,007	
393	Land Services—Arising out of the Royal Canadian Mounted Police Act, enforcement of Federal Statutes generally, and other incidental expenses	13,647,074	
394	Marine Services—Arising out of the Royal Canadian Mounted Police Act, enforcement of Federal Statutes generally, and other incidental expenses	1,331,070	
395	Aviation Services—Arising out of the Royal Canadian Mounted Police Act, enforcement of Federal Statutes generally, and other incidental expenses	189,677	
396	Grant to the Chief Constables' Association of Canada	500	
	Pensions and Other Benefits		
397	To compensate members of the Royal Canadian Mounted Police for injuries received in the performance of duty	36,000	
398	Pensions to families of members of the Mounted Police who have lost their lives while on duty:—		
	Mrs. Mary Emma Bossange	457	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	ROYAL CANADIAN MOUNTED POLICE—*Concluded*		
	PENSIONS AND OTHER BENEFITS—*Concluded*		
	Mrs. Margaret Johnson Brooke	840	
	Mrs. Margaret Cox	411	
	Mrs. Victoria Desjardins	411	
	Mrs. Georgina Harrison	677	
	Mrs. Letitia Kennedy	424	
	Mrs. Nora Jean Massan	300	
	Mrs. Margaret Nicholson	548	
	Mrs. Catherine Mildred Ralls	676	
	Mrs. Doris Freda Sampson	816	
	Mrs. Madelaine Mary Shoebotham	810	
	Mrs. Eunice Wainwright	603	
399	Pension to Basil Burke Currie	685	
400	Pension to Annie A. Greer	254	
			15,509,240
	SECRETARY OF STATE		
401	Departmental Administration	150,820	
402	Citizenship Registration Branch	181,770	
403	Companies Branch	65,535	
404	Trade Marks Branch	70,660	
405	Bureau for Translations	646,445	
406	Canada Temperance Act	1,500	
407	Citizenship Branch	175,855	
	PATENT AND COPYRIGHT OFFICE		
408	Administration Division	45,407	
409	Patent Division	488,805	
410	Copyright and Industrial Designs Division	15,985	
411	Patent Record Division	55,200	
412	Contribution to the International Office for the Protection of Industrial Property, International Copyright Union Office and Union for the Protection of Literary and Artistic Works	4,000	
			1,901,982
	TRADE AND COMMERCE		
	A—DEPARTMENT		
413	Departmental Administration	468,107	
414	Commodities Branch, including assistance in the development of markets and the procurement of supplies, and contributions as detailed in the Estimates—A proportion formerly under Demobilization and Reconversion	753,324	
415	Trade Commissioner Service, including payment of compensation to Trade Commissioners for loss of furniture and effects, under regulations approved by the Governor in Council	2,125,495	
416	Publicity and Advertising in Canada and Abroad	267,210	
417	Economic Research and Development Branch, including the conducting of investigations and reporting upon commercial relations and foreign tariffs, and the development of Canadian Industry, and a contribution of $8,400 to the International Customs Tariffs Bureau—A proportion formerly under Demobilization and Reconversion	536,960	
	Exhibitions—		
418	Exhibitions Generally, including a contribution of $1,000 to the International Bureau of Exhibitions	328,832	
419	Canadian International Trade Fair, 1949, including authority to refund from revenue deposits received for contracts for space (Revote $115,000)	624,000	
	Standards Division—		
420	Administration, including administration of the Precious Metals Marking Act	92,850	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRADE AND COMMERCE—*Continued*		
	A—Department—*Continued*		
	Standards Division—*Concluded*		
421	Electricity and Gas Inspection Services, including Administration of the Electricity and Fluid Exportation Act	483,800	
422	Laboratory	40,460	
423	Weights and Measures Inspection Services	553,860	
424	To provide for expenses of the Industrial Defence Board	92,780	
	Dominion Bureau of Statistics		
425	Administration	193,235	
426	Statistics, including contribution of $6,291 to the Inter-American Statistical Institute	3,032,875	
427	Census of Population, including a contribution of $3,146 to the Inter-American Statistical Institute Committee on the 1950 Census of the Americas	569,836	
	Wheat and Grain Division		
428	Salaries and Other Expenses	43,640	
429	To hereby authorize the Canadian Wheat Board to buy rapeseed and sunflower seed from producers at a price of six cents per pound for the best grade f.o.b. local shipping point and at appropriate prices for other grades during the period commencing on August 1, 1948 and ending on July 31, 1949; to sell rapeseed and sunflower seed so purchased or the oil extracted therefrom as directed by the Minister of Trade and Commerce; to enter into such contracts as the said Minister may direct for the carrying out of any of these operations	1	
	Canada Grain Act		
430	Administration	117,835	
431	Operation and Maintenance, including inspection, weighing, registration, etc.	2,157,643	
432	Canadian Government Elevators, including Equipment	919,411	
	Special		
433	To reimburse the Canadian Commercial Corporation for expenses incurred in purchasing materials, supplies and equipment, etc., on behalf of the Department of National Defence under Chapter 51, Statutes of 1947	900,000	
434	Fraser Valley Dyking Board— To provide for payments by the Government of Canada under the agreement dated July 22, 1948, between the Government of Canada and the Government of British Columbia, establishing the Fraser Valley Dyking Board—Formerly under Department of Finance	3,000,000	
	Demobilization and Reconversion		
435	Emergency Import Control— Salaries and Other Expenses—Formerly under Department of Reconstruction and Supply, Departmental Administration	252,295	
436	To provide for the liquidation of contracts, including commitments of previous years related to the acquisition of assets operated by the Department of Reconstruction and Supply or an agency of the Department of Reconstruction and Supply; and for miscellaneous and unforeseen expenses—Formerly under Reconstruction and Supply	400,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRADE AND COMMERCE—*Concluded*		
	A—Department—*Concluded*		
	Demobilization and Reconversion—*Concluded*		
437	To provide for Production and Transportation Subsidies on Steel and Iron under such terms and conditions as may be approved by the Governor in Council—Formerly under Reconstruction and Supply	7,750,000	
438	To provide for Research and Development of Jet Engines and Aircraft—Formerly under Reconstruction and Supply	1,500,000	
	B—General		
	(Formerly under Reconstruction and Supply)		
	Dominion Coal Board		
439	Administration and Investigations of the Dominion Coal Board	94,100	
440	Payments in connection with the movements of coal under conditions prescribed by the Governor in Council	4,500,000	
	National Research Council		
441	Salaries and Other Expenses of the National Research Council	8,908,969	
442	Expanded Research on the Utilization of Farm Crops (Revote)	135,000	
443	Applied (Industrial) Chemistry Building	750,000	
444	Grant to the Royal Society of Canada	8,000	
445	New Waterline for Montreal Road Laboratories (Revote $125,000)	150,000	
446	Maritime Regional Laboratory (Revote $140,000)	478,000	
447	Electrical Engineering and Radio Laboratory—Purchase of site and preliminary plans	175,000	
	Atomic Energy Control Board		
448	Administration Expenses of the Atomic Energy Control Board	76,020	
449	Researches and Investigations with respect to Atomic Energy	150,000	
450	Chalk River Project—Capital and Operating Expenses	6,056,670	
	Canadian Arsenals Limited		
451	Administration and operation of Canadian Arsenals Limited—Formerly under Demobilization and Reconversion	2,900,000	
452	To provide for the cost of replacement, repair, reconditioning and salvage of essential buildings, machinery and equipment destroyed by fire at the Dominion Arsenals Plant of Canadian Arsenals Limited	1,300,000	
			52,886,208
	TRANSPORT		
	A—Department		
453	Departmental Administration	836,737	
	Administration of the Transport Act		
454	Board of Transport Commissioners for Canada—Administration, Maintenance and Operation	610,880	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRANSPORT—*Continued*		
	A—DEPARTMENT—*Continued*		
	CANALS SERVICE		
455	Canals Service—Administration	81,400	
456	Canals—Operation and Maintenance	3,809,650	
457	Canals—Construction and Improvements (Revote $910,000)	3,588,333	
458	To provide for expenses in connection with St. Lawrence Ship Canal Surveys and Investigations	20,000	
459	Supervision and control of water diverted for the Hydro Electric Power Development of the Beauharnois Light, Heat and Power Company, Limited	2,500	
	MARINE SERVICE		
460	Marine Service Administration	17,830	
461	Administration of Floating Equipment	31,900	
462	Nautical Service Administration	490,670	
463	Marine Service Steamers, including Icebreakers—Maintenance, Operation and Repairs	2,985,978	
464	Construction, Maintenance and Supervision of Aids to Navigation, including salaries and allowances to Lightkeepers	4,036,891	
465	Agencies—Salaries and Office Expenses	371,414	
466	Maintenance and Repairs to Wharves	5,000	
467	To provide for breaking ice in Thunder Bay, Lake Superior and other points deemed advisable in the interests of navigation	30,000	
468	To provide for Canada's share of the cost of the North Atlantic Ice Patrol	20,000	
469	Administration of Pilotage, including authority for temporary recoverable advances; contributions, and the operation and maintenance, as required, of necessary pilot vessels in certain Pilotage Districts	270,965	
470	Life Saving Service, including rewards for saving life (Revote $129,240)	404,710	
471	To provide subsidies for wrecking plants—Quebec and British Columbia	65,000	
472	Grants of $300 each to the Royal Arthur Sailors' Institute at Port Arthur, Ontario and the Welland Canal Seamen's Institute	600	
473	Miscellaneous Services relating to Navigation and Shipping, including grants as detailed in the Estimates and provision to settle claims by the Board of Trade, London, England, for expenses incurred, in respect of Canadian distressed seamen of British ships registered out of Canada	106,207	
474	Steamship Inspection and the carrying out of the provisions of the conventions for the safety of life at sea and load lines	336,000	
475	Marine Signal Service	142,770	
476	River St. Lawrence Ship Channel—Contract Dredging in the St. Lawrence River and Montreal Harbour, including cost of administration—Capital	3,124,055	
477	River St. Lawrence Ship Channel—Operation and Maintenance	622,258	
478	To provide towards the construction of a service vessel for the Eastern Arctic Patrol (Estimated cost $2,400,000)—Capital (Revote $825,000)	2,100,000	
479	To provide towards the construction of a Lighthouse Supply and Buoy Vessel for the East Coast (Estimated cost $1,890,000)—Capital (Revote $700,000)	1,400,000	
480	To provide towards the construction of a Lightship for the port of Saint John, N.B. (Estimated cost $741,850)—Capital (Revote $520,000)	681,000	
481	To provide for the construction of a general service workboat to be operated out of Parry Sound, Ont. Agency—Capital (Revote $30,000)	41,500	
482	To provide towards the construction of a Lighthouse Supply and Buoy Vessel for the West Coast (Estimated cost $900,000)—Capital	899,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Tota
	TRANSPORT—*Continued*	$	$
	A—Department—*Continued*		
	Railway Service		
483	Repairs and expenses in connection with the operation and maintenance of Official Railway Cars under the jurisdiction of the Department	64,000	
484	Hudson Bay Railway—Construction and Improvements—Capital (Revote $80,000)	168,000	
485	Hudson Bay Railway—To provide for the difference between the expenditures for operation and maintenance, and revenue accruing from operation during the year ending March 31, 1950, not exceeding	500,000	
486	Prince Edward Island Car Ferry and Terminals—Construction and Improvement of Terminal Facilities—Capital (Revote $1,372,000)	1,400,000	
487	Strait of Canso—Transportation improvements and facilities—Capital (Revote)	500,000	
	Maritime Freight Rates Act—		
488	To hereby authorize and provide for the payment from time to time during the fiscal year 1949-50 to the Canadian National Railway Company of the difference (estimated by the Canadian National Railway Company and certified by the Auditors of the said Company to the Minister of Transport as and when required by the said Minister) occurring on account of the application of the Maritime Freight Rates Act, between the tariff tolls and the normal tolls (upon the same basis as set out in Section 9 of the said Act with respect to companies therein referred to) on all traffic moved during the calendar year 1949 under the tariffs approved on the Eastern Lines (as referred to in Section 2 of the said Act) of the Canadian National Railways	5,503,000	
489	Amount required to provide for payment from time to time during the fiscal year 1949-50 of the difference (estimated by the Board of Transport Commissioners for Canada and certified by the said Board to the Minister of Transport, as and when required by the said Minister) occurring on account of the application of the Maritime Freight Rates Act, between the tariff tolls and the normal tolls (referred to in section 9 of the said Act) on all traffic moved during the calendar year 1949 under the tariffs approved by the following companies: Canada and Gulf Terminal Railway; Canadian Pacific Railway, including: Fredericton and Grand Lake Coal and Railway Company and New Brunswick Coal and Railway Company; Cumberland Railway and Coal Company; Dominion Atlantic Railway; Maritime Coal, Railway and Power Company; Sydney and Louisburg Railway; Temiscouata Railway Company	1,400,000	
490	Canadian Government Railways—Repairs to Ogden Point Piers, Victoria, B.C.	165,000	
	Government Employees' Compensation		
491	Administration of the Government Employees' Compensation Act	59,275	
	Pensions and Other Benefits		
492	Compassionate allowance to recoup the Workmen's Compensation Board of British Columbia in continuation of a pension granted and to be paid by that Board up to the 31st March, 1950, in the sum of $40 per month to the widow of the late E. J. McCoskrie, who was formerly employed as Port Warden at Prince Rupert, B.C., and who was killed while in the performance of his duties	480	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRANSPORT—*Continued*		
	A—DEPARTMENT—*Continued*		
	PENSIONS AND OTHERS BENEFITS—*Concluded*		
493	Amount required to pay pensions at the rate of $300 per annum to former pilots: Alphonse Asselin, Raoul Lachance, Adelard DeLisle, George Larochelle, Wilhelm Langlois, Arthur Baquet, Auguste Santerre, Jules Lamarre, Alexander Larochelle	2,700	
494	Railway Employees' Provident Fund—To supplement pension allowances under the provisions of the Intercolonial and Prince Edward Island Railway Employees' Provident Fund Act so as to make the minimum payment during the period January 1, 1949, to March 31, 1950, the sum of $30 per month instead of $20 as fixed by the said Act	16,000	
	AIR SERVICE		
495	Air Transport Board— Salaries and Office Expenses	188,745	
496	Air Service Administration	129,775	
	Civil Aviation Division		
497	Control of Civil Aviation, including the Administration of the Aeronautics Act and Regulations issued thereunder	645,124	
	Airways and Airports—		
498	Construction and Improvements, including Radio facilities; and to authorize commitments against future years in the amount of $100,000 (Revote $2,303,650)—Capital	13,097,300	
	Operation and Maintenance—		
499	Civil Aviation Services	3,842,568	
500	Radio Aviation Services	4,097,050	
501	Airway and Airport Traffic Control	945,044	
502	Grants to Organizations for the development of Civil Aviation, in the amounts detailed in the Estimates	310,000	
503	Contributions, subject to the approval of the Governor in Council, to assist municipalities to improve existing airports, the sites of which have been provided by such municipalities (Revote $164,000)	264,000	
504	To provide for a Dominion contribution to the improvement and reconstruction of the road between Patricia Bay Airport, Vancouver Island, and the city limits of Victoria, B.C., subject to the completion of an agreement between the Dominion and the Province of British Columbia	150,000	
505	To authorize contribution of an amount not exceeding $30,420 to the State of Michigan, U.S.A., Department of Aeronautics, towards the cost of operation and maintenance of certain airways facilities at Grand Marais, Michigan, for use of Canadian aircraft	30,420	
506	Contribution to the International Civil Aviation Organization as Canada's portion of the financial assistance to the Government of Iceland in respect of the provision, operation and maintenance of certain Air Navigation Services	48,000	
	Northwest Communication System—		
507	Additions and Betterments, including transport equipment —Capital—Formerly under Demobilization and Reconversion Estimates	500,000	
508	To provide for the difference between the expenditures for operation and maintenance and revenue accruing from operations during the year ending March 31, 1950—Formerly under Demobilization and Reconversion Estimates	343,016	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRANSPORT—*Continued*		
	A—Department—*Concluded*		
	Air Service—*Concluded*		
	Meteorological Division		
509	Meteorological Services	4,840,315	
510	Construction and Improvements	587,500	
	Radio Division		
511	Administration of the Radio Act and Regulations	1,075,425	
512	Radio Direction Finding Stations, Radio Beacons and Radio Telegraph Stations, operation and maintenance	1,778,283	
513	Suppression of Radio Interferences	357,978	
514	Issue of Radio Receiving Licences—(Transport Department only)	666,254	
	Telegraph and Telephone Service		
515	Administration, Operation and Maintenance	1,263,060	
516	Construction and Improvements	524,192	
	Demobilization and Reconversion		
517	Acquisition of properties in Canada for United States Authorities	24,000	
	Railway and Steamship Service		
518	Steep Rock Mines—Construction	59,500	
519	Steep Rock Mines—Subsidy	240,000	
	Air Service		
	Civil Aviation Division		
	Airways and Airports—		
520	Operation and Maintenance of Municipal and Other Airports	530,800	
521	Care, Operation and Maintenance of Royal Canadian Air Force Airfields transferred to the Department of Transport.	525,072	
522	North East (Crimson) Staging Route—Maintenance of Airfields	19,825	
	B—Canadian Maritime Commission		
523	Administration	182,480	
	Mail Subsidies and Steamship Subventions		
	Western Local Services		
524	Vancouver and Northern ports of British Columbia and Queen Charlotte Islands, service between	345,000	
	Victoria and West Coast Vancouver Island, service between	60,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRANSPORT—*Concluded*		
	B—CANADIAN MARITIME COMMISSION—*Concluded*		
	Mail Subsidies and Steamship Subventions—*Concluded*		
	Eastern Local Services		
	Baddeck and Iona, N.S., service between	12,000	
	Campobello, N.B., and Lubec, Maine, service between	3,000	
	Dalhousie, N.B., and Miguasha, P.Q., service between	22,000	
	Deer Island, Campobello Island and St. Andrews, N.B., service between	2,000	
	Grand Manan and Mainland, N.B., service between	85,000	
	Halifax, Canso and Guysboro, N.S., service between	20,000	
	Halifax, Sherbrooke, Spry Bay and Torbay, N.S., service between	11,200	
	Halifax and Ports on West Coast of Cape Breton Island, service between	6,000	
	Ile-aux-Coudres and Les Eboulements, P.Q., service between	16,000	
	Ile-aux-Grues and Montmagny, P.Q., service between	2,500	
	Mulgrave and Arichat, N.S., service between	25,000	
	Mulgrave and Canso, N.S., service between	64,000	
	Mulgrave and Guysboro, N.S., calling at intermediate ports, service between	16,500	
	Murray Bay and North Shore of the St. Lawrence, P.Q., winter service between	50,000	
	Owen Sound and Ports on Manitoulin Island and Georgian Bay, Ont., service between	65,000	
525	Pelee Island and the Mainland, Ont., service between	11,000	
	Pictou, Mulgrave and Cheticamp, N.S., service between	13,500	
	Pictou, N.S., Souris, P.E.I., and the Magdalen Islands, service between	88,000	
	Prince Edward Island and Newfoundland, service between	54,000	
	Prince Edward Island and Nova Scotia, service between	100,000	
	Quebec, Natashquan and Harrington, P.Q., service between	448,000	
	Quebec or Montreal and Gaspe, P.Q., calling at way ports, service between	156,500	
	Rimouski, Matane and points on the North Shore of the St. Lawrence, P.Q., service between	125,500	
	Riviere-du-Loup and St. Simeon, and/or Tadoussac, P.Q., service between	21,000	
	Saint John, N.B., and Minas Basin ports, service between	10,000	
	Saint John, N.B., Westport and Yarmouth, N.S., and other way ports, service between	31,500	
	Sydney, N.S., and Bay St. Lawrence, Cape Breton Island, calling at way ports, service between	35,000	
	Sydney and Bras d'Or Lake ports, West Coast of Cape Breton Island and Prince Edward Island, service between	22,500	
	Sydney and Whycocomagh, Cape Breton Island, calling at way ports, service between	20,500	
	Yarmouth, N.S., and Boston, Mass., service between	28,000	
			76,147,629
	VETERANS AFFAIRS		
526	Departmental Administration	2,157,024	
527	District Administration	2,945,528	
528	Veterans' Welfare Services (formerly Rehabilitation Services)	3,686,711	
529	Treatment Services	34,478,808	
530	Prosthetic Services	932,850	
	Canadian Pension Commission—		
531	Administration Expenses	2,162,225	
532	Veterans Bureau	392,139	
533	War Veterans' Allowance Board—Administration	237,204	
534	Veterans' Insurance	80,705	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	VETERANS AFFAIRS—*Continued*		
	PAYMENTS TO OR FOR VETERANS AND DEPENDENTS		
535	Pensions for Disability and Death, including pensions granted under the authority of the Civilian Government Employees (War) Compensation Order P.C. 45/8848 of 22nd November 1944, which shall be subject to the Pension Act	100,664,000	
536	War Veterans' Allowances	19,825,000	
537	To authorize under regulations to be approved by the Governor General in Council the establishment of an Assistance Fund (War Veterans Allowance) from which shall be paid supplementary assistance in cases of acute financial distress as may be found to exist from time to time among recipients of benefits under the War Veterans Allowance Act, 1946	500,000	
538	Unemployment Assistance	75,000	
539	Hospital and other Allowances	4,310,000	
540	Gallantry Awards—World War II	18,000	
	MISCELLANEOUS PAYMENTS		
541	Employers Liability Compensation	125,000	
542	Last Post Fund	125,000	
543	Grant to Canadian Legion	9,000	
544	Special grant to the Canadian Legion towards the cost of the Annual Convention of the British Empire Service League to be held in Canada in September, 1949	10,000	
	SOLDIER SETTLEMENT AND VETERANS' LAND ACT		
545	To provide for the cost of administration of Veterans' Land Act; Soldier Settlement and British Family Settlement	4,447,443	
546	To provide for the upkeep of property, Veterans' Land Act, including engineering and other investigational planning expenses that do not add tangible value to real property; taxes, insurance and maintenance of public utilities—Formerly included under the Vote for the Administration of the Veterans' Land Act	152,000	
547	To provide for the payment to the Government of the United Kingdom on account of losses under the 3,000 British Family Agreement of August 20, 1924, and the New Brunswick 500 British Family Agreements of August 4, 1927, and August 27, 1935	25,000	
548	To provide for the payment of grants to veterans settled on Provincial Lands in accordance with agreements with Provincial Governments under Section 35 of the Veterans' Land Act, 1942 (as amended by Order in Council P.C. 2122, dated 13th April, 1945), and payment of grants to veterans settled on Dominion Lands, in accordance with an agreement with the Minister of Mines and Resources, under Section 35 of the Veterans' Land Act, 1942, as amended (P.C. 1550 of 18th April, 1946)	2,536,000	
549	To provide for the payment of grants to Indian veterans settled on Indian Reserve Lands under Section 35A of the Veterans' Land Act 1942 (as amended by Order in Council P.C. 2122, dated 13th April, 1945)	600,000	
550	To provide for the reduction of indebtedness to the Director of Soldier Settlement of a settler under the Soldier Settlement Act, in respect of a property in his possession, the title of which is held by the Director, by an amount which will reduce his indebtedness to an amount in keeping with the productive capacity of the property and his ability to repay his indebtedness to the Director, under regulations approved by the Governor in Council	150,000	

SCHEDULE A—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	VETERANS AFFAIRS—*Concluded*		
	DEMOBILIZATION AND RECONVERSION		
551	Post Discharge Rehabilitation Benefits including Out of Work Allowances, University and Vocational Training including the training of Merchant Seamen and Salt Water Fishermen Pensioners, Awaiting Returns Allowances, Temporarily Incapacitated Allowances and Unemployment Insurance Contributions	28,850,000	
552	Hospital Accommodation and Facilities, and to authorize commitments against future years in the amount of $7,387,835	5,309,662	
553	Campaign Stars and Medals, including Cost of Distribution	2,026,000	
554	To provide for payment to the Netherlands government of that amount by which War Service Gratuities paid at Canadian rates by the Netherlands government from January 22, 1946 to the end of July 1946 to Dutch war veterans domiciled in Canada prior to enlistment exceeded the amount that would have been paid to these veterans had the gratuities been computed at the normal rates applicable in the Netherlands	150,000	
			216,980,299
	GOVERNMENT-OWNED ENTERPRISES		
	NON-ACTIVE ACCOUNTS		
	National Harbours Board		
555	Advances to National Harbours Board, subject to the provisions of Section 29 of the National Harbours Board Act, to meet expenditures applicable to the calendar year 1949 on any or all of the following accounts:—		
	(a) Retirement of Maturing Debentures—Saint John	85,000	
	(b) Reconstruction and Capital Expenditures—		
	Halifax $ 2,644,000		
	Saint John 1,850,000		
	Quebec 1,150,000		
	Three Rivers 166,000		
	Port Colborne 84,000		
	Churchill 279,500		
	Generally Unforeseen and Miscellaneous 200,000		
	$ 6,373,500		
	Less amount to be expended from Replacement Fund 428,500		
		5,945,000	
	DEFICITS		
	Transport		
556	Amount required to provide for the payment during the fiscal year 1949-50 to the Canadian National Railway Company (hereinafter called the National Company) upon applications approved by the Minister of Transport made from time to time by the National Company to the Minister of Finance and to be applied by the National Company in payment of the deficit (certified by the auditors of the National Company) in the operation of the Prince Edward Island Car Ferry and Terminals arising in the calendar year 1949	1,159,000	

SCHEDULE A—*Concluded*

No. of Vote	Service	Amount	Total
		$	$
	GOVERNMENT-OWNED ENTERPRISES—*Concluded*		
	DEFICITS—*Concluded*		
	National Harbours Board		
557	To provide for payment to National Harbours Board, of the amount hereinafter set forth, to be applied in payment of the deficit (exclusive of interest on Dominion Government Advances and depreciation on capital structures) arising in the calendar year 1949, in the operation of the Churchill Harbour	111,435	
558	Advances to National Harbours Board with interest at a rate to be fixed by the Governor in Council for such period and upon such terms and conditions as the Governor in Council may determine, to be applied in payment of deficits resulting from the operations of the Jacques Cartier Bridge	60,087	
			7,360,522
	LOANS AND INVESTMENTS		
	NATIONAL HARBOURS BOARD		
559	Advances to National Harbours Board, subject to the provisions of Section 29 of National Harbours Board Act, to meet expenditures applicable to the calendar year 1949 on any or all of the following accounts:		
	(a) Retirement of Maturing Bonds—Montreal	20,049,750	
	(b) Reconstruction and Capital Expenditures—Montreal $ 1,199,400; Vancouver 32,700	$ 1,232,100	
	Less amount to be expended from Replacement Funds	50,900	
		1,181,200	
	RECONSTRUCTION AND SUPPLY		
560	To provide for advances to the Central Mortgage and Housing Corporation for the construction and conversion of houses for rent to veterans and married members of the Armed Forces, including the acquisition and development of land, and the purchase of building materials	75,000,000	
	VETERANS AFFAIRS		
	Soldier Settlement and Veterans' Land Act		
561	To provide for protection of security—Soldier Settlement, and refunds of surplus to veterans	55,000	
562	To provide for purchase of land and permanent improvements; cost of permanent improvements to be effected; removal of encumbrances; stock and equipment; refund of surplus to veterans (Section 19); and for protection of security under the Veterans' Land Act	27,440,000	
			123,725,950
	Total		*1,380,873,246

* Net total, $440,983,724.09

SCHEDULE B

Based on the Supplementary Estimates (Newfoundland), 1949-50. The amount hereby granted is $7,485,744.34 being the amount of each of the items in the Estimates as contained in this Schedule, less the amounts voted on account of the said items by *The Appropriation Act, No. 3, 1949, The Appropriation Act, No. 4, 1949, The Appropriation Act, No. 5, 1949, and The Appropriation Act, No. 6, 1949.*

No. of Vote	Service	Amount	Total
		$	$
	AGRICULTURE		
	SCIENCE SERVICE		
666	Plant Protection—Further amount required	9,325	
	DEMOBILIZATION AND RECONVERSION		
667	Freight Assistance on Western Feed Grains—Further amount required	250,000	
668	Agricultural Lime Assistance—Further amount required	25,000	
			284,325
	FINANCE		
	SUPERANNUATION AND RETIREMENT BENEFITS		
669	Government's contribution to the Superannuation Fund—Further amount required	300,000	
	PUBLIC DEBT CHARGES		
670	Servicing of Public Debt—Commission for payment of interest on public debt, Services of Fiscal Agents, London, Registrar's Fees, etc.—Further amount required	10,800	
	SUBSIDIES AND SPECIAL COMPENSATION TO PROVINCES		
	Special Compensation to Provinces		
671	To authorize payments hereafter required to be made under an agreement entered into between the Government of Canada and the Government of the Province of Newfoundland pursuant to Term 27 of the Terms of Union of Newfoundland with Canada, estimated amount required for fiscal year 1949-50	4,845,000	
	GENERAL		
672	To provide for the expenses of the Comptroller of the Treasury's Office—Further amount required	103,000	
673	To authorize and provide for payment in such amount as may be necessary in respect to those matters supplementary to the Terms of Union of Newfoundland with Canada, specified in paragraph XXIII of the Note dated December 11, 1948, of the Prime Minister of Canada to the Chairman of the Newfoundland Delegation, entitled "Statements on Questions Raised by the Newfoundland Delegation during the Negotiations for the Union of Newfoundland with Canada", tabled in the House of Commons on the 27th day of January, 1949	5,500,000	
			10,758,800

SCHEDULE B—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	FISHERIES		
674	Fisheries Inspection, including Fishery Officers and Guardians, Fisheries Patrol and Protection Services—Further amount required	241,400	
675	Fisheries Research Board of Canada—Operation and Maintenance—Further amount required	239,135	
676	To provide for administration expenses of Newfoundland Fisheries Board	353,900	
677	To provide for maintenance and extension of Bait Service	408,400	
			1,242,835
	LABOUR		
	A—Department		
678	Fair Wages, Conciliation, Industrial Relations, Industrial Disputes Investigations, including the administration of legislation relating thereto, and for activities *re* promotion of co-operation in industry between Labour and Management—Further amount required	21,000	
	B—Unemployment Insurance Act, 1940		
679	Administration, including expenditures incurred in connection with the activities of the National Employment Service as delegated by the Minister of Labour in accordance with Section 88 of the Act—Further amount required	182,720	
680	Government's contribution to the Unemployment Insurance Fund—Further amount required	250,000	
681	To authorize and provide for payment of unemployment assistance to residents of Newfoundland who have been employed in employment that would have been insurable employment within the meaning of the Unemployment Insurance Act, 1940, if it had been employment in Canada, or who have been employed in insurable employment within the meaning of the said Act, for at least thirty per cent of the working days within the period of three months preceding their loss of employment or thirty per cent of the working days within the period since the date of Union, whichever period is the longer, and who lose their employment within six months prior to the date of Union and are still unemployed at that date, or who lose their employment within a two-year period after that date, such assistance to be payable during a period of six months from the date of Union or from the date of unemployment, whichever is the later, on the same scale and under the same conditions as unemployment insurance benefits under the said Act and regulations made thereunder, and on rates based on the individual's wage record for the three months preceding his loss of employment; but no person shall receive such assistance and unemployment insurance benefits concurrently; and such assistance shall be deemed to be a benefit or payment within the meaning of section sixty-seven of the said Act; the Governor in Council is authorized to make such regulations as he may deem necessary to administer this vote and give effect to the purposes and terms thereof	2,000,000	
			2,453,720
	MINES AND RESOURCES		
	Mines, Forests and Scientific Services Branch		
	Bureau of Mines—		
682	Explosives Act Administration—Further amount required	5,700	
	Dominion Forest Service—		
683	Forest Research and Investigations—Further amount required	40,000	

SCHEDULE B—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	MINES AND RESOURCES—*Concluded*		
	MINES, FORESTS AND SCIENTIFIC SERVICES BRANCH—*Concluded*		
	Geological Survey of Canada—		
684	Geological Surveys—Further amount required	65,000	
	Surveys and Mapping Bureau—		
685	Topographical Surveys, including expenses of the Canadian Board on Geographical Names—Further amount required	50,000	
	Dominion Water and Power Bureau—		
686	Dominion Water and Power Bureau, including the Administration of the Dominion Water Power and Irrigation Acts—Further amount required	32,200	
	LANDS AND DEVELOPMENT SERVICES BRANCH		
	Lands Division—		
687	Administration of Dominion, Ordnance and Admiralty, and Public Lands; Seed Grain Collections—Further amount required	11,360	
	Dominion Wildlife Service—		
688	Wildlife Resources Conservation and Development, including Administration of the Migratory Birds Convention Act—Further amount required	12,320	
	IMMIGRATION BRANCH		
689	Field and Inspectional Service, Canada—Further amount required	136,040	
	DEMOBILIZATION AND RECONVERSION		
	Mines, Forests and Scientific Services Branch		
690	Payments to Royal Canadian Air Force and Commercial Companies for air photography, and to defray the expenses of the Interdepartmental Committee on Air Surveys—Further amount required	100,000	
			452,620
	NATIONAL HEALTH AND WELFARE		
	NATIONAL HEALTH BRANCH		
	Health Services		
691	Quarantine and Leprosy—Further amount required	10,600	
692	Immigration Medical Inspection—Further amount required	18,960	
693	Treatment of Sick Mariners—Further amount required	150,000	
	Health Grants		
	General Health Grants:		
694	To provide for the following grants to the Provinces, under terms and conditions approved by the Governor in Council—		
	Health Survey Grant to assist the Provinces in surveying present health services and facilities, including hospitals, and in studying ways and means of improving and extending the same; to be distributed on the basis of a flat amount of $5,000 to each Province and the balance according to population but the total payment available to any Province in no case to be less than $15,000—Further amount required	19,779	

SCHEDULE B—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL HEALTH AND WELFARE—*Continued*		
	NATIONAL HEALTH BRANCH—*Concluded*		
	Health Grants—*Concluded*		
	General Health Grants—*Concluded*		
694	To provide for the following grants to the Provinces, under terms and conditions approved by the Governor in Council—*Concluded*		
	Hospital Construction Grant to assist the Provinces in the provision of adequate accommodation for hospital and health services; to be distributed on the basis of $1,000 per bed for active treatment beds, $1,500 per bed for chronic or convalescent beds, or in the case of other health facilities on an equivalent basis; Provinces to match or exceed Dominion contribution which shall in no case exceed one-third of total cost—Further amount required	334,629	
	General Public Health Grant to assist the Provinces in strengthening general public health services; to be distributed on the basis of 40 cents per capita of population, to Provinces which maintain at least their standard and extent of service in this field as at March 31, 1948—Further amount required	132,400	
	Tuberculosis Control Grant to assist the Provinces in an accelerated and intensified effort toward the eradication of tuberculosis and to extend progressively the provision of free treatment; to be distributed on the basis of a flat amount of $25,000 to each Province and the balance to be divided 50% on the basis of population and 50% on the basis of the average number of deaths from tuberculosis in each Province over the previous five years—Further amount required	176,614	
	Mental Health Grant to assist the Provinces in the prevention of mental illness and in extending progressively the provision of free treatment; to be distributed on the basis of a flat amount of $25,000 to each Province and the balance according to population—Further amount required	122,171	
	Venereal Disease Control Grant to assist the Provinces in extending and intensifying their present efforts toward the control of venereal disease; to be distributed on the basis of a flat amount of $4,000 to each Province and the balance according to population—Further amount required	15,944	
	Crippled Children Grant to assist the Provinces in an intensive program for the prevention and correction of crippling conditions in children, rehabilitation and training; to be distributed on the basis of a flat amount of $4,000 to each Province and the balance according to population—Further amount required	15,944	
	Professional Training Grant to assist the Provinces in the training of personnel for public health and hospital staffs; to be distributed on the basis of a flat amount of $4,000 to each Province and the balance according to population—Further amount required	15,944	
	Public Health Research Grant to assist the Provinces in stimulating and developing public health research —Further amount required	5,148	
	Cancer Control Grant to assist the Provinces in programs for the control of cancer; to be distributed according to population, with any such programs for cancer control to be approved and the cost thereof to be divided equally between the Dominion and the Province concerned—Further amount required	90,093	

SCHEDULE B—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL HEALTH AND WELFARE—*Concluded*		
	WELFARE BRANCH		
	Family Allowances—		
695	Administration—Further amount required	78,180	
	Old Age Pensions (including Pensions to the Blind)—		
696	Administration—Further amount required	3,000	
			1,189,406
	NATIONAL REVENUE		
	CUSTOMS AND EXCISE DIVISIONS		
697	Ports, Outports and Preventive Stations, including pay for overtime, notwithstanding anything in the Civil Service Act, and buildings and rentals for temporary purposes—Further amount required	115,000	
	TAXATION DIVISION		
698	District Offices—Further amount required	173,680	
			288,680
	POST OFFICE		
699	Departmental Administration—Further amount required	31,900	
700	Post Offices, including salaries and other expenses of Headquarters and Staff Post Offices and supplies and equipment for Revenue Post offices—Further amount required	436,972	
701	Inspection and Investigation—Further amount required	120,500	
702	Railway Mail Service—Further amount required	308,400	
703	Air and Land Mail Services—Further amount required	220,000	
			1,117,772
	PUBLIC WORKS		
	ARCHITECTURAL BRANCH		
704	Maintenance and Operation of Dominion Public Buildings and Grounds, other than at Ottawa, including rents, repairs, furniture, heating, etc.—Further amount required	1,000,000	
	Construction, Repairs and Improvements of Public Buildings		
	Newfoundland		
705	Dominion Public Buildings—Construction, purchase, repairs and improvements	750,000	
	Generally		
706	Dominion Immigration Buildings—Repairs, Improvements, etc.—Further amount required	40,000	
	ENGINEERING BRANCH		
707	Engineering, including salaries of Engineers, Clerks, etc.—Further amount required	255,000	
	Dredging		
708	Newfoundland	575,000	

SCHEDULE B—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Concluded*		
	ENGINEERING BRANCH—*Concluded*		
	Construction, Repairs and Improvements—Harbours and Rivers		
	Newfoundland		
709	Harbours and Rivers Generally—Construction, repairs and improvements	1,000,000	
			3,620,000
	ROYAL CANADIAN MOUNTED POLICE		
710	Land Services—Arising out of the Royal Canadian Mounted Police Act, enforcement of Federal Statutes generally, and other incidental expenses—Further amount required	.....	344,825
	SECRETARY OF STATE		
711	Departmental Administration—Further amount required	5,000	
	PATENT AND COPYRIGHT OFFICE		
712	Patent Division—Further amount required	4,540	
			9,540
	TRADE AND COMMERCE		
	A—DEPARTMENT		
713	Trade Commissioner Service, including payment of compensation to Trade Commissioners for loss of furniture and effects, under regulations approved by the Governor in Council—Further amount required	41,332	
	DOMINION BUREAU OF STATISTICS		
714	Census of population—Further amount required	30,300	
	B—GENERAL		
	NATIONAL RESEARCH COUNCIL		
715	Salaries and Other Expenses of the National Research Council—Further amount required	10,000	
			81,632
	TRANSPORT		
	MARINE SERVICE		
716	Marine Service Steamers, including Icebreakers,—Maintenance Operation and Repairs—Further amount required	115,000	
717	Construction, Maintenance and Supervision of Aids to Navigation, including salaries and allowances to Lightkeepers—Further amount required	592,580	
718	Miscellaneous Services relating to Navigation and Shipping—Further amount required	18,200	
719	Steamship Inspection and the carrying out of the provisions of the conventions for the safety of life at sea and load lines—Further amount required	40,000	

44968—7

SCHEDULE B—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRANSPORT—*Concluded*		
	AIR SERVICE		
	Civil Aviation Division		
	Airways and Airports—		
720	Construction and Improvements, including Radio facilities —Capital—Further amount required	449,500	
	Operation and Maintenance—		
721	Civil Aviation Services—Further amount required	3,777,082	
722	Radio Aviation Services—Further amount required	415,000	
723	Airway and Airport Traffic Control—Further amount required	46,000	
	Meteorological Division		
724	Meteorological Services—Further amount required	77,000	
725	Construction and Improvements—Further amount required	61,000	
	Radio Division		
726	Radio Direction Finding Stations, Radio Beacons and Radio Telegraph Stations, operation and maintenance—Further amount required	119,500	
727	Suppression of Radio Interferences—Further amount required	20,700	
728	Issue of Radio Receiving Licences—(Transport Department only)—Further amount required	8,240	
	TELEGRAPH AND TELEPHONE SERVICE		
729	To provide for the difference between the expenditures for operation and maintenance, and revenue accruing from the operation of the Canadian Government Telegraph and Telephone Services in Newfoundland, during the year ending March 31, 1950, not exceeding	350,000	
730	Construction and Improvements—Further amount required	300,000	
			6,389,802
	VETERANS AFFAIRS		
731	District Administration—Further amount required	41,800	
732	Veterans' Welfare Services—Further amount required	67,260	
733	Treatment Services—Further amount required	458,475	
734	Canadian Pension Commission—Administration Expenses—Further amount required	68,500	
735	Veterans Bureau—Further amount required	11,470	
736	War Veterans' Allowance Board—Administration—Further amount required	5,750	
	PAYMENTS TO OR FOR VETERANS AND DEPENDENTS		
737	Pensions for Disability and Death, including pensions granted under the authority of the Civilian Government Employees (War) Compensation Order P.C. 45/8848 of 22nd November, 1944, which shall be subject to the Pension Act—Further amount required	925,000	
738	To authorize and provide for the continuation of payments by the Canadian Pension Commission, as from the date of Union, of certain Newfoundland awards arising out of World Wars I and II which are not payable under the Pension Act or the Civilian War Pensions and Allowances Act	75,000	
739	War Veterans' Allowances—Further amount required	150,000	
740	Hospital and Other Allowances—Further amount required	90,000	

SCHEDULE B—*Concluded*

No. of Vote	Service	Amount	Total
		$	$
	VETERANS AFFAIRS—*Concluded*		
	SOLDIER SETTLEMENT AND VETERANS' LAND ACT		
741	To provide for the cost of administration of Veterans' Land Act; Soldier Settlement and British Family Settlement—Further amount required	59,600	
742	To provide for the upkeep of property, Veterans' Land Act, including engineering and other investigational planning expenses that do not add tangible value to real property; taxes, insurance and maintenance of public utilities—Further amount required	3,000	
743	To provide for the payment of grants to veterans settled on Provincial Lands in accordance with agreements with Provincial Governments under Section 35 of the Veterans' Land Act, 1942 (as amended by Order in Council P.C. 2122, dated 13th April, 1945), and payment of grants to veterans settled on Dominion Lands, in accordance with an agreement with the Minister of Mines and Resources, under Section 35 of the Veterans' Land Act, 1942, as amended (P.C. 1550 of 18th April, 1946)—Further amount required	464,000	
	DEMOBILIZATION AND RECONVERSION		
744	Post Discharge Rehabilitation Benefits—Further amount required	150,000	
			2,569,855
	LOANS AND INVESTMENTS		
	VETERANS AFFAIRS		
	Soldier Settlement and Veterans' Land Act		
745	To provide for purchase of land and permanent improvements; cost of permanent improvements to be effected; removal of encumbrances; stock and equipment; refund of surplus to veterans (Section 19); and for protection of security under the Veterans' Land Act—Further amount required	.....	560,000
	Total	.....	*31,363,812

*Net total $7,485,744.34

SCHEDULE C.

Based on the Further Supplementary Estimates, 1949-50. The amount hereby granted is $56,546,333.34 being the amount of each of the items in the Estimates as contained in this Schedule, less the amounts voted on account of the said items by *The Appropriation Act, No. 5, 1949* and *The Appropriation Act No. 6, 1949.*

No. of Vote	Service	Amount	Total
		$	$
	AGRICULTURE		
	ADMINISTRATION SERVICE		
746	Departmental Administration—Further amount required	24,500	
	SCIENCE SERVICE		
747	Science Service Administration—Further amount required	165,000	
748	Animal and Poultry Pathology—Further amount required	35,000	
749	Botany and Plant Pathology—Further amount required	18,000	
750	Agricultural Chemistry—Further amount required	6,000	
751	Agricultural Entomology—Further amount required	136,000	
752	Forest Entomology—Further amount required	491,570	
	EXPERIMENTAL FARMS SERVICE		
753	Central Experimental Farm—Further amount required	58,900	
754	Branch Farms and Stations and Illustration Stations—Further amount required	540,870	
	PRODUCTION SERVICE		
	Health of Animals—		
755	To provide for payment of compensation to owners of animals affected with diseases coming under the operation of the Animal Contagious Diseases Act, which have died or have been slaughtered under circumstances unprovided for under the above Act and Regulations thereunder, in the amounts detailed in the Estimates	1,815	
756	To provide for payment of compensation for turkeys that died while under quarantine for suspected Avian Pneumoencephalitis (Newcastle Disease)	9,248	
757	Live Stock and Poultry—Further amount required	20,000	
	MARKETING SERVICE		
758	Dairy Products—Further amount required	25,000	
759	Subsidies for Cold Storage Warehouses under the Cold Storage Act, and Grants, in the amounts detailed in the Estimates—Further amount required	227,866	
760	Marketing of Agricultural Products—Further amount required	25,000	
	SPECIAL		
761	To reclaim and to prevent the flooding of valuable Agricultural lands in the valley of the Lillooet River, near Pemberton, B.C.—Further amount required	58,000	
762	Amount required to recoup the Agricultural Prices Support Account to cover the net operating loss of the Agricultural Prices Support Board during the fiscal year 1948-49	3,473,295	
763	To provide for a Grant to the Federated Women's Institutes of Canada	2,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	AGRICULTURE—*Concluded*		
	DEMOBILIZATION AND RECONVERSION		
764	Freight Assistance on Western Feed Grains, including outstanding claims under the Feed Grain Payment Policy—Further amount required	12,000,000	
			17,318,064
	CIVIL SERVICE COMMISSION		
765	Salaries and Contingencies of the Commission, including the Chairman of the Civil Service Commission and two Civil Service Commissioners at $2,000 each, additional to Chap. 53, Statutes of 1947—Further amount required		36,000
	EXTERNAL AFFAIRS		
	A—DEPARTMENT AND MISSIONS ABROAD		
766	Departmental Administration—Further amount required	117,500	
767	Passport Office Administration—Further amount required	16,750	
768	Representation Abroad—including payment of salaries of High Commissioners, Ambassadors, Ministers Plenipotentiary, Consuls, Secretaries and Staff appointed as directed by the Governor General in Council, notwithstanding anything to the contrary in the Civil Service Act or any of its amendments—Further amount required	131,044	
	B—GENERAL		
	THE CANADIAN GOVERNMENT'S ASSESSMENT FOR MEMBERSHIP IN THE FOLLOWING INTERNATIONAL OR COMMONWEALTH ORGANIZATIONS		
769	United Nations Organization—Further amount required	33,900	
	Specialized Agencies—		
770	Food and Agricultural Organization of the United Nations—Further amount required	10,100	
771	International Labour Organization—Further amount required	18,900	
772	United Nations Educational, Scientific and Cultural Organization—Further amount required	7,100	
773	World Health Organization—Further amount required	256,391	
774	International Civil Aviation Organization	138,759	
775	Canada's Contribution to the Administration of the General Agreement on Tariffs and Trade	20,750	
	INTERNATIONAL CIVIL AVIATION ORGANIZATION		
776	To provide the International Civil Aviation Organization with Office accommodation at cost	63,927	
	INTERNATIONAL JOINT COMMISSION		
777	To provide for Canada's share of an investigation on the matter of air pollution in the vicinity of Detroit and Windsor	33,000	
	DEMOBILIZATION AND RECONVERSION		
778	Near East Relief	65,000	
779	International Children's Emergency Fund	1,075,000	
			1,988,121

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	FINANCE		
	SUPERANNUATION AND RETIREMENT BENEFITS		
780	Superannuation Acts, Administration—Further amount required	7,645	
	PUBLIC DEBT CHARGES		
781	Servicing of Public Debt—Commission for payment of interest on public debt, Services of Fiscal Agents, London, Registrar's Fees, etc.—Further amount required	50,000	
	MISCELLANEOUS GRANTS AND CONTRIBUTIONS		
782	Contribution towards the expenses of the Halifax Bicentenary Celebrations	50,000	
	GENERAL		
783	To provide for final expenses of the Commission appointed under Part I of the Enquiries Act to enquire into prices and related subjects, as recommended by the Special Committee on Prices, including authority, notwithstanding Section 17 of the Civil Service Act, to pay honoraria in a total amount not exceeding $3,600 to permanent civil servants who did special work for the Commission, subject to the approval of the Civil Service Commission and the Treasury Board	18,000	
	Comptroller of the Treasury—		
784	To provide for the expenses of the Comptroller of the Treasury's Office—Further amount required	50,000	
785	To authorize payment to Norman Bell of compensation at the rate of $18 per week in respect of injuries received while employed in the Overseas Office of the Comptroller of the Treasury	936	
			176,581
	FISHERIES		
	Fisheries Research Board of Canada—		
786	Operation and Maintenance—Further amount required	27,500	
787	Construction and Improvements—Further amount required	100,000	
788	To provide for Canadian share of expenses of the International Whaling Commission, appointed pursuant to the International Convention for the Regulation of Whaling, dated at Washington, December 2, 1946	500	
	SPECIAL		
789	Amount required to recoup the Fisheries Prices Support Account to cover the net operating loss of the Fisheries Prices Support Board during the fiscal year 1948–49	538,989	
790	To provide for assistance in meeting transportation costs on frozen herring purchases in British Columbia by persons, associations or companies, for bait in the 1948–49 winter fishery off Nova Scotia	25,350	
			692,339
	INSURANCE		
791	Expenses of work in the interests of Fire Prevention—Further amount required		2,900

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	JUSTICE		
	A—Department		
	Supreme Court of Canada—		
792	Administration—Further amount required.....	9,000	
793	Combines Investigation Branch—Further amount required....	9,000	
	B—Penitentiaries		
	Office of the Commissioner of Penitentiaries		
794	Operation and maintenance of penitentiaries, including administration, construction, purchase of land, supplies, equipment and livestock; maintenance, discharge and transfer of convicts; compensation to discharged convicts permanently disabled while in penitentiaries—Further amount required.	428,000	
			446,000
	LABOUR		
	A—Department		
795	International Labour Conferences—Further amount required..	15,000	
796	Annuities Act— To authorize repayment during the current or any future fiscal year out of unappropriated moneys in the Consolidated Revenue Fund of moneys heretofore or hereafter paid to the Receiver General of Canada on account of the purchase of Annuities under the Government Annuities Act which are not so applied.....	1	
	B—Unemployment Insurance Act, 1940		
797	Administration, including expenditures incurred in connection with the activities of the National Employment Service as delegated by the Minister of Labour in accordance with Section 88 of the Act—Further amount required.....	500,000	
798	To authorize and provide for payment of unemployment assistance to residents of Newfoundland who have been employed in employment that would have been insurable employment within the meaning of the Unemployment Insurance Act, 1940, if it had been employment in Canada, or who have been employed in insurable employment within the meaning of the said Act, for at least thirty per cent of the working days within the period of three months preceding their loss of employment or thirty per cent of the working days within the period since the date of Union, whichever period is the longer, and who lose their employment within six months prior to the date of Union and are still unemployed at that date, or who lose their employment within a two-year period after that date, such assistance to be payable during a period of six months from the date of Union or from the date of unemployment, whichever is the later, on the same scale and under the same conditions as unemployment insurance benefits under the said Act and regulations made thereunder, and on rates based on the individual's wage record for the three months preceding his loss of employment; but no person shall receive such assistance and unemployment insurance benefits concurrently; and such assistance shall be deemed to be a benefit or payment within the meaning of section sixty-seven of the said Act; the Governor in Council is authorized to make such regulations as he may deem necessary to administer this vote and give effect to the purposes and terms thereof—Further amount required.....	1,000,000	
			1,515,001

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	LEGISLATION		
	THE SENATE		
799	To provide for the payment of the full sessional indemnity for the first session of 1949 to Members of the Senate for days lost through absence caused by public business, by illness, or on account of death. Payments to be made as the Treasury Board may direct	5,000	
800	To provide, notwithstanding anything contained in the Senate and House of Commons Act, for the payment to each Member of the Senate who attended the first part of the first session of 1949, which commenced on January 26, 1949, and ended on April 8, 1949, of an amount representing the actual transportation and living expenses of such Member while on the journey between Ottawa and his place of residence after the Easter adjournment of Parliament on April 8, 1949, and on the return journey from his place of residence to Ottawa at the end of the recess which commenced on that date, or at any other one time during that session	5,000	
	HOUSE OF COMMONS		
801	To provide for the full sessional indemnity to Members of the House of Commons—days lost through absence caused by illness, official public business, or Order of the House, or on account of death during the first session of 1949—notwithstanding anything to the contrary in Chapter 147 of the Revised Statutes, 1927, an Act respecting the Senate and House of Commons, or any amendment thereto. Payments to be made as the Treasury Board may direct	9,475	
802	To provide, notwithstanding anything contained in the Senate and House of Commons Act, for the payment to each member of the House of Commons who attended the first part of the first Session of 1949, which commenced on January 26, 1949, and ended on April 8, 1949, of an amount representing the actual transportation and living expenses of such Member while on the journey between Ottawa and his place of residence after the Easter adjournment of Parliament on April 8, 1949, and on the return journey from his place of residence to Ottawa at the end of the recess which commenced on that date, or at any other one time during that Session	15,500	
			34,975
	MINES AND RESOURCES		
	SPECIAL PROJECTS		
803	To provide for investigations into the possibility of water storage on Mayo Lake, Yukon Territory, and of hydro-electric developments on Mayo River, Yukon Territory, to serve the Mayo, Keno Hill, and Galena Hill districts	50,000	
	MINES, FORESTS AND SCIENTIFIC SERVICES BRANCH		
804	Branch Administration—Further amount required	1,000	
	Bureau of Mines—		
805	Maintenance of Plant of Abasand Oils Limited	85,000	
	Dominion Forest Service—		
806	Dominion Forest Service Administration—Further amount required	2,500	
807	Forest Products Research—Further amount required	15,000	
	Geological Survey of Canada—		
808	Geological Survey Administration and Miscellaneous Services—Further amount required	6,500	
809	Geographical Bureau—Further amount required	16,500	
810	National Museum of Canada—Further amount required	28,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	MINES AND RESOURCES—*Concluded*		
	MINES, FORESTS AND SCIENTIFIC SERVICES BRANCH—*Concluded*		
	Dominion Observatories—		
811	Dominion Astrophysical Observatory, Victoria, B.C.—Further amount required	9,000	
	LANDS AND DEVELOPMENT SERVICES BRANCH		
	Northwest Territories and Yukon Services—		
	Mackenzie Division—		
	Roads, Buildings and Water Systems—		
	Construction and Improvements—		
812	Roads—Further amount required	89,316	
813	Buildings—Further amount required	68,100	
	Yukon Division—		
814	Administration—Further amount required	10,500	
815	Roads—Further amount required	650,000	
	National Parks Services—		
816	National Parks and Historic Sites Services—Further amount required	1,255,434	
	Engineering and Construction Division—		
817	Engineering and Construction Services—Further amount required	17,500	
818	Dominion contribution to the cost of a ten mile section of the Tide Lake Road between Big Missouri Mine and Summit Lake in British Columbia in accordance with the terms of an agreement to be entered into between the Dominion and the Province of British Columbia	35,000	
819	Dominion contribution to the cost of construction of a mining road between the Stony Rapids and Black Lake in Saskatchewan in accordance with the terms of an agreement to be entered into between the Dominion and the Province of Saskatchewan	12,500	
	INDIAN AFFAIRS BRANCH		
820	Branch Administration—Further amount required	1,500	
821	Indian Agencies—Further amount required	190,400	
	Welfare—		
822	Welfare of Indians—Further amount required	101,000	
	Education—		
823	Indian Education—Further amount required	585,467	
824	Grants to Residential Schools—Further amount required	150,000	
	IMMIGRATION BRANCH		
825	Administration of the Immigration Act—Further amount required	21,000	
826	Field and Inspectional Service, Canada—Further amount required	226,000	
			3,627,217
	NATIONAL DEFENCE		
	PENSIONS AND OTHER BENEFITS		
827	To authorize the Governor-in-Council to increase the pension granted to Captain Joseph McNaught MacCallum under the Militia Pension Act effective August 2, 1947, by including for purposes of calculation of his pension the amount of Dependents Allowance that would have been paid to his wife had she not been a member of the Canadian Women's Army Corps during the period June 30, 1944, to December 6, 1945	1	

44968—8

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL DEFENCE—*Concluded*		
	PENSIONS AND OTHER BENEFITS—*Concluded*		
828	To authorize in respect of members of the Royal Canadian Air Force on leave without pay and serving as instructors with civilian training organizations operating under the British Commonwealth Air Training Plan who were killed, payment to their dependents of amounts equal to the amounts such dependents would have received under the Pension Act as amended had such service as instructors been military service in the armed forces of Canada, less the value of any benefits received by such dependents under insurance contracts which were effected on the lives of such members of the Royal Canadian Air Force by or at the expense of the civilian organizations	6,690	
	DEMOBILIZATION AND RECONVERSION		
829	To provide for the Defence Forces of the Navy, Army and Air Services, and to authorize total additional commitments for this purpose of $14,991,500, including authority notwithstanding Section 29 of the Consolidated Revenue and Audit Act to make commitments for the current year of $6,661,500 and commitments for future years of $8,330,000 against which additional commitments it is estimated that actual additional expenditures in 1949-50 will not exceed a further amount of	4,778,000	
830	Defence Research and Development, subject to allocation by the Treasury Board—Further amount required	3,133,900	
831	To authorize, notwithstanding the provisions of the Army Benevolent Fund Act, and the Consolidated Revenue and Audit Act, release of $16,415.13 held by the President of the Regimental Funds Board, on behalf of certain Non-Permanent Active Militia and Reserve Units which were not placed on Active Service during World War II, to the Governor-in-Council for such distribution as he may determine	1	
			7,918,592
	NATIONAL HEALTH AND WELFARE		
832	Departmental Administration—Further amount required	20,000	
	NATIONAL HEALTH BRANCH		
	Health Services		
833	Laboratory of Hygiene and to authorize commitments against future years in the amount of $115,000—Further amount required	58,000	
834	Immigration Medical Inspection—Further amount required	92,178	
835	Industrial Health—Further amount required	5,550	
836	Dental Health—Further amount required	3,700	
837	Epidemiology—Further amount required	2,400	
838	Civil Aviation Medicine—Further amount required	5,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL HEALTH AND WELFARE—*Concluded*		
	NATIONAL HEALTH BRANCH—*Concluded*		
	Health Grants		
839	General Health Grants:		
	To revote the following amounts in respect of grants to the Provinces set out below and to be paid under terms and conditions to be approved by the Governor in Council—		
	Health Survey Grant—To hereby amend the terms of Vote 276, Main Estimates, 1949-50, to read "Health Survey Grant—Revote to continue scheme of allocation of grant under Vote 797 of the Supplementary Estimates for the fiscal year ending March 31, 1949" —Further amount required	100,000	
	Hospital Construction Grant (Revote)—Further amount required	1,000,000	
	Venereal Disease Control Grant—To hereby amend the terms of Vote 276, Main Estimates, 1949-50, to read "Venereal Disease Control Grant to assist the Provinces in the control of venereal disease; to be distributed on the basis of a flat amount of $4,000 to each province and the balance according to population with any programs for venereal disease control to be approved and the cost thereof to be divided equally between the Dominion and the Province concerned" and to revote an additional amount for the equipment ordered before March 31, 1949, but not delivered within time for payment out of unexpended amounts authorized by Vote 797 of the Supplementary Estimates for the fiscal year ended March 31, 1949—Further amount required	1,600	
	Revotes for equipment ordered before March 31, 1949, but not delivered within time for payment out of unexpended amounts authorized by Vote 797 of the Supplementary Estimates for the fiscal year ending March 31, 1949, in respect of the following grants:		
	General Public Health Grant—Further amount required	132,085	
	Tuberculosis Control Grant—Further amount required	212,847	
	Mental Health Grant—Further amount required	326,829	
	Crippled Children Grant—Further amount required	4,350	
	Public Health Research Grant—Further amount required	500	
	WELFARE BRANCH		
840	Family Allowances—Administration—Further amount required	45,000	
841	Old Age Pensions (including Pensions to the Blind)—Administration—Further amount required	7,000	
842	Assistance to Schools of Social Work—Further amount required	2,500	
843	Grant to British Empire Games Association of Canada	20,000	
			2,039,539
	NATIONAL REVENUE		
	A—DEPARTMENT		
	CUSTOMS AND EXCISE DIVISIONS		
844	Ports, Outports and Preventive Stations, including pay for overtime, notwithstanding anything in the Civil Service Act, and buildings and rentals for temporary purposes—Further amount required	625,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	NATIONAL REVENUE—*Concluded*		
	B—General		
	International Shortwave Broadcasting Station		
	Acquisition and Alterations:		
845	Equipment, Land and Structures, including Supervision—Further amount required	687,681	
	Canadian Broadcasting Corporation		
846	To provide the Canadian Broadcasting Corporation with funds approximately equal to the sum of the value at Canadian rates of the radio receiving set licences issued by Newfoundland prior to the date of union which were made valid until March 31, 1950, and the value of the reserves established by the Newfoundland Broadcasting Corporation out of previous revenue for the depreciation, obsolescence, replacement and expansion of the physical assets of that Corporation taken over by the Government of Canada under the terms of union; and further, to provide authority for the transfer to the Canadian Broadcasting Corporation of the title to all assets of the Newfoundland Broadcasting Corporation taken over by the Government of Canada	200,000	
			1,512,681
	POST OFFICE		
847	Air and Land Mail Services—Further amount required	80,000	
848	Audit of Revenue, Money Order, Postal Note and Savings Bank Business; issue of Postage Stamps and Postal Notes—Further amount required	100,000	
	Pensions and Other Benefits		
849	To authorize the Governor in Council to grant, under the terms of the Civil Service Superannuation Act, an annual allowance of $611.41 to Mrs. Elizabeth Meredith Doyle, formerly a Clerk, Grade 2, in the Financial Branch, Post Office Department, Ottawa, effective from 6th September, 1945, date she reached the age of sixty-five years, in lieu of the withdrawal allowance of $1,661.04 authorized by Order in Council P.C. 263/1367, dated 14th June, 1932, which also authorized the removal of her name from the list of employees of the Department, effective 13th May, 1932, because of married status	1	
			180,001
	PRIVY COUNCIL OFFICE		
850	General Administration—Further amount required	3,000	
851	To provide for expenses of the Royal Commission on National Development in the Arts, Letters and Sciences	93,525	
	Federal District Commission		
852	Maintenance and improvement of grounds adjoining Government Buildings, Ottawa, and improvements to the Parkway System under the control of the Federal District Commission—Further amount required	34,000	
			130,525

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC ARCHIVES		
853	General Administration and Technical Services—Further amount required		16,530
	PUBLIC PRINTING AND STATIONERY		
854	Plant Equipment and Replacements—Further amount required		327,500
	PUBLIC WORKS		
855	Departmental Administration—Further amount required	4,000	
	ARCHITECTURAL BRANCH		
856	Branch Administration—Further amount required	6,000	
857	Ottawa—Maintenance and Operation of Dominion Public Buildings and Grounds, including rents, repairs, furniture, heating, etc.—Further amount required	400,000	
	Construction, Repairs and Improvements of Public Buildings		
	Nova Scotia		
	Barrington Passage—Public Building	25,000	
	Dartmouth Public Building—Addition and alterations—Further amount required to complete	42,000	
	Dingwall—Accommodation for Customs	9,000	
	Dominion—Public Building—Further amount required to complete	15,000	
	Halifax—Eastern Air Command Buildings—Alterations, improvements and repairs—To complete (Revote $45,000)	97,500	
	Halifax—Customs Building—Improvements and Elevator—Further amount required to complete	15,000	
	Halifax—Federal Building—Improvements and repairs (Revote $17,400)	65,000	
858	Halifax—Postal Station at North End—To complete (Revote $6,000)	13,500	
	Kentville Public Building—Addition and alterations—Further amount required to complete	7,000	
	Liverpool—Public Building	25,000	
	Pictou Public Building—Improvements and repairs	32,500	
	Shelburne Public Building—Improvements and repairs	30,000	
	Sydney Public Building—Improvements and repairs	26,000	
	Truro—Public Building	50,000	
	Wolfville Public Building—Improvements and repairs	30,000	
	Yarmouth—Public Building	25,000	
	New Brunswick		
	Centreville Customs and Immigration Building—Addition and alterations	8,500	
	Clair—Improved accommodation for Customs and Immigration	25,000	
	Fredericton—Public Building—Site and preliminary work towards construction of building—Further amount required	100,000	
	Sackville Public Building—Addition and alterations—Further amount required to complete	6,000	
859	St. Andrews Public Building—Addition and alterations	25,000	
	Saint John Customs Building—Addition and alterations	50,000	
	Saint John—Purchase of and alterations to building to accommodate Unemployment Insurance Commission	200,000	
	St. Stephen—Public Building—Further amount required	25,000	
	Sussex Public Building—Addition and fittings—Further amount required to complete	18,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Continued*		
	Construction, Repairs and Improvements of Public Buildings—*Continued*		
	Prince Edward Island		
860	Charlottetown—Public Building—Further amount required.....	50,000	
	Quebec		
	Bonaventure—Public Building.....	15,000	
	Chicoutimi—Public Building.....	50,000	
	Coaticook Public Building—Addition, alterations and improvements—To complete (Revote $4,000).....	8,000	
	Cowansville—Public Building—Further amount required.....	25,000	
	Disraeli—Public Building.....	25,000	
	Donnacona—Public Building—Further amount required to complete.....	4,500	
	Granby—Public Building.....	50,000	
	Joliette Public Building—Addition—Further amount required..	25,000	
	Jonquiere—Public Building.....	25,000	
	Lachute Public Building—Addition and alterations.....	28,000	
	Lacolle (Blackpool)—Building for Customs—Further amount required.....	300,000	
	La Malbaie Public Building—Addition and alterations.....	25,000	
	Malartic—Public Building	50,000	
	Masson—Public Building—Further amount required to complete	45,000	
	Matane Public Building—Addition, alterations and improvements—Further amount required.....	90,000	
	Mont Joli—Public Building—Further amount required to complete.....	40,000	
	Montmagny—Public Building—Further amount required.....	80,000	
	Montmorency Village—Public Building and Site—Further amount required.....	25,000	
	Montreal—Customs Building—Alterations and improvements..	56,000	
	Montreal—Longueuil Postal Station—Addition and Alterations —Further amount required to complete.....	15,000	
861	Montreal—Delorimier Postal Station.....	25,000	
	Montreal—Postal Terminal—Addition—Further amount required.....	270,000	
	Montreal—Postal Terminal—Parcel storage system—To complete (Revote $9,100).....	25,000	
	Montreal—St. Henri Postal Station and Site—Further amount required.....	50,000	
	Montreal—Youville Postal Station and Site—Further amount required.....	50,000	
	Phillipsburg—Customs and Immigration Buildings.....	25,000	
	Princeville—Public Building.....	25,000	
	Quebec—Marine Stores Building—Elevator—Further amount required to complete.....	8,000	
	Quebec—Old Post Office Building—Elevators—To complete (Revote $32,700).....	35,000	
	Roberval Public Building—Addition and alterations.....	25,000	
	St. Felicien—Public Building—Further amount required.....	25,000	
	St. Henri de Levis—Public Building—Further amount required to complete.....	13,000	
	St. Jerome—Public Building—Further amount required.....	25,000	
	St. Raymond Public Building—Addition and alterations.....	20,000	
	Sherbrooke—Public Building—Further amount required.....	250,000	
	Thetford Mines Public Building—Addition, alterations and repairs—Further amount required to complete.....	10,000	
	Three Rivers Public Building—Addition—Further Amount required.....	100,000	
	Val d'Or—Public Building—Further amount required to complete.....	10,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Continued*		
	Construction, Repairs and Improvements of Public Buildings—*Continued*		
	Ontario		
	Agincourt—Public Building	17,000	
	Barrie—Public Building—Further amount required	70,000	
	Beamsville—Public Building	25,000	
	Bowmanville Public Building—Addition and alterations	25,000	
	Burlington Public Building—Addition and alterations	25,000	
	Chapleau—Public Building—Further amount required to complete	55,000	
	Colborne—Public Building	25,000	
	Cornwall—Public Building—Further amount required	50,000	
	Delhi—Public Building—Further amount required to complete	10,000	
	Englehart—Public Building	25,000	
	Fergus—Public Building—Addition and alterations—Further amount required to complete	65,000	
	Fort William Customs Building—Addition, alterations and improvements	25,000	
	Geraldton—Public Building—Further amount required to complete	18,000	
	Kenora Public Building—Addition, alterations and improvements (Revote)	18,000	
	Kingston—New Public Building	25,000	
	Little Current—Public Building—Further amount required to complete	38,000	
	London—Alterations to Postal Accommodation in C.N.R. Station	25,000	
	Markdale—Public Building	25,000	
	Niagara Falls—Customs Building	25,000	
	North Bay Public Building—Addition to site	60,000	
	Oshawa—Public Building	25,000	
	Ottawa—Additions to Mines and Resources sites on Booth and Le Breton Streets—Further amount required	300,000	
862	Ottawa—Addition to Physical Metallurgy Laboratory (Revote $12,000)	50,000	
	Ottawa—Building for Department of Veterans Affairs—Further amount required	1,000,000	
	Ottawa—Central Heating Plant—Addition, alterations and improvements	50,000	
	Ottawa—East Block—Improvements—Further amount required	200,000	
	Ottawa—Mechanical Shop and Stores Building for Department of Mines and Resources	50,000	
	Ottawa—National Research Council—Improvements and repairs—to complete (Revote $7,400)	13,000	
	Ottawa—New Supreme Court Building—Rehabilitation, completion and furnishing—Further amount required	100,000	
	Ottawa—Royal Canadian Mint—Addition and alterations	50,000	
	Ottawa—Storage accommodation at Uplands Airport	25,000	
	Pelee Island—Building for Department of National Revenue—Further amount required to complete	4,000	
	Port Arthur—Public Building and Site—Further amount required	100,000	
	St. Thomas—Public Building	75,000	
	South Porcupine—Public Building	75,000	
	Tecumseh—Public Building—Further amount required	15,000	
	Terrace Bay—Public Building	25,000	
	Tillsonburg Public Building—Addition and alterations	25,000	
	Timmins—Public Building	50,000	
	Toronto—Postal Station "D"—Addition and alterations	25,000	
	Toronto—Postal Station "B"	100,000	
	Windsor—Addition and alterations to Walkerville Postal Station	25,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Continued*		
	Construction, Repairs and Improvements of Public Buildings—*Continued*		
	Manitoba		
	Beausejour Public Building—Addition and alterations	25,000	
	Brandon—New Public Building—Addition and alterations	50,000	
	Boissevain Public Building—Addition and alterations	30,000	
	Emerson—Buildings for Customs and Immigration	25,000	
	Killarney—Public Building	25,000	
	Pine Falls—Public Building—Further amount required to complete	75,000	
863	Shoal Lake—Public Building	25,000	
	St. Vital Public Building—Addition and alterations—To complete (Revote)	8,000	
	Swan River—Accommodation for the Postal Service	25,000	
	Winnipeg—Postal Station "F"—Addition and alterations (Revote $20,000)	30,000	
	Winnipeg—Public Building and Site—Further amount required	100,000	
	Saskatchewan		
	Balcarres—Public Building	25,000	
	Eston—Public Building	25,000	
	Humboldt Public Building—Addition and alterations	42,000	
	Ituna—Public Building—Further amount required to complete	15,000	
	Langenburg—Public Building—Further amount required	15,000	
	Melfort Public Building—Addition and alterations	35,000	
	Moose Jaw Public Building—Addition and alterations	35,000	
	Prince Albert Public Building—Addition and alterations—Further amount required	100,000	
	Regina Post Office Building—Alterations and improvements	40,000	
	Regina—Purchase of and alterations to Old Merchants Bank Building	75,000	
864	Rosetown—Public Building—Further amount required to complete	118,000	
	Saltcoats—Purchase of and alterations to Building for Postal purposes	5,500	
	Saskatoon—Purchase, additions and alteration to London Building for Department of Veterans Affairs	175,000	
	Shaunavon—Purchase of and alterations to building to accommodate Post Office and Royal Canadian Mounted Police	30,000	
	St. Walburg—Public Building—Further amount required to complete	10,000	
	Swift Current Public Building—Addition and alterations	25,000	
	Tisdale Public Building—Addition and alterations	25,000	
	Weyburn Public Building—Addition and alterations	25,000	
	Alberta		
	Banff—Public Building	25,000	
	Bonnyville—Public Building	25,000	
	Edmonton—Addition and alterations to South Edmonton Postal Station—Further amount required to complete	35,000	
865	Edmonton—Postal Terminal—Including mail handling equipment—Further amount required	250,000	
	Grande Prairie—Public Building	50,000	
	Leduc—Public Building—Further amount required	75,000	
	Lethbridge—Customs Building	50,000	
	Lethbridge Public Building—Elevator	25,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ARCHITECTURAL BRANCH—*Concluded*		
	Construction, Repairs and Improvements of Public Buildings—*Concluded*		
	British Columbia		
	Duncan Public Building—Addition and alterations	27,000	
	Langley Prairie—Public Building—Further amount required to complete	10,000	
	New Westminster Public Building—Addition, alterations and improvements	100,000	
	North Vancouver—Postal Station—Further amount required to complete	25,000	
	Ocean Falls—Public Building—Further amount required to complete	48,000	
	Pacific Highway—Customs Building	25,000	
866	Penticton Public Building—Addition and alterations	45,000	
	Prince George Public Building—Addition and alterations	25,000	
	Smithers—Public Building—Further amount required	25,000	
	Vancouver—Begg Building—Purchase, alterations and extension—Further amount required to complete	200,000	
	Vancouver—Post Office Building and Site—Further amount required	550,000	
	Vanderhoof—Accommodation for Government Telegraph Service	6,000	
	Victoria Astrophysical Observatory—Repairs, alterations and improvements—To complete (Revote)	10,000	
	Yukon and Northwest Territories		
867	White Horse—Public Building	50,000	
	Yellowknife—Public Building	50,000	
	Generally		
868	Dominion Quarantine Stations—Maintenance and repairs—Further amount required	30,000	
869	Experimental Farms and Science Laboratories—Replacements, repairs and improvements to buildings—Further amount required	100,000	
870	National Printing Bureau—Further amount required	1,000,000	
	ENGINEERING BRANCH		
871	Engineering, including salaries of Engineers, Clerks, etc.—Further amount required	53,500	
	Dredging		
872	Maritime Provinces—Further amount required	109,120	
873	To provide for payment to Canadian National Railways in full and final settlement for all damages arising from the accident which occurred in May 1946 at Yarmouth, N.S., when unloading Public Works pontoons	22,284	
874	Ontario and Quebec—Further amount required	11,700	
875	British Columbia and Yukon—Further amount required	95,020	
	Maintenance and Operation of Graving Docks, Locks and Dams, etc.		
876	Locks and Dams—Further amount required	14,000	
877	Snagboats—Further amount required	18,360	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Maintenance and Operation of Roads and Bridges		
878	Towards International Bridge over the St. Croix River between St. Stephen, N.B. and Calais, Me., the State of Maine to pay a like amount (Revote)	10,000	
879	Generally—Further amount required	31,000	
	Construction, Repairs and Improvements—Harbours and Rivers		
	Nova Scotia		
	Auld's Cove—Towards wharf replacement	15,000	
	Brule—Wharf extension	13,000	
	Cape John—Breakwater—Further amount required to complete (Revote)	20,000	
	Cheticamp Beach—Quay wall (Revote)	11,500	
	Cow Bay (Port Morien)—Breakwater reconstruction and dredging—Further amount required to complete	20,000	
	Eastern Passage—Towards breakwater repairs and extension	20,000	
	East Port Le Hebert—Icebreak	13,000	
880	Hall's Harbour—Wharf	10,000	
	Lunenburg—Towards dredging	75,000	
	McDonald's Cove—Breakwater extension—Further amount required to complete	15,000	
	New Glasgow—Wharf repairs—Further amount required to complete (Revote)	35,000	
	New Harbour—Breakwater	17,000	
	New Haven—Breakwater repairs and improvements	25,000	
	Port Joli—Wharf repairs and pier	14,000	
	Tittle Channel—Towards dredging	15,000	
	Upper Blandford—Breakwater	58,000	
	Prince Edward Island		
	Canoe Cove—Breakwater repairs—Further amount required to complete	10,000	
	Harbours and Rivers Generally—For maintenance of services, no new works to be undertaken—Further amount required	10,000	
	Launching Pond—Boat harbour—Further amount required to complete	12,000	
881	Skinner's Pond—Towards boat harbour	50,000	
	Souris—Breakwater repairs—Further amount required to complete	12,000	
	Summerside—To take over and reconstruct Holman's wharf—Further amount required (Revote $4,000)	5,000	
	Wood Islands—Harbour improvements—Further amount required to complete	5,000	
	New Brunswick		
	Chockfish—Repairs to breakwaters	26,000	
	Escuminac—Towards breakwater	25,000	
	Ingalls Head—Towards icebreak	10,000	
	Maisonnette—Towards wharf replacement	10,000	
	Point Sapin—Towards breakwater extension	20,000	
882	Richardson—Wharf reconstruction	25,000	
	Saint John (Courtenay Bay)—Towards redredging	250,000	
	Stonehaven—Breakwater repairs and improvements—Further amount required to complete	11,000	
	White Head—Towards wharf extension	15,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Continued*		
	Quebec		
	Bagotville—Wharf reconstruction—to complete payments (Revote)	33,000	
	Baie Comeau—Wharf improvements—Further amount required to complete	230,000	
	Baie des Sables—Wharf extension—Further amount required to complete	11,000	
	Baie St. Paul—Towards harbour improvements	50,000	
	Bell River (Portage 35)—Wharf	5,500	
	Blanc Sablon—Wharf—Further amount amount required to complete	25,000	
	Grande Riviere—Reconstruction of harbour works and dredging—Further amount required	35,000	
	Grande Vallee—Deep water wharf—Further amount required to complete	120,000	
	L'Anse du Ruisseau—Harbour improvements	6,700	
883	La Tabatiere—Wharf extension—Further amount required to complete	20,000	
	Les Escoumains—Wharf repairs—To complete (Revote)	7,000	
	Miguasha—Towards improvements to wharf and breakwater	30,000	
	Mont Louis—Towards wharf extension	50,000	
	Newport (Riviere des Ilots)—Towards replacing fishing harbour	75,000	
	Papineauville (Pentecost Bay)—Improvements (Revote $8,500)	28,500	
	Paspebiac—Harbour repairs and improvements—Further amount required	50,000	
	Petit Gaspe—Wharf extension—Further amount required to complete	17,000	
	Pointe au Pere—Wharf repairs—Further amount required to complete	16,000	
	Port Daniel—Fishing harbour—Further amount required to complete	10,000	
	Quebec—To complete payments on intercepting sewer (Revote)	56,400	
	St. Joachim de Tourelle—Landing pier	6,500	
	St. Simeon Est—Wharf extension	24,000	
	Taschereau—Wharf	9,500	
	Ontario		
	Belle River—Reconstruction of Training Wall	19,000	
	Elsas—Wharf	7,000	
	Fort William—Dredging—Further amount required to complete	116,000	
	French River—Water control improvements—the Province of Ontario to pay half the cost	182,000	
	Gogama (Lac Minisinakwa)—Wharf	6,500	
	Grand River Conservation Scheme—Contribution towards the cost of preliminary plans, test drilling, etc., in connection with the proposed Luther Marsh dam	3,000	
	Hamilton—Harbour improvements—Further amount required	425,000	
884	Killarney—Wharf and warehouse	19,000	
	Little Current—Towards dredging channel	100,000	
	Midland to Parry Sound—Dredging inside channel—Further amount required to complete contract	22,000	
	Montreal River (Mowatt's Landing)—Wharf replacement	20,000	
	Oshawa—Redredging—Further amount required to complete	10,000	
	Owen Sound—Towards harbour wall	100,000	
	Port Arthur—Breakwater—Further amount required	530,000	
	Port Credit—Harbour improvements	152,000	
	Port Stanley—Pier reconstruction—Further amount required to complete	40,000	
	Salmon Point (East Lake Outlet)—Breakwater and dredging	90,000	

44968—10

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Continued*		
	ENGINEERING BRANCH—*Continued*		
	Construction, Repairs and Improvements Harbours and Rivers—*Continued*		
	Ontario—Concluded		
	Sandfield—Wharf	8,000	
	Sarnia—Pier extension and mooring clusters	28,600	
	Thornbury—Towards reconstruction of pier	50,000	
884	Toronto—Harbour improvements—Further amount required to complete	275,000	
	Vermilion Bay—Wharf	12,000	
	Wikwemikong—Wharf	7,000	
	Manitoba		
	Assiniboine River—Dyking and cut off—Further amount required	38,000	
885	Grassy Narrows (Hecla Island)—Wharves	12,000	
	Rabbit Point—Wharf	24,000	
	Saskatchewan, Alberta and Northwest Territories		
	Cold Lake, Alberta—Harbour improvements—Further amount required to complete	37,000	
	Dore Lake, Saskatchewan—Wharf	11,000	
886	Fort Franklin, Northwest Territories—Wharf repairs and extension—Further amount required to complete	7,000	
	Waskesiu Lake, Saskatchewan—Harbour improvements—Further amount required to complete	13,000	
	Waterways, Alberta—Reconstruction of wing dams—Further amount required	27,000	
	British Columbia and Yukon		
	Alice Arm—Wharf reconstruction	32,000	
	Allison Harbour—Float and shed	11,000	
	Crescent—Wharf	11,000	
	Fraser Lake—Wharf reconstruction	23,000	
	Fraser River—Towards improvements—Further amount required	652,000	
	Fraser River and Vancouver Harbour—Dredging—Further amount required	123,000	
	Fraser River (Kirkland Island)—Replacement and extension of channel protection—Further amount required	35,000	
	Gambier Island (Camp Georgia)—Wharf—Further amount required to complete	26,000	
	Ganges—Towards harbour repairs and improvements	25,000	
887	Gibson's Landing—Wharf improvements	15,000	
	Gibson's Landing—Dredging (Revote $17,000)	22,000	
	Half Moon Bay—Wharf repairs and improvements—Further amount required to complete	20,000	
	Harrison Hot Springs—Float and approach	13,000	
	Horseshoe Bay—Wharf improvements	16,000	
	Kamloops—Wharves	14,000	
	Keat's Island—Pierhead replacement (Revote $12,000)	15,000	
	Madeira Park (Pender Harbour)—Floats	7,000	
	Minstrel Island—Wharf repairs and improvements	15,000	
	Nanaimo—Wharf repairs and improvements—To complete	6,000	
	Nelson—Floating wharf	15,000	
	Phipps Point (Hornby Island)—Wharf improvements	25,000	
	Port Alberni—Dredging—Further amount required	35,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	PUBLIC WORKS—*Concluded*		
	ENGINEERING BRANCH—*Concluded*		
	Construction, Repairs and Improvements—Harbours and Rivers—*Concluded*		
	British Columbia and Yukon—Concluded		
	Port Clements—Wharf repairs—Further amount required to complete	8,000	
	Port Renfrew—Towards wharf reconstruction	25,000	
	Redonda Bay—Float and approach	22,000	
	Robert's Creek—Wharf repairs and improvements—Further amount required to complete	17,000	
	Robert's Creek—Towards Harbour improvements	100,000	
887	Sechelt—Wharf repairs and improvements—Further amount required to complete	15,000	
	Squamish—Towards Assembly wharf	100,000	
	Steveston—Towards fishing harbour	25,000	
	Stewart—Wharf repairs—Further amount required to complete	14,000	
	Sturdies Bay (Galiano Island)—Wharf extension	18,000	
	Victoria—Dredging—Further amount required	55,000	
	William Head Quarantine Station—Breakwater repairs	22,000	
	GENERAL		
888	To provide for balances required to complete any projects undertaken in previous fiscal years and for which no specific provision is made in the fiscal year 1949–50—Further amount required	50,000	
			16,701,684
	RECONSTRUCTION AND SUPPLY		
	A—DEPARTMENT		
889	Trans-Canada Highway—To provide for preliminary engineering work and studies in cooperation with the Provinces concerned	25,000	
	Demobilization and Reconversion		
890	Reconstruction Projects, subject to allocation by the Treasury Board—Further amount required	1,000,000	
	B—NATIONAL FILM BOARD, INCLUDING THE MOTION PICTURE BUREAU		
891	Production of Films including authority to finance temporarily work performed for other public authorities or other agencies as the public interest requires—Further amount required	10,500	
892	Distribution of Films—Further amount required	56,500	
893	Production and Distribution of Other Visual Materials—Further amount required	6,500	
			1,098,500
	ROYAL CANADIAN MOUNTED POLICE		
894	General Administration—Further amount required	5,200	
895	Land Services—Arising out of the Royal Canadian Mounted Police Act, enforcement of Federal Statutes generally, and other incidental expenses—Further amount required	894,046	
			899,246

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	SECRETARY OF STATE		
896	Departmental Administration—Further amount required.....	6,100	
	GENERAL		
897	To provide for expenses in connection with the Bibliographic Centre (National Library).....	18,950	
			25,050
	TRADE AND COMMERCE		
	A—DEPARTMENT		
	Exhibition Commission—		
898	Exhibitions Generally—Further amount required.....	30,000	
899	Canadian International Trade Fair, 1950, including authority to refund from revenue deposits received for contracts for space.....	422,000	
	DOMINION BUREAU OF STATISTICS		
900	Administration—Further amount required.....	1,602	
901	Statistics—Further amount required.....	85,076	
902	Census of Population—Further amount required.....	60,000	
	WHEAT AND GRAIN DIVISION		
903	To authorize such payments to the Canadian Wheat Board out of unappropriated moneys in the Consolidated Revenue Fund as may be necessary to assure a return to the Canadian Wheat Board on sales of wheat for use in Canada equal to the prices received by the Canadian Wheat Board under the Canada-United Kingdom wheat contract.....	1	
904	To provide for the Canadian Government's assessment for membership in the International Wheat Council for the crop year 1949-50.....	25,577	
	CANADA GRAIN ACT		
905	Operation and Maintenance, including inspection, weighing, registration, etc.—Further amount required.....	18,668	
	SPECIAL		
906	To reimburse the Canadian Commercial Corporation for expenses incurred in purchasing materials, supplies and equipment, etc., on behalf of the Department of National Defence, under Chapter 51, Statutes of 1947—Further amount required.....	75,000	
907	Fraser Valley Dyking Board—To provide for payments by the Government of Canada for certain dyke reconstruction and improvement desirable to protect the works already undertaken in the main programme under the agreement dated July 22, 1948, between the Government of Canada and the Government of British Columbia, establishing the Fraser Valley Dyking Board.....	1,125,000	
	B—GENERAL		
	NATIONAL RESEARCH COUNCIL		
908	Salaries and Other Expenses of the National Research Council—Further amount required.....	25,390	
909	Supersonic Wind Tunnel Building and Equipment and to authorize commitments against future years in the amount of $30,000.....	275,000	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRADE AND COMMERCE—*Concluded*		
	B—General—*Concluded*		
	Atomic Energy Control Board		
910	Chalk River Project—Capital and Operating Expenses—Further amount required	375,000	
			2,518,314
	TRANSPORT		
	A—Department		
911	Departmental Administration—Further amount required	20,000	
	Canals Service		
912	Canals Service—Administration—Further amount required	2,500	
913	Canals—Operation and Maintenance—Further amount required	35,430	
914	Canals—Construction and Improvements—Further amount required	238,700	
	Marine Service		
915	Administration of Pilotage, including authority for temporary recoverable advances; contributions, and the operation and maintenance, as required, of necessary pilot vessels in certain Pilotage Districts—Further amount required	14,700	
916	To provide towards the construction of an Icebreaking Vessel to meet the St. Lawrence and northern transportation requirements (Estimated cost $5,000,000)—Capital	1,000,000	
	Railway Service		
917	Prince Edward Island Car Ferry and Terminals—Construction and Improvements of Terminal Facilities—Capital—Further amount required	173,568	
918	Canadian Government Railways—Enlargement of Dock and Terminal Facilities at North Sydney, N.S. (Estimated cost $2,000,000)—Capital	250,000	
	Special		
919	To provide for the expenses of the Royal Commission on National Transportation	300,000	
920	Grant to the Province of Manitoba towards the erection of a school building at Churchill, Manitoba	30,000	
	Air Service		
	Civil Aviation Division		
	Airways and Airports—		
921	Construction and Improvements, including Radio facilities and to authorize commitments against future years in the amount of $455,500—Capital—Further amount required	1	
	Operation and Maintenance—		
922	Airway and Airport Traffic Control—Further amount required	6,030	
	Meteorological Division		
923	Meteorological Services—Further amount required	59,780	

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	TRANSPORT—*Concluded*		
	A—Department—*Concluded*		
	Telegraph and Telephone Service		
	Telegraph and Telephone Service—		
924	Administration, Operation and Maintenance—Further amount required	68,000	
925	Construction and Improvements—(Revote $169,000)—Further amount required	183,500	
	B—Canadian Maritime Commission		
	Mail Subsidies and Steamship Subventions		
	Eastern Local Services		
	Halifax, Sherbrooke, Spry Bay and Torbay, N.S., service between—Further amount required	2,800	
	Halifax and Ports on West Coast of Cape Breton Island, N.S., service between—Further amount required	4,000	
	Mulgrave and Arichat, N.S., service between—Further amount required	6,000	
	Mulgrave and Canso, N.S., service between—Further amount required	21,000	
	Owen Sound and Ports on Manitoulin Island and Georgian Bay, Ont., service between—Further amount required	35,000	
926	Pelee Island and the Mainland, Ont., service between—Further amount required	10,000	
	Pictou, N.S., Souris, P.E.I., and the Magdalen Islands, P.Q., service between—Further amount required	56,000	
	Prince Edward Island and Nova Scotia, service between—Further amount required	61,000	
	Sydney, N.S., and Bay St. Lawrence, Cape Breton Island, calling at way ports, service between—Further amount required	5,000	
	Sydney and Bras d'Or Lake ports, West Coast of Cape Breton Island, N.S., and Prince Edward Island, service between—Further amount required	7,500	
	Sydney and Whycocomagh, Cape Breton Island, N.S., calling at way ports, service between—Further amount required	7,500	
			2,598,009
	VETERANS AFFAIRS		
927	Prosthetic Services—Further amount required	124,500	
928	Veterans Bureau—Further amount required	3,500	
929	War Veterans' Allowance Board—Administration—Further amount required	11,000	
	Soldier Settlement and Veterans' Land Act		
930	To authorize and provide for necessary remedial work, to be approved by the Governor in Council, on houses constructed on properties sold under the Veterans' Land Act, under individual firm price contracts, to correct defects for which neither the veteran nor the contractor can be held financially responsible	30,000	
931	To authorize and provide, subject to the approval of the Governor in Council in each case, for the completion of necessary remedial work to houses and services constructed under the 1945 building programme	110,000	
	Demobilization and Reconversion		
932	Hospital Accommodation and Facilities—Further amount required	250,356	
			62,332,725

SCHEDULE C—*Continued*

No. of Vote	Service	Amount	Total
		$	$
	GOVERNMENT-OWNED ENTERPRISES		
	DEFICITS		
	Transport		
933	Amount to provide for the payment from time to time to the Canadian National (West Indies) Steamships, Limited (hereinafter called "the Company") of the amount of the deficit occurring during the year ending December 31, 1949 in the operations of the Company and the vessels under the control of the Company, as certified by the Auditors of the Company, and upon applications made by the Company to the Minister of Finance and approved by the Minister of Transport, not exceeding		360,000
	LOANS AND INVESTMENTS		
	CANADIAN BROADCASTING CORPORATION		
934	Loans to the Canadian Broadcasting Corporation repayable with interest at a rate to be fixed by the Governor in Council on such terms and conditions as the Governor in Council may determine and to be applied in payment of expenditures to cover capital costs of television installations and to support the development of the service. Such loans, with interest, shall be a charge on the revenues of the Canadian Broadcasting Corporation next after the charge imposed under the provisions of Section 17 of the Canadian Broadcasting Act, 1936	4,500,000	
	NATIONAL HARBOURS BOARD		
935	Advances to National Harbours Board, subject to the provisions of Section 29 of National Harbours Board Act, to meet expenditures applicable to the calendar year 1949 on the following account: Retirement of Maturing Bonds— Montreal—Further amount required	1,995,000	
	TRADE AND COMMERCE		
936	To provide for the purchase and storage of, and incidental expenses in connection with, strategic reserves of materials	1,293,375	
	VETERANS AFFAIRS		
	Soldier Settlement and Veterans' Land Act		
937	To provide for protection of security—Soldier Settlement, and refunds of surplus to veterans—Further amount required	40,000	
			7,828,375

SCHEDULE C—*Concluded*

No. of Vote	Service	Amount	Total
		$	$
	FINANCE		
	Grants to Municipalities in lieu of Taxes on Federal Property—		
938	To provide for Administration of the Programme respecting grants to Municipalities in lieu of taxes on Crown property outlined in the House of Commons on November 14, 1949, including initial grants and other payments to be made in accordance with regulations of the Governor in Council.....	300,000 00	
939	To confirm and to authorize the doing by His Majesty during the period from July 1 to December 31, 1949, of acts and things that were required to be done by Him in accordance with the Agreement between His Majesty and the Corporation of the City of Ottawa (entered into under the authority of Chapter 27 of the Statutes of 1945) which expired on June 30, 1949, as if the Agreement were in effect to December 31, 1949 and for that purpose to authorize payment of the sum of two hundred and fifty thousand dollars as if it were the amount payable for that period under clause one of the Agreement; the payment to be made on or before December 31, 1949, upon delivery to His Majesty by that Corporation of a release of all claims in respect of services rendered by the Corporation to His Majesty to and including December 31, 1949, if the Minister of Public Works is satisfied that the said Corporation has done all acts and things that it would have been required to do had the said Agreement been in effect to December 31, 1949.....	250,000 00	
			550,000 00
			*71,071,100 00

* Net total, $56,546,333.34.