

Canada. Laws, Statutes, etc.

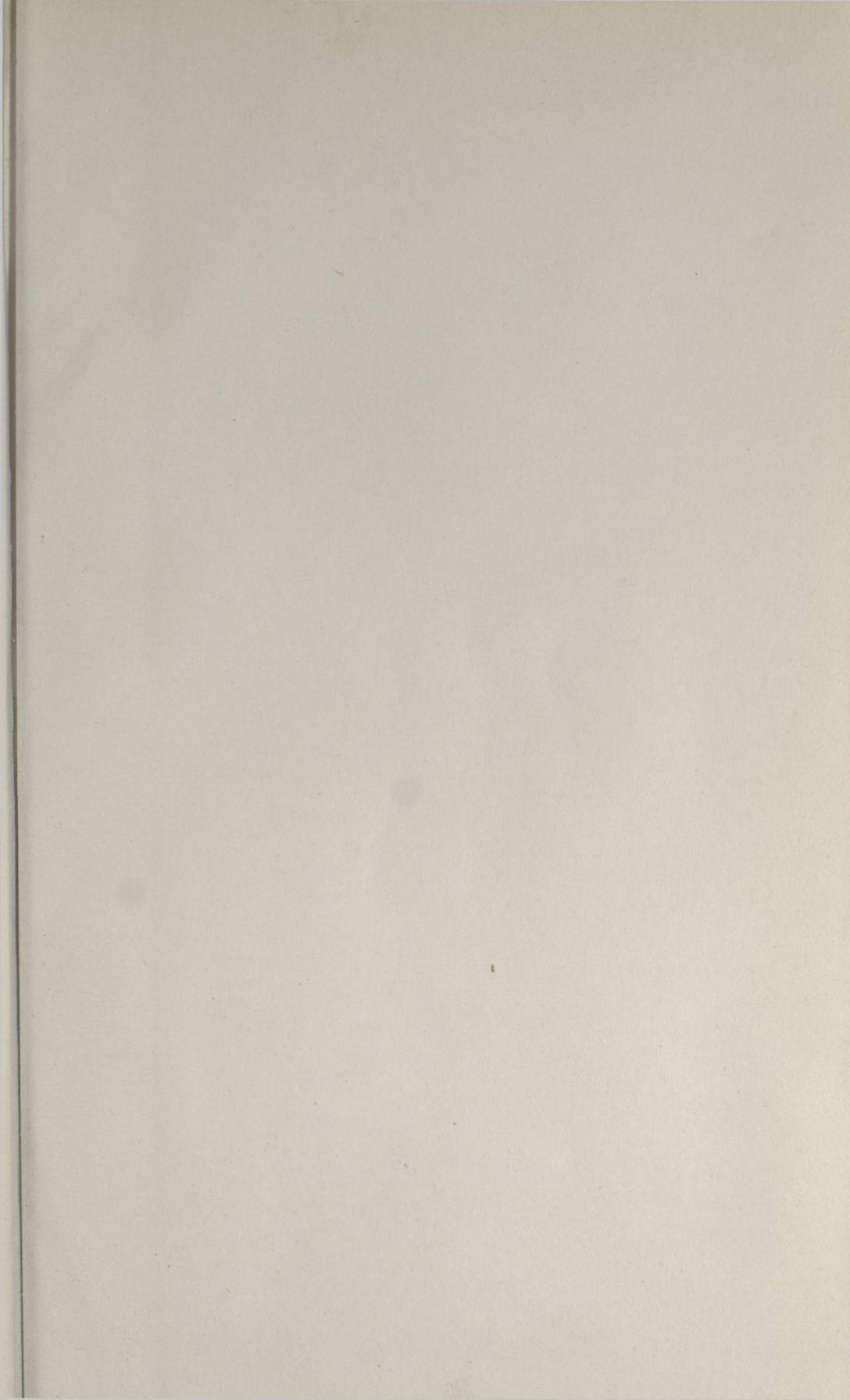
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138

LIST OF ACTS

SESSION 1952-53

SEVENTH SESSION, TWENTY-FIRST PARLIAMENT,
1-2 ELIZABETH II, 1952-53.

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

ASSENTED TO FEBRUARY 11, 1953.

Chap.		Bill No.
1.	Auditors for National Railways, An Act respecting the appointment of	N-40
2.	Canada Evidence Act, An Act to amend the	F-9
3.	Companies' Creditors Arrangement Act, 1933, An Act to amend The	H-45
4.	Judges Act, 1946, An Act to amend The	104
5.	Loan Companies Act, An Act to amend the	C-7
6.	National Defence Act, An Act to amend The	103
7.	Prisons and Reformatories Act, An Act to amend the	G-10
8.	Representation Act, 1952, An Act to amend The	101
9.	Royal Style and Titles, An Act respecting The	102
10.	Trust Companies Act, An Act to amend the	D-8

ASSENTED TO MARCH 31, 1953.

11.	Appropriation Act, No. 1, 1953, The (Interim)	291
12.	Appropriation Act, No. 2, 1953, The (Further Supplementary) ..	292
13.	Canadian Overseas Telecommunication Corporation Act, An Act to amend The	M-39
14.	Canadian Vessel Construction Assistance Act, An Act to amend The	19
15.	Coastal Fisheries Protection Act	E-44
16.	Merchant Seamen Compensation Act, An Act to amend The..	I-46
17.	Saint John Bridge and Railway Extension Company, An Act respecting The	L-38
18.	Statistics Act, An Act to amend The	S3-148

ASSENTED TO MAY 14, 1953.

19.	Canada Fair Employment Practices Act	100
20.	Canada Shipping Act, 1934, An Act to amend the	D7-191
21.	Canada Water Conservation Assistance Act	103
22.	Canadian Broadcasting Act, 1936, An Act to amend The	340
23.	Canadian Citizenship Act, An Act to amend The	Q5-190
24.	Canadian Forces Act, 1953	332
25.	Canadian National Railways Financing and Guarantee Act, 1953	363
26.	Canadian Wheat Board Act, 1935, An Act to amend The	223

Chap.	Bill No.
27. Children of War Dead (Education Assistance) Act	336
28. Co-operative Credit Associations Act	338
29. Criminal Code, An Act to amend the	367
30. Crown Liability Act	105
31. Customs Tariff	227
32. Emergency Gold Mining Assistance Act, An Act to amend The ..	329
33. Emergency Powers Act, An Act to amend The	279
34. Excise Act, 1934, An Act to amend The	226
35. Excise Tax Act, An Act to amend The	225
36. Farm Improvement Loans Act, 1944, An Act to amend The	143
37. Fisheries Research Board Act, An Act to amend The	331
38. Food and Drugs Act	J-48
39. Historic Sites and Monuments Act	110
40. Income Tax Act, An Act to amend The	228
41. Indian Act, An Act to amend The	B-37
42. National Housing Act, 1944, An Act to amend The	339
43. Northern Pacific Halibut Fishery Convention Act	341
44. North Pacific Fisheries Convention Act	293
45. Post Office Act, An Act to amend The	107
46. Prairie Farm Assistance Act, 1939, An Act to amend The....	333
47. Public Service Superannuation Act	334
48. Radio Act, 1938, An Act to amend The	337
49. Trade Marks Act	R3-316
50. Trans-Canada Air Lines Act, 1937, An Act to amend The	330
51. Unemployment Insurance Act, 1940, An Act to amend The....	366
52. Veterans Benefit Act, 1951, An Act to amend The	335
53. Yukon Act	230
54. Appropriation Act, No. 3, 1953, The	368

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

ASSENTED TO FEBRUARY 11, MARCH 31, AND MAY 14, 1953.

Bridge and Subway Companies.

- | | |
|---|--------|
| 55. Detroit and Windsor Subway Company, An Act respecting The | U3-146 |
|---|--------|

Insurance, Trust and Loan Companies.

- | | |
|---|---------|
| 56. Beaver Fire Insurance Company, An Act respecting | R-43 |
| 57. Callow Veterans' and Invalids' Welfare League, An Act to
incorporate The | X3-150 |
| 58. Canadian Co-operative Credit Society Limited, An Act to
incorporate | F12-364 |
| 59. Canadian Disaster Relief Fund, Incorporated, An Act to incor-
porate | Z5-229 |
| 60. Canadian Reinsurance Company, An Act to incorporate | V3-149 |
| 61. Merit Insurance Company, An Act to incorporate | R9-280 |

Patents.

- | | |
|--|--------|
| 62. Loudon, An Act respecting a certain patent and patent applica-
tion of Florence F. | Y3-187 |
|--|--------|

Religious Corporations.

CHAP.	BILL NO.
63. Apostolic Trustees of the Friars Minor or Franciscans, An Act respecting The	W3-147
64. Apostolic Trustees of the Friars Minor or Franciscans of Western Canada, An Act to incorporate The	Q3-144
65. Evangelical Lutheran Synod of Western Canada, An Act to incorporate The	T3-145

Other Companies.

66. Interprovincial Pipe Line Company, An Act respecting	P-41
67. Mercantile Bank of Canada, An Act to incorporate The	A1-111
68. Mid-Continent Pipelines Limited, An Act to incorporate	D5-189
69. Peace River Transmission Company Limited, An Act to incorporate	Q-42

DIVORCES.

ASSENTED TO FEBRUARY 11, MARCH 31, AND MAY 14, 1953.

70. Abrams, Rita Rabinovitch	A12-357
71. Adams, Jean Shelvington Parnell	Q8-252
72. Adler, Issie	P8-251
73. Anderson, Florence Mae Mitchell	E8-240
74. Aragian, Milorad	L8-247
75. Aspell, Mildred Isabel Lunan	V5-167
76. Auclair, Eric Ernest	K2-67
77. Baird, Cecilia Rachel	G6-177
78. Bales, Shirley William	P10-307
79. Ball, Alena Estella Welch	Z6-202
80. Barnett, Florence Trudy Nugent	N6-184
81. Bastien, Georgina Gibbons	A6-171
82. Beaudoin, Anne Reddie Banks Carruthers	W1-53
83. Bell, Andrew Percy	U6-197
84. Bell, Laurence Christopher	F7-207
85. Beloff, Beatrice Miriam Kert	C3-85
86. Bennett, Doris Isabell Dalzell	X1-54
87. Besner, Lena Herman	I8-244
88. Bigman, Lily Belzberg	H3-90
89. Bisailon, Joseph Edgar Roger Roland	K6-181
90. Black, Thomasine Elaine Mansfield	R10-309
91. Blant, Ida Hier	P4-129
92. Blatt, Rita Lowsky	O5-161
93. Bogdan, Henryka Ziernicka	N10-305
94. Boisvert, Costanza Marzitelli	Y1-55
95. Boon, Minnie Gruhn	J3-92
96. Boyaner, Florence Brown	W2-79
97. Brady, Jean Davis	H1-26
98. Brais, Joseph Willie	R11-348
99. Brand, Lottie Mendelman	S6-195
100. Braun, Hanus, otherwise known as John Browne	L11-342
101. Brennan, Joseph	B4-115
102. Brideau, Mary Elizabeth Irene Gray	I9-270
103. Britton, Margaret Eadie Kerr	W4-136
104. Brown, Fred Smolar	T11-350
— Browne, John (See—Braun, Hanus, Chap. 100)	—

DIVORCES—Continued

CHAP.	BILL No.
105. Bruce, James Arthur	K1-29
106. Brumby, Pauline Liliane Baron	Z4-139
107. Butler, Sidney William Donald	F8-241
108. Butler, Zoe Audrey Birch	L5-158
109. Byrne, Marie Josephte Gilberte Belanger	M2-69
110. Cameron, Bessie Mewhirter Mitchell	M5-159
111. Chadwick, Leonard James	M7-214
112. Chafe, Edwin George	U4-134
113. Chapat, Georges	A3-83
114. Charland, Georgina Julia Rose	Y8-260
115. Chayer, Napoleon Jean-Paul	L2-68
116. Chenoy, Carrie Ruth Morbey	K10-302
117. Choquette, Doris Edgar	C7-205
118. Clark, Marcel	J7-211
119. Clarke, Mary Katherine Randell	H4-121
120. Clements, Robert Edward Francis	G9-268
— Cockell, Marie Claire Marcelle Suzanne Langlois (See—Crowe Marie Claire Marcelle Suzanne Langlois—Chap. 140) ..	—
121. Cohen, Annie Mislovitch	M4-126
122. Cohen, Norma Bernstein	R1-36
123. Cohen, Ruth Schwartz	L4-125
124. Collingwood, Henry	C4-116
125. Colson, Doreen Mae Walmough dit Watmough	F2-62
126. Comys, Nicole Jeanne Andree Marion	V-14
127. Coolon, Jessie Hazel Kerr	E7-206
128. Cordeau, Barbara Carrique	S-11
129. Cotter, Anna Madeline Patterson	F3-88
130. Courtemanche, Gaston	Q1-35
131. Cousineau, Madeleine Blain	A5-140
132. Couture, Marguerita Downie	U11-351
133. Crawford, Bernice Catherine MacDonald	T8-255
134. Crawshaw, Helen Doreen Cave	U2-77
135. Credico, Verna Kirstine Dam	H6-178
136. Crelinsten, Florence Mildred Fine	F11-323
137. Critch, Walter	Q6-193
138. Cross, Dezso Ferenc	J2-66
139. Crothers, Margaret Elizabeth Thelma Webb	Y4-138
140. Crowe, Marie Claire Marcelle Suzanne Langlois, otherwise known as Marie Claire Marcelle Suzanne Langlois Cockell	J9-271
141. Dadson, Helen Isabelle Hammond	H2-64
142. Dahlstrom, Marie Sylvaine Alain	K4-124
143. Darby, Hazel Loisetie Robinson	M11-343
144. Day, Murray Cecil	M1-31
145. Devenish, Frances Louise	D6-174
146. Deyglun, Reine Cesarine Berthe Leborgne	K11-328
147. Dorsay, John Arthur	T5-165
148. Dougherty, James Alexander	V10-313
149. Douglas, Marie Claude Audette Isabelle Boulanger	P1-34
150. Doran, Bernice Gertrude	E11-322
151. Dormer, Jane Louttit	K3-94
152. Dunn, William James	X6-200
153. Earle, Agnes Jackson Stroud	H9-269
154. Earle, Mildred Hannah	E12-361
155. Edgar, Celia Tarnofsky	S7-220

DIVORCES—Continued

CHAP.	BILL No.
156. Edwards, Clarence Albert.....	O8-250
157. Elson, Bessie Mabel Witcomb.....	E9-266
158. Entwistle, Anne Agnes Costigan.....	H5-154
159. Favreau, Margaret Bell.....	H8-243
160. Fernley, Ruth Steirman.....	K8-246
161. Finlayson, Agnes Kathleen Small.....	J5-156
162. Fiorito, Dominique.....	I1-27
163. Fisher, Françoise Ernout.....	A2-57
164. Fishman, Morris.....	W10-314
165. Flegal, Barney.....	S4-132
166. Flookes, William.....	T7-221
167. Floyd, Elina Iacurto.....	P2-72
168. Fontaine, Donald Gagnon.....	J4-123
169. Fowler, Stanley Gordon.....	F4-119
170. Francis, John Joseph.....	D1-22
171. Frenette, Armand.....	V2-78
172. Galbraith, Hilda Irene Roddis.....	Q4-130
173. Gauthier, Jean Paul.....	S8-254
174. Gelinas, Raymond.....	E3-87
175. Gilbert, Adelard.....	R7-219
176. Gilbert, William Oscar.....	M3-96
177. Gill, Angelina Haria Di Battista.....	B5-141
178. Gnatiuk, Theresa Hynes.....	T9-282
179. Godden, Edwin George.....	R6-194
180. Gold, Jack.....	F5-152
181. Goldman, Pauline Tratenberg.....	M9-274
182. Goodyear, Ralph Wellington.....	I4-122
183. Gordon, Anna Kobitowich.....	U9-283
184. Gordon, Robert.....	G2-63
185. Graves, Margaret Parker.....	Z9-288
186. Gray, Elsie Smith.....	N5-160
187. Green, Lois Hattie Adelstein.....	F1-24
188. Guerin, Elizabeth Rogers.....	A7-203
189. Gurlevitch, Winniefred Ann Maltby.....	O1-33
190. Hamilton, Elizabeth Florence Robson.....	N1-32
191. Hammer, Gittel Gershonowitch.....	C6-173
192. Hannah, John Stewart.....	Y11-355
193. Harding, Mary Ethel Flood.....	J10-301
194. Hare, Frederick Kenneth.....	T-12
195. Henry, George Robert Stirling.....	X4-137
196. Hewitt, Kenneth Angus Eaton.....	M8-248
197. Heymann, Anna Shulemson.....	P5-162
198. Higgins, Agnes Charlotte Quamme.....	T1-50
199. Hilder, Charles Snoade.....	C5-142
200. Hill, Margaret Girvan.....	B2-58
201. Hillcoat, Alexander.....	Y5-170
202. Holder, Alfred Roger.....	Q11-347
203. Hollett, Patricia Mary Kearney.....	S10-310
204. Jeffrey, Adele Roberta.....	G8-242
205. Jobin, Lionel.....	D12-360
206. Jones, Joyce Elizabeth Purves.....	Y10-317
207. Jordan, Hazel Margaret MacRury.....	G5-153
208. Joudrey, Jean Marion Oickle.....	Y6-201

DIVORCES—Continued

CHAP.	BILL No.
209. Katona, Pearl Irene Balogh	K5-157
210. Kerr, Muriel Luella Sproston	J8-245
— King, Mary Viola Yolanda Decorato (<i>See</i> —Roy, Mary Viola Yolanda Decorato—Chap. 298)	—
211. Kolofsky, Ruth Sanel	L9-273
212. Kowalski, Mary Rose Anne Rihel	P6-192
213. Kuczerain, Elia	R2-74
214. Kurtzman, Minnie Martz	W5-168
215. Kwavnick, Lily Isenberg	E2-61
216. Labonte, Kathleen Ada Styles	U7-222
217. Laderoute, Ruth Audrey Lorraine Beauchamp	S2-75
218. LaFerme, Marguerite Rita Stevenson	U10-312
219. LaForest, Mary Gordon Wilson	C12-359
220. LaFrance, Rolph Julian	E5-151
221. Laing, Florence Anna Carsh	B3-84
222. Lareault, Joseph Henri Jacques Gaston	F10-297
223. Laviolette, Vincent John	W9-285
224. Lax, Therese Monette	X7-233
225. Lazarus, Rose Brownstien	W11-353
226. Leblanc, Claudia Marie Boudreau	G3-89
227. Leblanc, Diane Parent	I6-179
228. Leckie, Beryl Mildred Taylor	C8-238
229. LeFloch, Rebecca Bowman	X11-354
230. Lesage, Joseph Arthur	I3-91
231. Levandosky, Yaroslava Glucka	Q7-218
232. Leveille, Maurice	Z7-235
233. Lintz, Sarah Cohen	B1-20
234. Loiselle, Roger	L3-95
235. Lunan, Phyllis Newman	T2-76
236. Lust, Molly Klau	N9-275
237. MacInnes, Alice Martha Sharkey	B6-172
238. Magner, George	N3-97
239. Maniloff, Rosalia Marie Sepchuk	V1-52
240. Martin, Delia Fleurette Ayotte	N8-249
241. Martin, Eileen Doris Martin	V6-198
242. Martin, Olga Andrews	E1-23
243. Martin, Pearle Elizabeth McLeod	N11-344
244. Masson, Roland	B10-290
245. Mattinson, Marjorie Euretta Adams	Z10-318
246. Mattioli, Joseph	W-15
247. Maxham, Henry George	B9-263
248. McArthur, Katherine Jessie	Y-17
249. McCallum, Peggy Louise Miller	R8-253
250. McClure, Frances Wavertree Harris	U-13
251. McCue, Nellie Slade	G1-25
252. McCulloch, Jessie Allan Purdie	H7-209
253. McCullough, Gabrielle Bertrand	X-16
254. McFarlane, Harold Gordon	I2-65
255. McKenna, Margaret Violet Creasor	Z8-261
256. McLellan, Gladys Ola Taylor	S11-349
257. McLish, Joseph Alexandre Hyppolit	B11-320
258. McPhee, Catherine Lois MacLeod	L6-182
259. Melnitzky, Elizabeth Smaga	X5-169
260. Meloche, Kathleen Snell	A9-262

DIVORCES—Continued

CHAP.	BILL No.
261. Migicovsky, Susan Klamka	O11-345
262. Mines, Sender	K7-212
263. Moore, Mildred Ermine Bradshaw	O10-306
264. Morgan, Helen Vera Cater	S9-281
265. Moris, Dorothy Sanger Anderson	Q9-278
266. Muchan, Queenie Isabel Brambell	D9-265
267. Mueller, Hans (Johann)	E10-296
268. Nagy, Irene Toth	M10-304
269. Nagy, Joseph	G10-298
270. Nevard, Merle Minnie Esther Hoffman	N7-215
271. Nugent, Rolande Jacqueline Lortie	V7-231
272. Page, Gordon Earl	P7-217
273. Paraskiewicz, Kathleen Mary Wilkinson	Z2-82
274. Parker, Alice Cecilia Anne Magniac	W7-232
275. Paterson, Marguerite Evelyn Lucy Watts	E6-175
276. Patterson, Audrey Jane Clements'	A10-289
277. Pelletier, Charlotte Freeman	O9-276
278. Pereira, Agnes Mary Perkins	U1-51
279. Perras, Yvon	X10-315
280. Pfeffer, Olive Margaret Searle	P11-346
281. Piche, Arthur	P3-99
282. Pichette, Joseph Edouard Charles	F6-176
283. Pratt, Margot Fairbanks Duff	T10-311
284. Pratte, Robert Joseph Albert	L7-213
285. Prescott, Eileen Arthur Osborne	X9-286
286. Proietti, Antonio	O4-128
287. Quinn, William Gordon	A4-114
288. Rapps, Bernice Rosen	L1-30
289. Ratcliff, Madeleine McCartney	Y2-81
290. Ratelle, Fernand	C2-59
291. Remeikis, Janina Jenny Spaiches	K9-272
292. Rheaume, Cecile Lea Sauve	R5-163
293. Richer, Gerard	G11-324
294. Rivet, Thomas John	H11-325
295. Rodier, Taschereau Pierre Charles Joseph	D11-321
296. Ross, Gordon Dampierre	O6-185
297. Roy, Aime Arthur	H10-299
298. Roy, Mary Viola Yolanda Decorato, otherwise known as Mary Viola Yolanda Decorato King	V9-284
299. Salhany, Margaret Aziz	Y9-287
300. Sauchuk, Nick	V8-257
301. Schwartz, Doris Esther Kimel	D10-295
302. Scott, Sarah Juliet Montgomery	I10-300
303. Segal, Mina Eisenthal Hamerman, otherwise known as Mina Eisenthal Segall	S1-49
304. Seifert, Charles Meela Voyinovitch	D2-60
305. Shapiro, Anne O'Connor	D8-237
306. Shaw, George Frederick	S5-164
307. Shepherd, Clara Doris Jacobovitch	C10-294
308. Siversky, Rita Frost	W8-258
309. Slobotsky, Beatrice Gotlieb	X8-259
310. Smith, Bernard Gordon	A8-236
311. Solomon, Jennie Miller	Q2-73
312. Speevak, Harold	Z11-356

DIVORCES—*Concluded*

CHAP.		BILL No.
313.	Spirer, Rachel Sturman	I5-155
314.	Staples, Pearl Elmeda Clarke	J1-28
315.	Starke, Ivy Helen Jean Morton	R4-131
316.	Statner, Nina Difiore	N2-70
317.	Steinbach, Gabriele Laure Josephine Girard	J11-327
318.	Stephen, Douglas Malcolm	D4-117
319.	Stevens, Marjorie Evelyn Lee	C9-264
320.	Stewart, Myrtle Norma Epps	A11-319
321.	Stronach, John Alexander	D3-86
322.	Sutton, Beatrice Sylvia Aston	L10-303
323.	Sutton, Richard Alfred	B7-204
324.	Szentirmai, Teodora Szablity	O3-98
325.	Tanner, Marjorie Joy Hartley	Q10-308
326.	Tascherau, Marguerite Irene Bastien	Z3-113
327.	Taylor, Dessie Fowler	M6-183
328.	Taylor, Doris Ethel	O7-216
329.	Taylor, Mary Lane	E4-118
330.	Thompson, Blima Blossom Wendy Weitzman	J6-180
331.	Thompson, Olive Spencer	P9-277
332.	Titsch, Jacob	T6-196
333.	Towne, Ethel Florence Flack	G4-120
334.	Tremblay, Paul Edward	Y7-234
335.	Trudeau, Eileen Margaret Amos	D8-239
336.	Veilleux, Marcel Roland	B12-358
337.	Victor, Tillie Tietlebaum	O2-71
338.	Viel, Fernande Robitaille	C1-21
339.	Wainer, Dorothy Green	U5-166
340.	Walker, Marie Renee Emond	T4-133
341.	Wallerstein, Dorina Perelroizen, otherwise known as Dorina Perlraizen Wallerstein	I11-326
342.	Wallis, Valorie Leslie Hylda Carson	G7-208
343.	Walsh, Eileen Mercedes Hudson	X2-80
344.	Wardle, Howard Douglas	V11-352
—	Werk, Minnie Miki Simon (<i>See—Werkzeig, Minnie Miki Simon</i> <i>—Chap. 345</i>)	—
345.	Werkzeig, Minnie Miki Simon, otherwise known as Minnie Miki Simon Werk	N4-127
346.	Woods, Catherine Maine McKenzie	F9-267
347.	Wossidlo, Horst Wilhelm	U8-256
348.	Wright, Annie Moulard Cumming	W6-199
349.	Wright, Phyllis Violet Perlson	V4-135
350.	Young, Gladys Emily Miller	Z1-56
351.	Zion, Alice Mary Barakett	I7-210

7 21
Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL B.

An Act to amend The Indian Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL B.

An Act to amend The Indian Act.

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

PART I.

1. Paragraph (a) of subsection (1) of section 69 of *The Indian Act*, chapter 29 of the statutes of 1951, is 5 repealed and the following substituted therefor:

Loans to
Indians.

“(a) to make loans to bands, groups of Indians or individual Indians for the purchase of farm implements, machinery, livestock, motor vehicles, fishing equipment, seed grain, fencing materials, materials to be used in native 10 handicrafts, any other equipment, and gasoline and other petroleum products, or for the making of repairs or the payment of wages, or for the clearing and breaking of land within reserves, or”

2. Subsection (1) of section 101 of the said Act is 15 repealed and the following substituted therefor:

Seizure
of goods.

“101. (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section thirty-three, eighty-nine, ninety-two, ninety-three, ninety-four or 20 ninety-six has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed, and he may enter, open and search any place or thing in or upon which he reasonably believes any such goods or chattels may be 25 found.”

10
 and
 of reserves in force at the time of the release or surrender
 provisions of the Statute relating to the release or surrender
 Revised Statutes of Canada, 1927 or pursuant to the
 to Part I of the Statute that, chapter ninety-eight of the
 reserve was released or surrendered to the Crown pursuant to
 nineteen hundred and fifty-one, a reserve or portion of a
 1927, a reserve or portion of the former day of incorporation
 following substituted therefor:

EXPLANATORY NOTES.

1. To encourage Indians in the pursuit of agricultural endeavours and to promote progress, it is deemed advisable to amend this section as indicated by underlining.

2. Section 92 of the *Indian Act* deals with the removal of material from a reserve and provides a penalty therefor. At present, there is no authority to seize material taken from a reserve in violation of this section. In addition to the right to seize, it is considered advisable to give power to make the necessary searches.

10
 believes the offence was committed, and he may enter
 himself by means of or in relation to which he reasonably
 87, 92 or 93 has been committed, he may seize all goods and
 able grounds that an offence against section 88, 89, 90,
 or a power conferred by the Minister believes on reason-
 1927. (1) Whenever a peace officer or a superintendent
 repealed and the following substituted therefor:

3. Section 124 of the said Act is repealed and the following substituted therefor:

Prior grants
and sales
deemed
authorized.

"**124.** Where, prior to the fourth day of September, nineteen hundred and fifty-one, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender, and

(a) prior to that date Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or

(b) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void or inoperative,

the Letters Patent or the sale or agreement for sale, as the case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council."

PART II.

4. Paragraph (a) of subsection (1) of section 69 of the *Indian Act*, chapter 149 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Loans to
Indians.

"(a) to make loans to bands, groups of Indians or individual Indians for the purchase of farm implements, machinery, livestock, motor vehicles, fishing equipment, seed grain, fencing materials, materials to be used in native handicrafts, any other equipment, and gasoline and other petroleum products, or for the making of repairs or the payment of wages, or for the clearing and breaking of land within reserves, or"

5. Subsection (1) of section 101 of the said Act is repealed and the following substituted therefor:

Seizure
of goods.

"**101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 89, 92, 93, 94 or 96 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed, and he may enter,

3. The purpose of this proposed amendment is to enable Letters Patent under the Great Seal of Canada to issue in cases where surrendered lands were sold or agreed to be sold by the Crown where the direction of the Governor in Council was not obtained.

4. The purpose of Part II is to amend the new Revised Statutes which are now in press and are expected to appear during the present session.

open and search any place or thing in or upon which he reasonably believes any such goods or chattels may be found.”

6. Section 123 of the said Act is repealed and the following substituted therefor: 5

Prior grants
and sales
deemed
authorized.

“123. Where, prior to the 4th day of September, 1951, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or 10 surrender of reserves in force at the time of the release or surrender, and

(a) prior to that date Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, 15 or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or

(b) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was 20 sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void or inoperative,

the Letters Patent or the sale or agreement for sale, as the 25 case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council.”

Coming
into force.

7. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come 30 into force.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL C.

An Act to amend the Loan Companies Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL C.

An Act to amend the Loan Companies Act.

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

PART I.

1. Paragraph (a) of subsection (1) of section 61 of the *Loan Companies Act*, chapter 28 of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor: 5

Debentures,
bonds, stocks,
and securities
of Canada,
provinces,
United
Kingdom,
United
States,
etc.

- “(a) the debentures, bonds, stocks or other securities
- (i) of or guaranteed by the Government of Canada,
 - (ii) of or guaranteed by the Government of any 10
province of Canada,
 - (iii) of or guaranteed by the Government of the
United Kingdom, or of any colony or dependency
thereof,
 - (iv) of or guaranteed by the Government of the 15
United States or of a state thereof,
 - (v) of or guaranteed by the International Bank for
Reconstruction and Development established by
the Agreement for an International Bank for
Reconstruction and Development approved by 20
The Bretton Woods Agreements Act, 1945,
 - (vi) of any municipal or school corporation in
Canada,
 - (vii) guaranteed by any municipal corporation in 25
Canada, or
 - (viii) secured by rates or taxes, levied under the
authority of the Government of any province of
Canada on property situated in such province and
collectable by the municipalities in which such
property is situated;” 30

PART II

EXPLANATORY NOTES.

1. The purpose of this amendment is to allow companies to which the Act applies to invest in bonds issued by the International Bank for Reconstruction and Development.

2. The purpose of Part II is to amend the new Revised Statutes of Canada which are now in press and are expected to appear during the present session.

PART II.

2. Paragraph (a) of subsection (1) of section 60 of the *Loan Companies Act*, chapter 170 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Debentures,
bonds, stocks,
and securities
of Canada,
provinces,
United
Kingdom,
United
States,
etc.

- “(a) the debentures, bonds, stocks or other securities 5
- (i) of or guaranteed by the Government of Canada,
 - (ii) of or guaranteed by the Government of any province of Canada,
 - (iii) of or guaranteed by the Government of the United Kingdom, or of any colony or dependency thereof, 10
 - (iv) of or guaranteed by the Government of the United States or of a state thereof,
 - (v) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act*,
 - (vi) of any municipal or school corporation in Canada, 20
 - (vii) guaranteed by any municipal corporation in Canada, or
 - (viii) secured by rates or taxes, levied under the authority of the Government of any province of Canada on property situated in such province and collectable by the municipalities in which such property is situated;” 25

Coming into
force.

Repeal.

3. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force.

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THE SENATE OF CANADA

BILL D.

An Act to amend the Trust Companies Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL D.

An Act to amend the Trust Companies Act.

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

PART I.

1. Subparagraph (i) of paragraph (a) of subsection (1) of section 63 of the *Trust Companies Act*, chapter 29 of the Revised Statutes of Canada, 1927, as enacted by section 12 of chapter 75 of the statutes of 1947, is repealed and the following substituted therefor:

Debentures,
bonds, stocks
and
securities
of Canada,
provinces,
U.K., U.S.,
etc.

- “(i) debentures, bonds, stocks or other securities
- (A) of or guaranteed by the Government of Canada, 10
 - (B) of or guaranteed by the Government of a province,
 - (C) of or guaranteed by the Government of the United Kingdom or of any of Her Majesty's 15 self-governing dominions or dependencies,
 - (D) of or guaranteed by the Government of the United States or of a state thereof,
 - (E) of or guaranteed by the International Bank for Reconstruction and Development estab- 20 lished by the Agreement for an International Bank for Reconstruction and Development approved by *The Bretton Woods Agreements Act, 1945,*
 - (F) of a municipal or school corporation in 25 Canada,
 - (G) guaranteed by a municipal corporation in Canada, or

EXPLANATORY NOTES.

1. The purpose of this amendment is to allow companies to which the Act applies to invest in bonds issued by the International Bank for Reconstruction and Development.

2. The purpose of Part II is to amend the new Revised Statutes of Canada which are now in press and are expected to appear during the present session.

(H) secured by rates or taxes levied under the authority of laws of a province on property situated in the province and collectable by the municipalities in which the property is situated, that are not in default in respect of either principal or interest," 5

2. Paragraph (a) of subsection (1) of section 67 of the said Act, as enacted by section 14 of chapter 75 of the statutes of 1947, is repealed and the following substituted therefor: 10

Debentures,
bonds, stocks
and
securities
of Canada,
provinces,
U.K., U.S.,
etc.

- “(a) debentures, bonds, stocks or other securities
- (i) of or guaranteed by the Government of Canada,
 - (ii) of or guaranteed by the Government of a province,
 - (iii) of or guaranteed by the Government of the United Kingdom or of any of Her Majesty's self-governing dominions or dependencies,
 - (iv) of or guaranteed by the Government of the United States or of a state thereof,
 - (v) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by The Bretton Woods Agreements Act, 1945. 20
 - (vi) of a municipal or school corporation in Canada, 25
 - (vii) guaranteed by a municipal corporation in Canada, or
 - (viii) secured by rates or taxes levied under the authority of laws of a province on property situated in the province and collectable by the municipalities in which the property is situated;” 30

PART II.

3. Subparagraph (i) of paragraph (a) of subsection (1) of section 64 of the *Trust Companies Act*, chapter 272 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor: 35

Debentures,
bonds, stocks
and
securities
of Canada,
provinces,
U.K., U.S.,
etc.

- “(i) debentures, bonds, stocks or other securities
- (A) of or guaranteed by the Government of Canada,
 - (B) of or guaranteed by the Government of a province, 40
 - (C) of or guaranteed by the Government of the United Kingdom or of any of Her Majesty's self-governing dominions or dependencies,

- (D) of or guaranteed by the Government of the United States or of a state thereof;
 - (E) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act*,
 - (F) of a municipal or school corporation in Canada,
 - (G) guaranteed by a municipal corporation in Canada, or
 - (H) secured by rates or taxes levied under the authority of laws of a province on property situated in the province and collectable by the municipalities in which the property is situated,
- that are not in default in respect of either principal or interest,"

4. Paragraph (a) of subsection (1) of section 68 of the said Act is repealed and the following substituted therefor: 20

- "(a) debentures, bonds, stocks or other securities
- (i) of or guaranteed by the Government of Canada,
 - (ii) of or guaranteed by the Government of a province,
 - (iii) of or guaranteed by the Government of the United Kingdom or of any of Her Majesty's self-governing dominions or dependencies,
 - (iv) of or guaranteed by the Government of the United States or of a state thereof,
 - (v) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act*,
 - (vi) of a municipal or school corporation in Canada,
 - (vii) guaranteed by a municipal corporation in Canada, or
 - (viii) secured by rates or taxes levied under the authority of laws of a province on property situated in the province and collectable by the municipalities in which the property is situated;"

Debentures,
bonds, stocks
and
securities
of Canada,
provinces,
U.K., U.S.,
etc.

Coming into
force.
Repeal.

5. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force.

THE SENATE OF CANADA

BILL E.

An Act to Protect the Coastal Fisheries.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL E.

An Act to Protect the Coastal Fisheries.

HER 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 *Coastal Fisheries Protection Act*.

5

Interpretation.

Definitions,
"Canadian
fishing
vessel".

2. In this Act

(a) "Canadian fishing vessel" means a fishing vessel that is

(i) registered in Canada,

(ii) owned by one person domiciled and resident in 10
Canada,

(iii) owned by two or more persons, all of whom are
domiciled and resident in Canada, or

(iv) owned by a body corporate incorporated under
the laws of Canada or the laws of a province and 15
having its principal place of business in Canada;

"Canadian
territorial
waters".

(b) "Canadian territorial waters" means any waters
designated by any Act of the Parliament of Canada or
by the Governor in Council as the territorial waters of
Canada, or any waters not so designated being within 20
three marine miles of any of the coasts, bays, creeks, or
harbours of Canada, and includes the inland waters of
Canada;

"Fish".

(c) "fish" includes shellfish, crustaceans and marine
animals; 25

"Fishing".

(d) "fishing" means fishing for or catching or killing fish
by any method;

EXPLANATORY NOTES.

The purpose of the Bill is to revise completely the existing *Customs and Fisheries Protection Act*. The main provisions of this Act were first enacted in 1868 and the last amendment of the Act took place in 1913. The Bill aims to bring the existing law into line with present day conditions and practice.

1. The title is changed since administration of customs is now carried out under the *Customs Act*.

2. New.

"Fishing vessel".	(e) "fishing vessel" includes any ship or boat or any other description of vessel used in or equipped for fishing or processing fish or transporting fish from fishing grounds and includes any vessel used or equipped for taking, processing or transporting marine plants;	5
"Foreign fishing vessel".	(f) "foreign fishing vessel" means a fishing vessel that is not a Canadian fishing vessel;	
"Government vessel".	(g) "government vessel" means any vessel that belongs to or is in the service of Her Majesty in right of Canada;	
"Minister".	(h) "Minister" means the Minister of Fisheries; and	10
"Protection Officer".	(i) "Protection Officer" means	
	(i) a fishery officer within the meaning of the <i>Fisheries Act</i> ,	
	(ii) an officer of the Royal Canadian Mounted Police,	15
	(iii) any commissioned officer of the Royal Canadian Navy, or	
	(iv) any person authorized by the Governor in Council to enforce this Act.	

Foreign Fishing Vessels.

Entry of foreign vessels into territorial waters.	3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by	20
	(a) this Act or the regulations,	
	(b) any other law of Canada, or	
	(c) a treaty.	
Fishing, etc., in Canada and territorial waters.	(2) No person, being aboard a foreign fishing vessel or being a member of the crew of or attached to or employed on a foreign fishing vessel shall in Canada or in Canadian territorial waters	25
	(a) fish or prepare to fish,	
	(b) unload, land or tranship any fish, outfit or supplies,	30
	(c) ship or discharge any crew member or other person,	
	(d) purchase or obtain bait or any supplies or outfits, or	
	(e) take or prepare to take marine plants	
	unless he is authorized to do so by	
	(f) this Act or the regulations,	35
	(g) any other law of Canada, or	
	(h) a treaty.	
Transporting fish into territorial waters.	(3) No person, being aboard a Canadian fishing vessel, shall bring into Canadian territorial waters fish received outside Canadian territorial waters from a foreign fishing vessel, unless he is authorized to do so by the regulations.	40

Regulations.

Regulations.	4. The Governor in Council may make regulations	
	(a) for authorizing, by means of licences, permits or otherwise,	

3. Subsections (1) and (2) correspond to the present section 10. Inclusion of marine plants is new. Authorization to enter Canadian territorial waters must be by treaty or any law of Canada alone.

Subsection (3) is new.

4. Paragraph (a) (i) and (ii) corresponds to present sections 2 and 3, with application extended to all Canadian territorial waters and all foreign fishing vessels.

Paragraphs (b) to (f) are new.

- (i) foreign fishing vessels to enter Canadian territorial waters for any purpose specified in the regulations, or
- (ii) persons to do all or any of the things described in paragraphs (a) to (e) of subsection (2) of section 3 or in subsection (3) of section 3; 5
- (b) respecting the issue, suspension and cancellation of any licences or permits provided for under paragraph (a), prescribing their terms, conditions and forms and the fees payable therefor; 10
- (c) for appointing or authorizing persons to enforce the provisions of this Act and the regulations;
- (d) designating territorial waters of Canada for the purposes of this Act;
- (e) for securing and keeping any fishing vessels or things seized pursuant to this Act; and 15
- (f) generally for carrying out the purposes and provisions of this Act.

Inspection, Seizure and Forfeiture.

Boarding by
Protection
Officer.

- 5.** A Protection Officer may
- (a) go on board of any fishing vessel found within Canadian territorial waters and stay on board so long as she remains within Canadian territorial waters, 20
 - (b) bring the fishing vessel into port and search her cargo, and
 - (c) examine the master or any member of the crew upon oath touching the cargo and voyage. 25

Seizure.

- 6.** (1) Whenever a Protection Officer suspects on reasonable grounds that an offence against this Act has been committed, he may seize 30
- (a) any fishing vessel by means of or in relation to which he reasonably believes the offence was committed,
 - (b) any goods aboard the fishing vessel, including fish, tackle, rigging, apparel, furniture, stores and cargo, or
 - (c) the fishing vessel and any of the goods mentioned in paragraph (b). 35

Arrest.

- (2) A Protection Officer may arrest without warrant any person whom he on reasonable grounds suspects of having committed an offence against this Act.

Custody of
seized vessels,
etc.

- (3) Subject to this section, the fishing vessel and goods seized under subsection (1) shall be retained in the custody of the Protection Officer making the seizure or shall be delivered into the custody of such person as the Minister may direct. 40

Perishable
goods.

- (4) Where fish or other perishable articles are seized under subsection (1) the Protection Officer or other person 45

having the custody thereof may sell them, and the proceeds of the sale shall be paid to the Receiver General of Canada or shall be deposited in a chartered bank to the credit of the Receiver General of Canada.

Court may order forfeiture.

(5) Where a person is convicted of an offence against this Act, the convicting court or judge may, in addition to any other penalty imposed, order that 5

(a) any fishing vessel seized under subsection (1) by means of or in relation to which the offence was committed, 10

(b) any goods aboard the fishing vessel, including fish, tackle, rigging, apparel, furniture, stores and cargo, or, if any of the goods have been sold under subsection (4), the proceeds thereof, or

(c) the fishing vessel and any of the goods mentioned in paragraph (b), or the proceeds thereof, 15
be forfeited, and upon such order being made the fishing vessel, goods or proceeds so ordered to be forfeited are forfeited to Her Majesty in right of Canada.

Redelivery on bond.

(6) Where a fishing vessel or goods have been seized under subsection (1) and proceedings in respect of the offence have been instituted, the court or judge may, with the consent of the Protection Officer who made the seizure, order redelivery thereof to the accused upon security by bond, with two sureties, in an amount and form satisfactory to the Minister, being given to Her Majesty. 20 25

Seized vessel, etc., to be returned unless proceedings instituted.

(7) Any fishing vessel or goods seized under subsection (1) or the proceeds realized from a sale thereof under subsection (4), shall be returned or paid to the person from whom the fishing vessel or goods were taken if the Minister decides not to institute a prosecution in respect of the offence, and in any event shall be so returned or paid upon the expiration of three months from the day of seizure unless before that time proceedings in respect of the offence are instituted. 30 35

Disposal of forfeited vessel, etc.

(8) Where proceedings in respect of an offence against this Act have been instituted and a fishing vessel or goods are at the final conclusion of the proceedings ordered to be forfeited, they may be disposed of as the Minister directs.

Return of seized vessel, etc., if no forfeiture ordered.

(9) Where a fishing vessel or goods have been seized under subsection (1) and proceedings in respect of the offence have been instituted, but the fishing vessel or goods or any proceeds realized from a sale thereof under subsection (4) are not at the final conclusion of the proceedings ordered to be forfeited, they shall be returned or the proceeds shall be paid to the person from whom the fishing vessel or goods were taken, unless there has been a conviction and a fine imposed in which case the fishing vessel or goods may be detained until the fine is paid, or the fishing vessel and the goods may 40 45

be sold under execution in satisfaction of the fine, or the proceeds realised from a sale of any of the goods under subsection (4) may be applied in payment of the fine.

Offences and Penalties.

Offences.

- 7.** Every person is guilty of an offence who
- (a) being master or in command of a fishing vessel,
 - (i) enters Canadian territorial waters contrary to this Act, or
 - (ii) fails to bring to when required so to do by any Protection Officer or upon signal of a government vessel;
 - (b) being aboard a fishing vessel, refuses to answer any questions on oath put to him by a Protection Officer;
 - (c) after signal by a government vessel to bring to, throws overboard or staves or destroys any part of the vessel's cargo, outfit or equipment; or
 - (d) opposes or obstructs any Protection Officer in the execution of his duty.

Penalties.

- 8.** (1) Every person who violates any of the provisions of section 3 is guilty of an offence and is liable
- (a) upon conviction on indictment to a fine of twenty-five thousand dollars or to imprisonment for a term of two years or to both fine and imprisonment, or
 - (b) upon summary conviction to a fine of five thousand dollars or to imprisonment for a term of three months or to both fine and imprisonment.
- (2) Every person who is guilty of an offence under section 7 is liable
- (a) upon conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of one year or to both fine and imprisonment, or
 - (b) upon summary conviction to a fine of two thousand dollars or to imprisonment for a term of one month or to both fine and imprisonment.

Jurisdiction of Courts.

Jurisdiction.

9. All courts, justices of the peace, and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 681 to 684 of the *Canada Shipping Act, 1934*, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act, 1934*.

7. and 8. These sections are based on sections 9, 10, 11, 12 and 13 of the existing Act. They provide fines as an alternative to forfeiture in some instances where forfeiture is the only penalty under the present law, and increase the amount of the fine that may be imposed either on summary conviction or on indictment. Proceedings in the Exchequer Court are no longer required.

9. Sections 681 to 684 of the *Canada Shipping Act, 1934*, give the courts in coastal districts jurisdiction over ships lying off the coasts and over persons on board the ships.

Repeal and Transitional.

- Repeal. **10.** (1) The *Customs and Fisheries Protection Act*, chapter 43 of the Revised Statutes of Canada, 1927, is repealed.
- Transitional. (2) Upon the coming into force of the Revised Statutes of Canada, 1952, 5
 (a) the *Customs and Fisheries Protection Act*, chapter 59 of the Revised Statutes of Canada, 1952, is repealed, and
 (b) section 9 of this Act is repealed and the following substituted therefor: 10
- Jurisdiction. “**9.** All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 680 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and 15
 the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act*.”

10. Subsection (1) repeals the present Act.

Subsection (2). The purpose of this subsection is to bring the Act into line with the new Revised Statutes, which are now in press and are expected to appear during the present session.

THE SENATE OF CANADA

BILL P.

An Act to amend the Canada Revenue Act.

Read a first time, Monday, 26th November, 1903.

Honourable Senator Houshagen.

THE SENATE OF CANADA

BILL F.

An Act to amend the Canada Evidence Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL F.

An Act to amend the Canada Evidence Act.

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

PART I.

1. Subsection 3 of section 29A of the *Canada Evidence Act*, chapter 59 of the Revised Statutes of Canada, 1927, as enacted by section 1 of chapter 19 of the statutes of 1942-43, is repealed and the following substituted therefor: 5

Proof of compliance with conditions.

“(3) Proof of compliance with the conditions prescribed by this section may be given by any one or more of the employees of the government or corporation, having knowledge of the taking of the photographic film, of such destruction, loss, or delivery to a customer, or of the making of the print, as the case may be, either orally or by affidavit sworn in any part of Canada before any notary public or commissioner for oaths.” 10 15

Coming into force.

2. This Part shall be deemed to have come into force on the twelfth day of June, nineteen hundred and forty-two.

PART II.

3. Subsection (3) of section 30 of the *Canada Evidence Act*, chapter 307 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor: 20

Proof of compliance with conditions.

“(3) Proof of compliance with the conditions prescribed by this section may be given by any one or more of the employees of the government or corporation, having knowledge of the taking of the photographic film, of such destruction, loss, or delivery to a customer, or of the making 25

EXPLANATORY NOTES.

1. The present section 29A was enacted on June 12, 1942, and reads as follows:

"29A. (1) In this section

- (a) 'corporation' means the Bank of Canada, the Industrial Development Bank and any bank to which the *Bank Act* applies, or to which the *Quebec Savings Banks Act* applies, and each and every of the following carrying on business in Canada, namely, every railway, express, telegraph and telephone company (except a street railway and tramway company), insurance company or society, trust company and loan company (except a company subject to the provisions of Part II of *The Small Loans Act, 1939*);
 - (b) 'government' means the government of Canada or of any province of Canada and includes any department, commission, board or branch of any such government;
 - (c) 'photographic film' includes any photographic plate, microphotographic film and photostatic negative.
- (2) A print, whether enlarged or not, from any photographic film of,
 - (a) an entry in any book or record kept by any government or corporation and destroyed, lost, or delivered to a customer after such film was taken;
 - (b) any bill of exchange, promissory note, cheque, receipt, instrument or document held by any government or corporation and destroyed, lost or delivered to a customer after such film was taken;
 - (c) any record, document, plan, book or paper belonging to or deposited with any government or corporation;

shall be admissible in evidence in all cases in which and for all purposes for which the object photographed would have been received upon proof that

- (i) while such book, record, bill of exchange, promissory note, cheque, receipt, instrument or document, plan, book or paper was in the custody or control of the government or corporation, the photographic film was taken thereof in order to keep a permanent record thereof; and
 - (ii) the object photographed was subsequently destroyed by or in the presence of one or more of the employees of the government or corporation, or was lost or was delivered to a customer.
- (3) Proof of compliance with the conditions prescribed by this section may be given by any one or more of the employees of the government or corporation, having knowledge of the taking of the photographic film, of such destruction, loss, or delivery to a customer, or of the making of the print, as the case may be, either orally or by affidavit sworn in any part of Canada before any notary public.
 - (4) Unless the court otherwise orders, a notarial copy of any such affidavit shall be admissible in evidence in lieu of the original affidavit."

The affidavits showing compliance with the prescribed conditions are taken at the time the documents are destroyed. A photographic copy of the document, together with the original affidavit or a notarial copy thereof, is admissible in evidence. There is no good reason for requiring the original affidavit to be taken only before a notary public, and the danger exists that the affidavit will in some cases be taken before a commissioner for oaths and the documents destroyed. The purpose of the amendment is to permit the affidavit to be sworn before a notary or a commissioner.

2. The amendment is made retrospective so as to remove any doubt that affidavits that may have been sworn before a commissioner prior to the amendment are sufficient.

3. Part II of the Act is designed to amend the new Revised Statutes, which are now in press and are expected to appear during the present session.

of the print, as the case may be, either orally or by affidavit sworn in any part of Canada before any notary public or commissioner for oaths."

Coming into force.
Repeal.

4. This Part shall come into force, and section 1 of this Act is repealed, on the day the Revised Statutes of Canada, 5 1952, come into force.

THE SENATE OF CANADA

BILL G.

An Act to amend the Prisons and Reformatories Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL G.

An Act to amend the Prisons and Reformatories Act.

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

PART I.

1. Sections 147A, 147B and 147C of the *Prisons and Reformatories Act*, chapter 163 of the Revised Statutes of Canada, 1927, as enacted by chapter 49 of the statutes of 1950, and section 147D of the said Act, as enacted by section 1 of chapter 26 of the statutes of 1947-48, are repealed and the following substituted therefor:

Imprisonment
in Young
Offenders
Unit or in
New Haven.

“147A. Every court in the province of British Columbia, before which any male person apparently over the age of sixteen years and under the age of twenty-three years is convicted of an offence against the laws of Canada, punishable by imprisonment in the common gaol for the term of three months, or for any longer term, may sentence such person to imprisonment for the term of not less than three months and for an indeterminate period thereafter of not more than two years less one day in that portion of Oakalla Prison Farm known as the Young Offenders Unit or in New Haven instead of the common gaol of the county or judicial district where the offence was committed or was tried, and such person shall thereupon be imprisoned in that portion of Oakalla Prison Farm known as the Young Offenders Unit or in New Haven as the case may be, until he is lawfully discharged or paroled pursuant to section one hundred and forty-seven B or transferred pursuant to section one hundred and forty-seven c, and shall be subject to all the rules and regulations of the institution as may be approved from time to time by the Lieutenant-Governor in that behalf.

EXPLANATORY NOTES.

1. This amendment is proposed at the request of the province of British Columbia.

Some years ago British Columbia established the institution known as New Haven for the treatment and reclamation of offenders between the ages of sixteen and twenty-three.

The province has now established a Young Offenders Unit for the treatment and reclamation of young offenders sentenced to Oakalla Prison Farm.

The main difference between the two institutions is that New Haven is "open" whereas the Young Offenders Unit is "closed".

The purpose of the amendment is to authorize transfer from the Young Offenders Unit to New Haven and *vice versa*, and between these institutions and the Oakalla Gaol.

Board of
Parole.

"147B. The Lieutenant-Governor may appoint a Board of Parole for the said province whose duty it shall be to inquire from time to time into the cases of prisoners sentenced to that portion of Oakalla Prison Farm known as the Young Offenders Unit or to New Haven and the prisoners transferred under section one hundred and forty-seven c, and where as a result of such inquiry the Board thinks proper, it may permit prisoners serving indeterminate sentences to be paroled under conditions approved of by the Minister of Justice and when the terms on which such prisoners were paroled have been complied with, the Board may recommend for the consideration of the Minister of Justice the final discharge of such prisoners.

Transfer of
offenders.

"147C. (1) The Inspector of Gaols or such other officer as is authorized by the Lieutenant-Governor in that behalf from time to time may by warrant direct the removal of a person imprisoned in that portion of Oakalla Prison Farm known as the Young Offenders Unit to New Haven or to the common gaol at Oakalla Prison Farm, or of a person imprisoned in New Haven to that portion of Oakalla Prison Farm known as the Young Offenders Unit or to the common gaol at Oakalla Prison Farm, whenever he deems it expedient so to do, and a person transferred pursuant to this section shall be detained in the prison or institution to which he is transferred for the unexpired portion of the term of imprisonment to which he was originally sentenced unless in the meantime he is again transferred or is lawfully discharged.

"Term of
imprison-
ment"
defined.

(2) In this section the expression "term of imprisonment" includes the definite term of imprisonment and the indefinite period thereafter to which a person was originally sentenced.

Juveniles.

"147D. Sections one hundred and forty-seven A, one hundred and forty-seven B and one hundred and forty-seven c do not apply to a child as defined in the *Juvenile Delinquents Act* unless the child has under section nine of the *Juvenile Delinquents Act* been ordered to be proceeded against by indictment in the ordinary courts.

Definition.

"147E. In this Part the expression "New Haven" means the institution established in British Columbia for the reclamation of juvenile offenders known as New Haven and situate on Lot 164, Group 1, New Westminster District in the said province."

PART II.

2. Sections 151, 152, 153 and 154 of the *Prisons and Reformatories Act*, chapter 217 of the Revised Statutes of Canada, 1952, are repealed and the following substituted therefor:

1881. Every court in the province of Ontario shall have jurisdiction to issue writs of habeas corpus in cases where a person is detained in custody of an officer against the laws of Canada, and also by imprisonment in the common law for the term of three months, or for a longer term than that which is provided for in the common law for the term of not more than two years, and also in that portion of Ontario known as the Young Ontario Act or in New France instead of the common law of the county or portion of Ontario where the offense was committed or was tried, and such person shall therefore be imprisoned in that portion of Ontario known as the Young Ontario Act or in New France as the case may be, until he is lawfully discharged or released pursuant to section 154 or transferred pursuant to section 155, and shall be subject to all the rules and regulations of the institution as may be approved from time to time by the Lieutenant-Governor in that behalf.

1882. The Lieutenant-Governor may appoint a board of parole for the said provinces whose duty it is to inquire from time to time into the cases of prisoners sentenced to that portion of Ontario known as the Young Ontario Act or in New France and the persons named hereby under section 155, and where as a result of such inquiry the board thinks proper to grant parole to any such prisoner, the board may order to be granted under such parole approval of by the Minister of Justice, and when the terms on which such prisoner was granted have been complied with the board may recommend for the consideration of the Minister of Justice the final discharge of such prisoner.

1883. The Inspector of Gaols or such other officer as is authorized by the Lieutenant-Governor in that behalf from time to time may by warrant direct the removal of a person imprisoned in that portion of Ontario known as the Young Ontario Act or in New France or of a person known as the Young Ontario Act or in New France to the common law of Ontario known as the Young Ontario Act or in New France to that portion of Ontario known as the Young Ontario Act or in New France, whether he be a prisoner or not, and a proper statement pursuant to this section shall be returned in the prison or institution to which he is

2. Part II is designed to amend the new Revised Statutes, which are now in press and are expected to appear during the present session.

Imprisonment
in Young
Offenders
Unit or in
New Haven.

“**151.** Every court in the province of British Columbia, before which any male person apparently over the age of sixteen years and under the age of twenty-three years is convicted of an offence against the laws of Canada, punishable by imprisonment in the common gaol for the term of three months, or for any longer term, may sentence such person to imprisonment for the term of not less than three months and for an indeterminate period thereafter of not more than two years less one day in that portion of Oakalla Prison Farm known as the Young Offenders Unit or in New Haven instead of the common gaol of the county or judicial district where the offence was committed or was tried, and such person shall thereupon be imprisoned in that portion of Oakalla Prison Farm known as the Young Offenders Unit or in New Haven as the case may be, until he is lawfully discharged or paroled pursuant to section 152 or transferred pursuant to section 153, and shall be subject to all the rules and regulations of the institution as may be approved from time to time by the Lieutenant-Governor in that behalf.

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Board of
Parole.

“**152.** The Lieutenant-Governor may appoint a Board of Parole for the said province whose duty it is to inquire from time to time into the cases of prisoners sentenced to that portion of Oakalla Prison Farm known as the Young Offenders Unit or to New Haven and the prisoners transferred under section 153, and where as a result of such inquiry the Board thinks proper, it may permit prisoners serving indeterminate sentences to be paroled under conditions approved of by the Minister of Justice, and when the terms on which such prisoners were paroled have been complied with, the Board may recommend for the consideration of the Minister of Justice the final discharge of such prisoners.

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Transfer of
offenders.

“**153.** (1) The Inspector of Gaols or such other officer as is authorized by the Lieutenant-Governor in that behalf from time to time may by warrant direct the removal of a person imprisoned in that portion of Oakalla Prison Farm known as the Young Offenders Unit to New Haven or to the common gaol at Oakalla Prison Farm, or of a person imprisoned in New Haven to that portion of Oakalla Prison Farm known as the Young Offenders Unit or to the common gaol at Oakalla Prison Farm, whenever he deems it expedient so to do, and a person transferred pursuant to this section shall be detained in the prison or institution to which he is transferred for the unexpired portion of the term of imprisonment to which he was originally sentenced unless in the meantime he is again transferred or is lawfully discharged.

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(2) In this section the expression "term of imprisonment" includes the term of a suspended sentence and the substance period prescribed to which a sentence was originally sentenced.

1953
Bill
No. 100

"154. Sections 151, 152 and 153 do not apply to a child as defined in the Juvenile Delinquency Act unless the child has under section 9 of the Juvenile Delinquency Act been ordered to be proceeded against by indictment in the ordinary course of law."

1953
Bill
No. 100

"155. In this Part the expression "New Haven" means the institution established in British Columbia for the reception of juveniles otherwise known as New Haven and situate on the site of the former New Westminster District in the said province."

1953
Bill
No. 100

3. This Part shall come into force and Part I is repealed, as on the day the Revised Statutes of Canada, 1953, come into force.

1953
Bill
No. 100

Enacted by the Queen's Most Excellent Majesty in Council at Ottawa, this 15th day of June, 1953.

Read and approved this 15th day of June, 1953.

Honourable Senator H. ...

THE PARLIAMENT OF CANADA
OFFICE OF THE CLERK OF PARLIAMENT
OTTAWA, CANADA

"Term of imprisonment" defined.

(2) In this section the expression "term of imprisonment" includes the definite term of imprisonment and the indefinite period thereafter to which a person was originally sentenced.

Juveniles.

"154. Sections 151, 152 and 153 do not apply to a child as defined in the *Juvenile Delinquents Act* unless the child has under section 9 of the *Juvenile Delinquents Act* been ordered to be proceeded against by indictment in the ordinary courts. 5

Definition "New Haven".

"154A. In this Part the expression "New Haven" means the institution established in British Columbia for the reclamation of juvenile offenders known as New Haven and situate on Lot 164, Group 1, New Westminster District in the said province." 10

Coming into force. Repeal.

3. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force. 15

THE SENATE OF CANADA

BILL H.

An Act to amend The Companies' Creditors Arrangement
Act, 1933.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL H.

An Act to amend The Companies' Creditors Arrangement Act, 1933.

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

PART I.

1. Paragraph (g) of section 2 of *The Companies' Creditors Arrangement Act, 1933*, chapter 36 of the statutes of 1932-33, is repealed and the following substituted therefor:

"Unsecured creditor".

"(g) 'unsecured creditor' means any creditor of a company who is not a secured creditor, whether resident or domiciled within or without Canada and a trustee for the holders of any unsecured bonds, debentures, debenture stock, or other evidences of indebtedness issued under a trust deed or other instrument running in favour of the trustee shall be deemed to be an unsecured creditor for all purposes of this Act except voting at a creditors' meeting in respect of any such bonds, debentures, debenture stock or other evidences of indebtedness."

2. The said Act is further amended by adding thereto, immediately after section 2 thereof, the following section: 20

Application.

"2A. This Act does not apply in respect of a debtor company unless

(a) the debtor company has outstanding an issue of secured or unsecured bonds, debentures, debenture stock or other evidences of indebtedness of the debtor company or of a predecessor in title of the debtor company issued under a trust deed or other instrument running in favour of a trustee, and 25

EXPLANATORY NOTES.

The purpose of this Bill is to limit the application of *The Companies' Creditors Arrangement Act, 1933*, to companies that have outstanding issues of bonds or other evidences of indebtedness issued under a trust deed running in favour of a trustee.

1. Paragraph (g) of section 2 of the Act presently provides as follows:

"(g) 'Unsecured creditor' means any creditor of a company who is not a secured creditor, whether resident or domiciled within or without Canada."

The proposed amendment to this definition set out in clause 1 of the Bill is to ensure that a company may, under section 3 of the Act, make a compromise or arrangement with the trustee for the holders of unsecured bonds, debentures, debenture stock or other evidences of indebtedness issued under a trust deed or other instrument running in favour of the trustee.

2. New.

(b) the compromise or arrangement that is proposed under section three or section four in respect of the debtor company includes a compromise or arrangement between the debtor company and the holders of an issue referred to in paragraph (a).”

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PART II.

3. Paragraph (g) of section 2 of the *Companies' Creditors Arrangement Act*, chapter 54 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

“Unsecured creditor”.

“(g) ‘unsecured creditor’ means any creditor of a company who is not a secured creditor, whether resident or domiciled within or without Canada and a trustee for the holders of any unsecured bonds, debentures, debenture stock, or other evidences of indebtedness issued under a trust deed or other instrument running in favour of the trustee shall be deemed to be an unsecured creditor for all purposes of this Act except voting at a creditors’ meeting in respect of any such bonds, debentures, debenture stock or other evidences of indebtedness.”

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4. The said Act is further amended by adding thereto, immediately after section 2 thereof, the following section:

Application.

“2A. This Act does not apply in respect of a debtor company unless

(a) the debtor company has outstanding an issue of secured or unsecured bonds, debentures, debenture stock or other evidences of indebtedness of the debtor company or of a predecessor in title of the debtor company issued under a trust deed or other instrument running in favour of a trustee, and

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(b) the compromise or arrangement that is proposed under section 3 or section 4 in respect of the debtor company includes a compromise or arrangement between the debtor company and the holders of an issue referred to in paragraph (a).”

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Coming into force.

Repeal.

5. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force.

3. Part II is designed to amend the new Revised Statutes, which are now in press and are expected to appear during the present session.

BILL I.

An Act to amend The Merchant Seaman's Act.

Read a first time, Monday, 27th November, 1952.

Introduced by the Minister of Transport.

THE SENATE OF CANADA

BILL I.

An Act to amend The Merchant Seamen Compensation Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL I.

An Act to amend The Merchant Seamen Compensation Act.

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

PART I.

1. Paragraph (h) of section 2 of *The Merchant Seamen Compensation Act*, chapter 58 of the statutes of 1946, 5 is repealed and the following substituted therefor:

“Minister”.

“(h) “Minister” means the Minister of Labour;”

2. Paragraph (a) of subsection (1) of section 7 of the said Act is repealed and the following substituted therefor:

“(a) does not disable the seaman for a period of at least 10 four days from earning full wages at the work at which he was employed; or”

3. (1) Paragraph (a) of subsection (1) of section 30 of the said Act is repealed and the following substituted therefor:

“(a) the necessary expenses of burial of the seaman not exceeding two hundred dollars;”

(2) Paragraphs (d), (e) and (f) of subsection (1) of section 30 of the said Act are repealed and the following substituted therefor:

“(d) where the widow or an invalid husband is the sole dependant, a monthly payment of fifty dollars;”

EXPLANATORY NOTES.

The purpose of the Bill is to revise the rates of compensation payable to disabled seamen and dependants of deceased seamen under *The Merchant Seamen Compensation Act*.

1. The present paragraph (h) of section 2 of the Act reads as follows:

“INTERPRETATION”

“(h) ‘Minister’ means the Minister of *Transport*;”

The Act is now administered by the Department of Labour.

2. The present section 7 of the Act reads as follows:

“7. (1) The employer of a seaman injured by reason of an accident arising out of and in the course of his employment shall pay compensation in the manner and to the extent provided by this Act, except where the injury,

(a) does not disable the seaman for a period of at least *seven* days from earning full wages at the work at which he was employed; or

(b) is attributable solely to the serious and wilful misconduct of the seaman unless the injury results in death or serious disablement.

(2) Where compensation for disability is payable, it shall be computed and be payable from the date of the disability.”

The number of days’ disability before compensation is payable is reduced from seven to four.

3. The present subsection 1 of section 30 of the Act reads as follows:

“30. (1) Where death of a seaman results from an injury the following amounts of compensation shall be paid;

(a) the necessary expenses of burial of the seaman not exceeding *one hundred and twenty-five* dollars;

(b) in addition to the sum mentioned in paragraph (a) of this subsection a sum not exceeding one hundred and twenty-five dollars for necessary expenses for transportation and things supplied and services rendered in connection therewith necessitated by the transfer of the body of a seaman from the place of death to the place of interment;

(c) where the expenses of burial of a seaman are paid by an employer under Part IV of the *Canada Shipping Act, 1934*, following any accident in respect of which compensation is payable under this Act, the amount of such expenses shall be deducted from the amount payable under paragraphs (a) and (b) of this subsection;

(d) where the widow or an invalid husband is the sole dependent, a monthly payment of *forty-five* dollars;

(e) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of fifty dollars with an additional monthly payment of fifteen dollars to be increased upon the death of the widow or invalid husband to twenty-five dollars for 5 each child under the age of eighteen years;

(f) where the dependants are children only, a monthly payment of twenty-five dollars to each child under the age of eighteen years; and"

(3) Paragraphs (a) and (b) of subsection (9) of section 30 10 of the said Act are repealed and the following substituted therefor:

"(a) where the widow or an invalid husband is the sole dependant, a monthly payment of fifty dollars, or if the seaman's average earnings are less than fifty 15 dollars per month, the amount of such earnings; and

(b) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of sixty-five dollars for the widow or invalid husband and one child irrespective of the amount of the sea- 20 man's earnings, with a further monthly payment of fifteen dollars for each additional child unless the total monthly compensation exceeds the seaman's average earnings in which case the compensation shall be a sum equal to such earnings or sixty-five dollars, which- 25 ever is the greater, the share of each child entitled to compensation being reduced proportionately."

- (e) where the dependents are a widow or an invalid husband and one or more children, a monthly payment of *forty-five* dollars with an additional monthly payment of *ten* dollars to be increased upon the death of the widow or invalid husband to *twenty* dollars for each child under the age of eighteen years;
- (f) where the dependents are children only, a monthly payment of twenty dollars to each child under the age of eighteen years;
- (g) where the dependents are persons other than those mentioned in paragraphs (d), (e) and (f) of this subsection, a sum reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death, to be determined by the Board."

The effect of the amendments to subsection 1 of section 30 is to increase the maximum allowance payable thereunder for expenses of burial from one hundred and twenty-five dollars up to two hundred dollars, and to increase the allowance payable thereunder to a widow or invalid husband from forty-five to fifty dollars per month, and to increase the allowance payable thereunder for dependent children from ten dollars to fifteen dollars per month per child in those cases where an allowance is also payable to the widow or invalid husband, and to increase the allowance payable thereunder for dependent children from twenty to twenty-five dollars per month per child where the children are the sole dependants.

The present subsection 9 of section 30 of the Act reads as follows:

"30. (9) Exclusive of the expenses of burial of the seaman and the lump sum of one hundred dollars referred to in subsection three of this section, the compensation payable as provided by subsection one of this section shall not in any case exceed sixty-six and two-thirds per centum of the average earnings of the seaman mentioned in section thirty-three of this Act, and if the compensation payable under that subsection would in any case exceed that percentage it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately, provided, however, that the minimum compensation shall be;

- (a) where the widow or an invalid husband is the sole dependent a monthly payment of *forty-five* dollars, or if the seaman's average earnings are less than *forty-five* dollars per month, the amount of such earnings; and
- (b) where the dependents are a widow or an invalid husband and one or more children a monthly payment of *fifty-five* dollars for the widow or invalid husband and one child irrespective of the amount of the seaman's earnings, with a further monthly payment of *ten* dollars for each additional child unless the total monthly compensation exceeds the seaman's average earnings in which case the compensation shall be a sum equal to such earnings or *fifty-five* dollars whichever is the greater, the share for each child entitled to compensation being reduced proportionately."

The amendments to subsection 9 of section 30 are consequential upon the amendments made to subsection 1 of the same section.

4. Section 37 of the said Act is repealed and the following substituted therefor:

Minimum
compensation.

"37. The amount of compensation to which an injured seaman is entitled for temporary total or permanent total disability under this Act shall not be less than fifteen dollars per week or, where his average earnings are less than fifteen dollars per week, the amount of such earnings, and for temporary partial or permanent partial disability a corresponding amount in proportion to the impairment of earning capacity." 5 10

5. Subsection (1) of section 38 of the said Act is repealed and the following substituted therefor:

Compensation of average earnings.

"38. (1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the seaman was remunerated but not so as in any case to exceed the rate of three thousand six hundred dollars per annum." 15

Coming into force.

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

PART II.

7. Paragraph (h) of section 2 of the *Merchant Seamen Compensation Act*, chapter 178 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor: 20

"Minister".

"(h) "Minister" means the Minister of Labour;" 25

8. Paragraph (a) of subsection (1) of section 7 of the said Act is repealed and the following substituted therefor:

"(a) does not disable the seaman for a period of at least four days from earning full wages at the work at which he was employed, or" 30

9. (1) Paragraph (a) of subsection (1) of section 30 of the said Act is repealed and the following substituted therefor:

"(a) the necessary expenses of burial of the seaman not exceeding two hundred dollars;" 35

(2) Paragraphs (d), (e) and (f) of subsection (1) of section 30 of the said Act are repealed and the following substituted therefor:

4. The present section 37 of the Act reads as follows:

"37. The amount of compensation to which an injured seaman is entitled for temporary total or permanent total disability under this Act shall not be less than *twelve dollars and fifty cents* per week or, where his average earnings are less than *twelve dollars and fifty cents* per week, the amount of such earnings, and for temporary partial or permanent partial disability a corresponding amount in proportion to the impairment of earning capacity."

The effect of the amendment is to increase the amount of the minimum compensation payable to an injured seaman per week from twelve dollars and fifty cents to fifteen dollars. If the average earnings are less than fifteen dollars per week, the compensation payable is the amount of such earnings.

5. The present subsection 1 of section 38 of the Act reads as follows:

"38. (1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the seaman was remunerated but not so as in any case to exceed the rate of *two thousand five hundred dollars per annum*."

The effect of the amendment is to increase the maximum rate of average earnings to be used in determining the amount of compensation payable under the Act, from twenty-five hundred up to thirty-six hundred dollars per annum.

6. The purpose of Parts II and III is to provide the appropriate amendments to the new Revised Statutes of Canada, which are now in press and are expected to appear during the current session.

“(d) where the widow or an invalid husband is the sole dependant, a monthly payment of fifty dollars;

(e) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of fifty dollars with an additional monthly payment of fifteen dollars to be increased upon the death of the widow or invalid husband to twenty-five dollars for each child under the age of eighteen years; 5

(f) where the dependants are children only, a monthly payment of twenty-five dollars to each child under the age of eighteen years; and” 10

(3) Paragraphs (a) and (b) of subsection (9) of section 30 of the said Act are repealed and the following substituted therefor:

“(a) where the widow or an invalid husband is the sole dependant, a monthly payment of fifty dollars, or if the seaman’s average earnings are less than fifty dollars per month, the amount of such earnings, and 15

(b) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of sixty-five dollars for the widow or invalid husband and one child irrespective of the amount of the seaman’s earnings, with a further monthly payment of fifteen dollars for each additional child unless the total monthly compensation exceeds the seaman’s average earnings in which case the compensation shall be a sum equal to such earnings or sixty-five dollars, whichever is the greater, the share of each child entitled to compensation being reduced proportionately.” 20 25

10. Section 37 of the said Act is repealed and the following substituted therefor: 30

“37. The amount of compensation to which an injured seaman is entitled for temporary total or permanent total disability under this Act shall not be less than fifteen dollars per week or, where his average earnings are less than fifteen dollars per week, the amount of such earnings, and for temporary partial or permanent partial disability a corresponding amount in proportion to the impairment of earning capacity.” 35

11. Subsection (1) of section 38 of the said Act is repealed and the following substituted therefor: 40

“38. (1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the seaman was remunerated but not so as in any case to exceed the rate of three thousand six hundred dollars per annum.” 45

Minimum
compensation.

Compensation of
average
earnings.

PART III.

Coming into
force.

12. (1) If Part I is in force immediately before the day on which the Revised Statutes of Canada, 1952, come into force, then Part II shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force.

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(2) If Part I is not in force immediately before the day on which the Revised Statutes of Canada, 1952, come into force, then Part I is repealed on the day the Revised Statutes of Canada, 1952, come into force, and Part II shall come into force on a day to be fixed by proclamation 10 of the Governor in Council.

THE SENATE OF CANADA

BILL J.

An Act respecting Food, Drugs, Cosmetics and
Therapeutic Devices.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL J.

An Act respecting Food, Drugs, Cosmetics and
Therapeutic Devices.

HER 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 *Food and Drugs Act*.

INTERPRETATION.

Definitions.

2. In this Act,

“advertisement”.

(a) “advertisement” includes any representation by any 5
means whatever for the purpose of promoting directly
or indirectly the sale or disposal of any food, drug,
cosmetic or device;

“analyst”.

(d) “analyst” means any person designated as a Food
and Drug Analyst under subsection (2) of section 24; 10

“cosmetic”.

(c) “cosmetic” includes any substance or mixture of
substances that may be used in or is represented for
use in cleansing, improving or altering the complexion,
skin, hair or teeth, and includes deodorants and per-
fumes; 15

“depart-
ment”.

(d) “department” means the Department of National
Health and Welfare;

“device”.

(e) “device” means any instrument, apparatus or con-
trivance, including components, parts, and accessories
thereof, that may be used in or is represented for use in 20
(i) the diagnosis, treatment, mitigation or pre-
vention of a disease, disorder, abnormal physical
state, or the symptoms thereof, in man or animal, or

EXPLANATORY NOTES.

The purpose of this Bill is to revise and consolidate the *Food and Drugs Act* (R.S., 1927, c. 76, as amended); to remove certain anomalies and to make more specific provision for certain matters to recognize modern trade and manufacturing practices.

The Bill provides a more orderly approach to the subject-matter of the legislation in dealing individually with foods, drugs, cosmetics and devices, and with recognition in the case of each of the matters and characteristics peculiar or relevant thereto.

Apart from the rearrangement of the provisions of the Act and the removal of certain anomalies therefrom the Bill also makes specific provision for certain matters not contained in the present Act. Amongst these are—

- (i) the keeping of records by manufacturers and others in addition to those who are presently required to keep records respecting biological preparations, as may be necessary for the purposes of the Act;
- (ii) the prohibition of the sale of an article that has been manufactured, packaged or stored in an unsanitary place or under unsanitary conditions;
- (iii) a means of judicial as well as administrative determination for forfeiture to the Crown of foods, drugs, cosmetics or devices which are in violation of the Act, and
- (iv) certain enforcement changes, including an increase in penalties, the provision of trial of offences upon indictment as well as by summary conviction procedure.

Unless otherwise indicated, the following section, subsection, paragraph or subparagraph references are to corresponding provisions in the present *Food and Drugs Act* with explanation of any substantial changes or indication by the use of the word "Revised" of minor or drafting changes.

1. Section 1.

2. (a) New.

(b) Section 2 (b) Revised.

(c) Section 2 (k) Revised.

(d) Section 2 (a) Revised.

(e) New.

- (ii) affecting the structure or any function of the body of man or animal;
- “drug”. (f) “drug” includes any substance or mixture of substances that may be used for or is represented for use in
 (i) the diagnosis, treatment, mitigation or prevention 5
 of a disease, disorder, abnormal physical state, or the symptoms thereof, in man or animal,
 (ii) restoring, correcting or modifying organic functions in man or animal, or
 (iii) disinfection in premises in which food is manu- 10
 factured, prepared or kept, or for the control of vermin in such premises;
- “food”. (g) “food” includes any article that may be used for food or drink by man, chewing gum, and any ingredient that may be mixed with food for any purpose what- 15
 soever;
- “inspector”. (h) “inspector” means any person designated as a Food and Drug Inspector under subsection (2) of section 24;
- “label”. (i) “label” includes any legend, word or mark attached to, included in, belonging to or accompanying any 20
 food, drug, cosmetic, device or package;
- “Minister”. (j) “Minister” means the Minister of National Health and Welfare;
- “package”. (k) “package” includes any thing in which any food, drug, cosmetic or device is wholly or partly contained, 25
 placed or packed;
- “prescribed”. (l) “prescribed” means prescribed by the regulations; and
- “sell”. (m) “sell” includes sell, offer for sale, expose for sale, manufacture for sale, have in possession for sale, and 30
 distribute.

PART I.

FOODS, DRUGS, COSMETICS AND DEVICES.

General.

No food, drug, etc., to be advertised or sold as a treatment, etc., for certain diseases.
 Idem.

- 3.** (1) No person shall advertise any food, drug, cosmetic or device to the general public as a treatment, preventative or cure for any of the diseases, disorders or abnormal physical states mentioned in Schedule A. 35
- (2) No person shall sell any food, drug, cosmetic or device
 (a) that is represented by label, or
 (b) that he advertises to the general public
 as a treatment, preventative or cure for any of the 40
 diseases, disorders or abnormal physical states mentioned in Schedule A.

(f) Section 2 (c) Revised.

(g) Section 2 (d) Revised.

(h) Section 2 (e) Revised.

(i) New.

(j) Section 2 (g) Revised.

(k) Section 2 (h) Revised.

(l) New.

(m) New.

Definitions in present Act of "magistrate", "sample",
"manufacture" and "medicine" are dropped.

3. Section 6A. Section 3 divides Section 6A into two subsections, the first to cover the offence of advertising to the general public an article as a treatment, preventive or cure for the diseases mentioned in Schedule "A" and the second to prohibit the sale of an article that is so represented by label or which the vendor advertises to the general public for such purpose.

Food.

Prohibited sales of food.

4. No person shall sell an article of food that
 (a) has in or upon it any poisonous or harmful substance;
 (b) is unfit for human consumption;
 (c) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance; 5
 (d) is adulterated; or
 (e) was manufactured, prepared, preserved, packaged or stored in any unsanitary place or under unsanitary conditions. 10

Deception.

5. (1) No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety. 15

Idem.

(2) An article of food that is not labelled or packaged as required by the regulations, or is labelled or packaged contrary to the regulations, shall be deemed to be labelled or packaged contrary to subsection (1).

Where standard prescribed.

6. Where a standard has been prescribed for a food, no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for such food, unless the article complies with the prescribed standard. 20

Manufacture of food in unsanitary place.

7. No person shall manufacture, prepare, preserve, package or store for sale any food in any unsanitary place 25 or under unsanitary conditions.

Drugs.

Prohibited sales of drugs.

8. No person shall sell any drug that
 (a) was manufactured, prepared, preserved, packed or stored in any unsanitary place or under unsanitary conditions; or 30
 (b) is adulterated.

Deception.

9. (1) No person shall label, package, treat, process, sell or advertise any drug in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety. 35

Idem.

(2) A drug that is not labelled or packaged as required by the regulations, or is labelled or packaged contrary to the regulations, shall be deemed to be labelled or packaged contrary to subsection (1). 40

4. (a) Section 4 (f) Revised.

(b) Section 4 (d) in part.

(c) Section 4 (d) in part.

(d) Sections 4 and 23 Revised.

(e) New.

5. (1) Section 32A. Present Section 32A deals with false or deceptive advertisements only whereas the Bill extends such provision to matters of labelling, packaging, treating, processing and selling a food.

(2) Section 7 (e), (g) and (h) Revised.

6. Section 7 (a) and (c) Revised.

7. New.

8. (a) New.

(b) Sections 6 and 23 Revised.

9. (1) Section 32A. As mentioned in connection with clause 5 of the Bill as applied to a food the present Section 32A deals with false or deceptive advertisements only whereas the Bill extends such provision to matters of labelling, packaging, treating, processing and selling a drug.

(2) Section 7 (e), (g) and (h) Revised.

Where
standard
prescribed.

10. (1) Where a standard has been prescribed for a drug, no person shall label, package, sell or advertise any substance in such a manner that it is likely to be mistaken for such drug, unless the substance complies with the prescribed standard.

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Trade
standards.

(2) Where a standard has not been prescribed for a drug, but a standard for the drug is contained in any publication mentioned in Schedule B, no person shall label, package, sell or advertise any substance in such a manner that it is likely to be mistaken for such drug, unless the substance complies with such standard.

Professed
standards.

(3) Where a standard for a drug has not been prescribed and no standard for the drug is contained in any publication mentioned in Schedule B, no person shall sell such drug, unless

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(a) it is in accordance with the professed standard under which it is sold, and

(b) it does not resemble, in a manner likely to deceive, any drug for which a standard has been prescribed or is contained in any publication mentioned in Schedule B.

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Manufacture
of drug in
unsanitary
place.

11. No person shall manufacture, prepare, preserve, package or store for sale any drug in any unsanitary place or under unsanitary conditions.

Sale of
certain drugs
prohibited
unless safe
for use.

12. No person shall sell any drug described in Schedule C or D unless the Minister has, in prescribed form and manner, indicated that the premises in which the drug was manufactured and the process and conditions of manufacture therein are suitable to ensure that the drug will not be unsafe for use.

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Idem.

13. No person shall sell any drug described in Schedule E unless the Minister has, in prescribed form and manner, indicated that the batch from which the drug was taken is not unsafe for use.

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Distribution
of samples
prohibited.

14. (1) No person shall distribute or cause to be distributed any drug as a sample.

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Exception.

(2) Subsection (1) does not apply to the distribution of drugs by mail or otherwise to physicians, dentists or veterinary surgeons or to the distribution of drugs, other than those mentioned in Schedule F, to registered pharmacists for individual redistribution to adults only or to a distributor in compliance with individual requests.

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10. (1) Section 6 (4) Revised.

(2) Section 6 (1) Revised.

(3) Section 6 (1) and (2) Revised.

11. New.

12. Section 6 (3), (c) and (d) Revised.

13. Section 6 (3), (e) Revised.

14. (1) Section 31. The Bill prohibits the general distribution of drugs as samples.

(2) Permits the distribution of drugs to professional persons as well as the distribution of drugs, other than those mentioned in Schedule F which are drugs which may only be sold upon prescription, to registered pharmacists for distribution to adults only.

Cosmetics.

Prohibited
sales of
cosmetics.

- 15.** No person shall sell any cosmetic that
- (a) has in or upon it any substance that may cause injury to the health of the user when the cosmetic is used,
 - (i) according to the directions on the label or accompanying such cosmetic, or
 - (ii) for such purposes and by such methods of use as are customary or usual therefor;
 - (b) consists in whole or in part of any filthy or decomposed substance or of any foreign matter; or
 - (c) was manufactured, prepared, preserved, packed or stored in any unsanitary place or under unsanitary conditions.

Where
standard
prescribed.

- 16.** Where a standard has been prescribed for a cosmetic, no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for such cosmetic, unless the article complies with the prescribed standard.

Manufacture
in unsanitary
place.

- 17.** No person shall manufacture, prepare, preserve, package or store for sale any cosmetic in any unsanitary place or under unsanitary conditions.

Devices.

Prohibited
sales of
devices.

- 18.** No person shall sell any device that, when used according to directions or under such conditions as are customary or usual, may cause injury to the health of the purchaser or user thereof.

Deception.

- 19.** (1) No person shall label, package, treat, process, sell or advertise any device in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, composition, merit or safety.

Idem.

- (2) A device that is not labelled or packaged as required by the regulations, or is labelled or packaged contrary to the regulations, shall be deemed to be labelled or packaged contrary to subsection (1).

15. New. Definition of a drug in the present Act includes a cosmetic which is also defined and, therefore, no special provisions respecting cosmetics are provided in the *Food and Drugs Act*. The Bill deals with cosmetics as a special subject and having regard to the characteristics and other matters relevant thereto.

Except as the subject-matter of clause 15 of the Bill may also be dealt with as a drug in the present Act the provision is new.

16. Section 7 (*a*) and (*c*) Revised.

17. New.

18. New. The definition of a drug in the present Act includes any article that may be used for the diagnosis, treatment, mitigation and the prevention of disease in man or animal. The Bill in dealing with devices covers what in the present Act are therefore dealt with as articles under the definition of "drug". The Bill, however, recognizes devices as a special subject and deals with it, having regard to the special characteristics and other matters relevant thereto.

19. (1) Section 32A. As mentioned in connection with clauses 5 (1), and 9 (1) of the Bill as applied to a food and a drug the present section 32A deals with false or deceptive advertisements only, whereas, the Bill extends such provision to matters of labelling, packaging, treating, processing and selling a device.

(2) Section 7 (*e*), (*g*) and (*h*) Revised.

Where
standard
prescribed.

20. Where a standard has been prescribed for a device, no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for such device, unless the article complies with the prescribed standard.

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PART II.

ADMINISTRATION AND ENFORCEMENT.

Powers of Inspectors.

Powers of
inspectors.

- 21.** (1) An inspector may at any time
- (a) enter any place where he reasonably believes there is any article to which this Act or the regulations apply and examine any such article and take samples thereof;
 - (b) enter any place where he reasonably believes any article to which this Act or the regulations apply is manufactured, prepared, preserved, packaged or stored and examine anything that he reasonably believes is used or capable of being used for such manufacture, preparation, preservation, packaging or storing;
 - (c) open and examine any receptacle or package that he reasonably believes contains any article to which this Act or the regulations apply;
 - (d) examine any books, documents or other records found in any place mentioned in paragraph (a) or (b) that he reasonably believes contain any information with respect to any article to which this Act or the regulations apply and make copies thereof or extracts therefrom; and
 - (e) seize and detain any article by means of or in relation to which he reasonably believes any provision of this Act or the regulations have been violated.

Definition.

- (2) For the purposes of subsection (1), the expression "article to which this Act or the regulations apply" includes
- (a) any food, drug, cosmetic or device,
 - (b) anything used for the manufacture, preparation, preservation, packaging or storing thereof, and
 - (c) any labelling or advertising material.

Inspector
to show
certificate of
appointment.

- (3) An inspector shall be furnished with a prescribed certificate of designation and on entering any place pursuant to subsection (1) shall if so required produce the certificate to the person in charge thereof.

20. Section 7 (a) and (c) Revised.

21. (1) This clause retains the purpose and intent of sections 9, 11, 27, 28, 29 and 30 of the present Act and deals with the powers and duties of inspectors.

It extends the present authority of an inspector to permit him to enter any place where he has reason to believe there is any article intended for sale or things relating thereto to which the Bill or the Regulations apply, to examine such article, including books, documents and records and to seize and detain such articles if he believes any provision of the Act has been violated thereby.

(2) New.

(3) New.

Owner to give assistance to inspector.

(4) The owner or person in charge of a place entered by an inspector pursuant to subsection (1) and every person found therein shall give the inspector all reasonable assistance in his power and furnish him with such information as he may reasonably require.

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Obstructing inspector.

(5) No person shall obstruct an inspector in the carrying out of his duties under this Act or the regulations.

False statements.

(6) No person shall make any false or misleading statement either verbally or in writing to any inspector engaged in carrying out his duties under this Act or the regulations.

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Interference with articles seized.

(7) No person shall remove, alter or interfere in any way with any article seized under this Act without the authority of an inspector.

Storing of seized articles.

(8) Any article seized under this Act may at the option of an inspector be kept or stored in the building or place where it was seized or may at the direction of an inspector be removed to any other place.

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Forfeiture.

Release of seized articles.

22. (1) An inspector shall release any article seized by him under this Act when he is satisfied that all the provisions of this Act and the regulations with respect thereto have been complied with.

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Destruction with consent.

(2) Where an inspector has seized an article under this Act and the owner thereof or the person in whose possession the article was at the time of seizure consents to the destruction thereof, the article is thereupon forfeited to Her Majesty and may be destroyed or otherwise disposed of as the Minister may direct.

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Forfeiture upon conviction.

(3) Where a person has been convicted of a violation of this Act or the regulations, the court or judge may order that any article by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such article, be forfeited, and upon such order being made, such articles and things are forfeited to Her Majesty and may be disposed of as the Minister may direct.

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Order for forfeiture.

(4) Without prejudice to the operation of subsection (3), a judge of a superior, county or district court of the province in which any article was seized under this Act may, on the application of an inspector and on such notice to such persons as the judge directs, order that the article and anything of a similar nature found therewith be forfeited to Her Majesty to be disposed of as the Minister may direct, if the judge finds, after making such inquiry as he considers necessary, that the article is one by means of or in relation to which any of the provisions of this Act or the regulations were violated.

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(4) Section 27 Revised.

(5) Section 27 Revised.

(6) Section 27 Revised.

(7) Section 28 Revised.

(8) Section 29 Revised.

22. New in part. This extends in two ways the provisions of sections 9 and 21 of the present Act. Firstly, it permits the court to order the forfeiture of articles belonging to an accused in relation to which an offence was committed and in respect of which the accused has been convicted. Secondly, it makes provision for the judicial forfeiture of articles which are not involved in a prosecution but which are under seizure as being in violation of the Act. The present procedure is for such articles to be forfeited upon the order of the Minister and without provision for any judicial determination of the issue.

Analysis.

- Analysis.** **23.** (1) An inspector may submit any article seized by him or any sample therefrom or any sample taken by him to an analyst for analysis or examination.
- Report.** (2) Where an analyst has made an analysis or examination he may issue a certificate or report setting forth the results of his examination or analysis. 5

Regulations.

- Regulations.** **24.** (1) The Governor in Council may make regulations for carrying the purposes and provisions of this Act into effect, and, in particular, but not so as to restrict the generality of the foregoing, may make regulations 10
- (a) defining either generally or with respect to any particular food or drug or class of food or drugs the expression "adulterated" for the purposes of this Act;
- (b) declaring that any food or drug or class of food or drugs is adulterated if any prescribed substance or class of substances has been added thereto or extracted or omitted therefrom; 15
- (c) respecting
- (i) the labelling and packaging and the offering, exposing and advertising for sale of food, drugs, cosmetics and devices, 20
- (ii) the size, dimensions, fill and other specifications of packages of food, drugs, cosmetics and devices,
- (iii) the sale or the condition of sale of any food, drug, cosmetic or device, 25
- (iv) the use of any substance as an ingredient in any food, drug, cosmetic or device, with a view to preventing the consumer or purchaser thereof from being deceived or misled as to its quantity, character, value, composition, merit or safety or with a view to protecting the public health or preventing injury to the health of the consumer or purchaser; 30
- (d) prescribing standards of composition, strength, potency, purity, quality or other property of any article of food, drug, cosmetic or device; 35
- (e) respecting the importation of foods, drugs, cosmetics and devices in order to ensure compliance with this Act and the regulations;
- (f) respecting the method of preparation, manufacture, preserving, packing, storing and testing of any food, drug, cosmetic or device in the interest of and for the protection of the public health; 40

23. Section 13 Revised.

24. Section 3 (a) New.

(b) Section 3 (a) Revised.

(c) Section 3 (b), (k) and (kk) Revised.

(d) Section 3 (a) Revised; reference to *Meat and Canned Foods Act* dropped.

(e) Section 3 (f) Revised.

(f) New.

- (g) requiring persons who sell food, drugs, cosmetics or devices to maintain such books and records as the Governor in Council considers necessary for the proper enforcement and administration of this Act and the regulations; 5
- (h) respecting the form and manner of the Minister's indication under section 12, including the fees payable therefor, and prescribing what premises or what processes or conditions of manufacture, including qualifications of technical staff, shall or shall not be deemed to be suitable for the purposes of that section; 10
- (i) requiring manufacturers of any drugs described in Schedule E to submit test portions of any batch of such drugs and respecting the form and manner of the Minister's indication under section 13, including the fees payable therefor; 15
- (j) not inconsistent with this Act, respecting the powers and duties of inspectors and analysts and the taking of samples and the seizure, detention, forfeiture and disposition of articles; 20
- (k) exempting any food, drug, cosmetic or device from all or any of the provisions of this Act and prescribing the conditions of such exemption;
- (l) prescribing forms for the purposes of this Act and the regulations; 25
- (m) providing for the analysis of food, drugs or cosmetics other than for the purposes of this Act and prescribing a tariff of fees to be paid for such analysis; and
- (n) adding anything to or deleting anything from any of the Schedules. 30
- (2) The Governor in Council may designate as an analyst or inspector any person on the staff of the department for such time as that person is employed in the department or for such time during the period of such employment as he may direct. 35

Analysts and inspectors.

Penalties.

Penalties.

25. Every person who violates any of the provisions of this Act or the regulations is guilty of an offence and is liable

- (a) on summary conviction for a first offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment, and for a subsequent offence to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment; and 45

(g) New.

(h) Section 6, 3 (c) and (d) Revised.

(i) Section 6, 3 (e) Revised.

(j) Section 3 (c) Revised.

(k) Section 3 (l) Revised.

(l) New.

(m) Section 3 (d) Revised.

(n) Section 3 (i) Revised.

(2) New in part. In so far as it refers to the designation of an analyst, this provision of the Bill is adapted from Section 3 (g).

25. New in part. This provision replaces the penalty sections as contained in sections 23, 27, 30 (2), 32 and 33. It makes provision for offences being triable either on summary conviction or on indictment. It omits minimum penalties and increases the maximum penalty for a summary conviction offence from the limits contained in the present sections. The penalties for conviction on indictment are new.

(b) on conviction upon indictment to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both fine and imprisonment.

Time-limit. **26.** A prosecution under paragraph (a) of section 25 may be instituted at any time within twelve months from the time the subject-matter of the prosecution arose. 5

Venue. **27.** A prosecution for a violation of this Act or the regulations may be instituted, heard, tried or determined in the place in which the offence was committed or the subject-matter of the prosecution arose or in any place in which the accused is apprehended or happens to be. 10

Want of knowledge. **28.** (1) Subject to subsection (2), in a prosecution for the sale of any article in contravention of this Act or the regulations, if the accused proves to the satisfaction of the court or judge that 15

(a) he purchased the article from another person in packaged form and sold it in the same package and in the same condition the article was in at the time he purchased it, and

(b) that he could not with reasonable diligence have ascertained that the sale of the article would be in contravention of this Act or the regulations, the accused is liable upon conviction for the costs of prosecution only. 20

Notice. (2) Subsection (1) does not apply in any prosecution unless the accused, at least ten days before the day fixed for the trial, has given to the prosecutor notice in writing that he intends to avail himself of the provisions of subsection (1) and has disclosed to the prosecutor the name and address of the person from whom he purchased the article and the date of purchase. 25 30

Evidence.

Certificates of analysis. **29.** (1) A certificate of an analyst stating that he has analysed or examined an article or a sample submitted to him by an inspector and stating the result of his examination is admissible in evidence in a prosecution for a violation of this Act or the regulations, and is *prima facie* proof of the statements contained in the certificate; but no such certificate shall be received in evidence unless the party intending to produce it has, before the trial, given to the party against whom it is intended to be produced, reasonable notice of such intention together with a copy of the certificate. 35 40

26. New. The limitation period as provided in the *Criminal Code* and which is applicable to the present Act is six months. This period has been found too short in many instances where somewhat elaborate analyses are required to be made.

27. New. This provision is usual in legislation of this kind and facilitates the trial of offences where jurisdictional or geographical difficulties may be presented.

28. (1) Section 24 Revised. Section 24 makes want of knowledge a defence in connection with the sale of any article of food or drug that is adulterated or misbranded.

The provision in the Bill limits the defence to packaged articles which are sold in the same package and in the same condition as originally purchased and where the contravention could not be ascertained with reasonable diligence. The Bill does not make provision for charging in the same proceedings the person from whom the article was originally purchased as this frequently involves a series of commercial transactions including the manufacturer, the wholesaler, jobbers and the retailer with consequent jurisdictional difficulties.

(2) This requires notice of such defence being given to the prosecutor together with disclosure of the name and address of the person from whom the article was purchased and the date thereof. This would permit of an investigation with appropriate proceedings being taken where necessary.

29. (1) Section 13 Revised.

- Name of manufacturer. (2) Proof that a package containing any article to which this Act or the regulations apply bore a name or address purporting to be the name or address of the person by whom it was manufactured or packaged is *prima facie* proof, in a prosecution for a violation of this Act or the regulations, that the article was manufactured or packaged, as the case may be, by the person whose name or address appeared on the package. 5
- Offence by employees. (3) In a prosecution for a violation of this Act or the regulations it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not he is identified or has been prosecuted for the offence. 15
- Copies of records. (4) In a prosecution for a violation of this Act or the regulations a copy of a record or an extract therefrom certified to be a true copy by the inspector who made it pursuant to paragraph (d) of subsection (1) of section 21 is receivable in evidence and is *prima facie* proof of the contents thereof. 15
- Possession of adulterating substances. (5) Where a person is prosecuted under this Act for having manufactured an adulterated food or drug for sale, and it is established that 20
 (a) the food or drug has by regulation been declared to be adulterated if any prescribed substance has been added thereto, and 25
 (b) such person had in his possession or on his premises any such prescribed substance,
 the onus of proving that the food or drug was not adulterated by the addition of such substance lies on the accused.

Exports.

- Exports. **30.** This Act does not apply to any packaged food, drug, cosmetic or device, not manufactured for consumption in Canada and not sold for consumption in Canada, if the package is marked in distinct overprinting with the word "Export", and a certificate that the package and its contents do not contravene any known requirement of the law of the country to which it is or is about to be consigned, has been issued in respect thereof in prescribed form and manner. 35

Coming into Force and Repeal.

- Coming into force. **31.** (1) This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. 40
- Repeal. (2) If this Act comes into force before the day on which the Revised Statutes of Canada, 1952, come into force, then the *Food and Drugs Act*, chapter 76 of the Revised Statutes of Canada, 1927, is repealed on the day this Act comes into

force and the Food and Drug Act, chapter 122 of the Revised Statutes of Canada, 1952, is repealed on the day the revised Statutes of Canada, 1952, come into force.

(2) New.

(3) New.

(4) New.

(5) Section 30 Revised.

30. Section 41 Revised.

force and the *Food and Drugs Act*, chapter 123 of the Revised Statutes of Canada, 1952, is repealed on the day the Revised Statutes of Canada, 1952, come into force.

Idem.

(3) If this Act comes into force on or after the day on which the Revised Statutes of Canada, 1952, come into force, then the *Food and Drugs Act*, chapter 123 of the Revised Statutes of Canada, 1952, is repealed on the day this Act comes into force. 5

SCHEDULE A.

Alcoholism
Appendicitis
Arteriosclerosis
Blood Poisoning
Bright's Disease
Cancer
Diabetes
Diphtheria
Disorders of menstrual flow
Disorders of the prostatic gland
Dropsy
Epilepsy
Erysipelas
Gallstones, Kidney Stones, Bladder Stones
Gangrene
Goitre
Heart Diseases
High Blood Pressure
Infantile Paralysis
Influenza
Lockjaw
Locomotor Ataxia
Obesity
Pleurisy
Pneumonia
Ruptures
Scarlet Fever
Sexual Impotence
Small Pox
Spinal Meningitis
Trachoma
Tuberculosis
Tumours
Typhoid Fever
Ulcers of the gastro-intestinal tract
Venereal Diseases

SCHEDULE B.

Pharmaceuticals International
The British Pharmacopoeia
Pharmacopoeia of the United States
Codex Pharmaceuticus
The Canadian Formulary
The British Pharmaceutical Codex
The National Formulary
New and Nonofficial Remedies

SCHEDULE C.

Liver extract injectable
Liver extract injectable with other medication
Liver extract injectable crude
Liver extract injectable crude with other medication
Insulin
Insulin made from zinc-insulin crystals
Protamins and insulin
Glabin insulin with zinc
NPH Insulin
Anterior pituitary extracts
Radioactive isotopes

SCHEDULE D.

Living vaccines for oral or parenteral use
Drugs prepared from micro-organisms or viruses for parenteral use
Sera and drug analogues thereof for parenteral use
Antibiotics for parenteral use

SCHEDULE E.

Asphenamine
Dichlorophenazine Hydrochloride
Nortriptyline
Guanfacin Hydrochloride
Risperidone

SCHEDULE B.

Pharmacopoea Internationalis
The British Pharmacopoeia
Pharmacopoeia of the United States
Codex Français
The Canadian Formulary
The British Pharmaceutical Codex
The National Formulary
New and Nonofficial Remedies

SCHEDULE C.

Liver extract injectable
Liver extract injectable with other medication
Liver extract injectable crude
Liver extract injectable crude with other medication
Insulin
Insulin made from zinc-insulin crystals
Protamine zinc insulin
Globin insulin with zinc
NPH Insulin
Anterior pituitary extracts
Radioactive isotopes

SCHEDULE D.

Living vaccines for oral or parenteral use
Drugs prepared from micro-organisms or viruses for parenteral use
Sera and drugs analogous thereto for parenteral use
Antibiotics for parenteral use

SCHEDULE E.

Arsphenamine
Dichlorophenarsine Hydrochloride
Neoarsphenamine
Oxophenarsine Hydrochloride
Sulpharsphenamine

SCHEDULE F.

Adrenocorticotrophic Hormone (ACTH)
Aminopyrine and any salt, homologue, or derivative thereof
Amphetamine and any salt thereof
Aureomycin and any salt or derivative thereof
Barbituric acid and any salt, homologue, or derivative thereof
Chloramphenicol
Cinchophen and Neocinchophen
Cortisone
Dihydrostreptomycin and any compound thereof
2, 4-dinitrophenol and any compound, homologue, or derivative thereof
Methamphetamine and any salt thereof
Penicillin, its salts or derivatives, or preparations thereof, excluding preparations for oral use that contain not more than 3,000 International Units per dose
Phenytoin Sodium
Selenium and any compound thereof
Streptomycin and any compound thereof
Sulphonamides and any salt, homologue, or derivative thereof
Terramycin and any compound thereof
Tetraethylthiuram disulphide
Thiouracil and any homologue, or derivative thereof
Thyroid
Thyroxin and any salt thereof
Urethane

THE SENATE OF CANADA

BILL K.

An Act to amend The Territorial Lands Act and to repeal the Yukon Quartz Mining Act and the Yukon Placer Mining Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL K.

An Act to amend The Territorial Lands Act and to repeal the Yukon Quartz Mining Act and the Yukon Placer Mining Act.

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

PART I.

1. Section 3 of *The Territorial Lands Act*, chapter 22 of the statutes of 1950, is repealed and the following substituted therefor: 5

Application. "3. This Act applies only to territorial lands that are under the control, management and administration of the Minister, and nothing in this Act shall be construed as limiting the operation of the *Dominion Water Power Act* or *The National Parks Act*." 10

Repeal. 2. The *Yukon Placer Mining Act*, chapter 216 of the Revised Statutes of Canada, 1927, and the *Yukon Quartz Mining Act*, chapter 217 of the Revised Statutes of Canada, 1927, are repealed. 15

Coming into force. 3. This Part shall come into force on a day to be fixed by proclamation of the Governor in Council.

PART II.

4. Section 3 of the *Territorial Lands Act*, chapter 263 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor: 20

Application. "3. This Act applies only to territorial lands that are under the control, management and administration of the Minister, and nothing in this Act shall be construed as limiting the operation of the *Dominion Water Power Act* or the *National Parks Act*." 25

EXPLANATORY NOTES.

The immediate purpose of this Bill is to repeal the *Yukon Placer Mining* and *Yukon Quartz Mining Acts* and to make a consequential amendment to the *Territorial Lands Act*. The effect of the Bill is to enable placer and quartz mining in the Yukon Territory to be administered under the *Territorial Lands Act* in the same manner as placer and quartz mining is now administered in the *Northwest Territories*.

In 1932, the quartz mining regulations for the Northwest Territories were thoroughly revised and brought up-to-date. It is now proposed to apply these regulations with suitable revisions to the Yukon Territory. Similarly, it is proposed that up-to-date placer mining regulations be applied to both Territories. These steps will result in the establishment of a uniform and flexible method of administration for both the Yukon and the Northwest Territories.

1. Section 3 of the *Territorial Lands Act* presently reads as follows,—

“3. This Act applies only to territorial lands that are under the control, management and administration of the Minister, and nothing in this Act shall be construed as limiting the operation of the *Yukon Quartz Mining Act*, the *Yukon Placer Mining Act*, the *Dominion Water Power Act* or *The National Parks Act*.”

The words underlined are being dropped.

2. Repeals the *Yukon Placer Mining Act* and the *Yukon Quartz Mining Act*.

3. The Act is to come into force upon proclamation.

4. The purpose of Parts II and III is to provide for appropriate amendments to the new Revised Statutes of Canada, which are now in press and are expected to appear during the current session.

Repeal.

5. The *Yukon Placer Mining Act*, chapter 300 of the Revised Statutes of Canada, 1952, and the *Yukon Quartz Mining Act*, chapter 301 of the Revised Statutes of Canada, 1952, are repealed.

PART III.

6. (1) If Part I is in force immediately before the day 5
on which the Revised Statutes of Canada, 1952 come into
force, then Part II shall come into force, and Part I is
repealed, on the day the Revised Statutes of Canada, 1952
come into force.

(2) If Part I is not in force immediately before the day 10
on which the Revised Statutes of Canada, 1952 come into
force, then Part I is repealed on the day the Revised Statutes
of Canada, 1952 come into force and Part II shall come
into force on a day to be fixed by proclamation of the Gover- 15
nor in Council.

THE SENATE OF CANADA

BILL L.

An Act respecting The Saint John Bridge and
Railway Extension Company.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERSTON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL L.

An Act respecting The Saint John Bridge and
Railway Extension Company.

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

Mortgage
transferred.

1. Upon the payment by Canadian Pacific Railway
Company to Her Majesty in right of Canada of the sum
of four hundred and thirty-three thousand nine hundred
dollars, being the principal amount now owing to Her
Majesty by The Saint John Bridge and Railway Extension
Company under a mortgage, dated the 10th day of Decem-
ber, 1883, given pursuant to chapter 26 of the statutes of
1883, together with the interest now due thereon, there is
hereby transferred from Her Majesty in right of Canada to
Canadian Pacific Railway Company

(a) the right to demand, sue for, recover and give receipts
for the said principal amount and the interest now due
and thenceforth to become due thereon;

(b) the benefit of all securities for the said principal
amount, and the benefit of and the right to sue on all
covenants with Her Majesty and the right to exercise
all powers of Her Majesty under the said mortgage;

(c) all the estate and interest in the mortgaged property
now vested in Her Majesty, but subject to the right
of redemption now subsisting.

C.P.R. may
acquire and
operate
property.

2. To remove doubts it is hereby declared that Canadian
Pacific Railway Company has and always has had power to
acquire the property referred to in section 1 and to lease
and operate the same and to acquire and hold any shares,
bonds or other securities of The Saint John Bridge and
Railway Extension Company.

EXPLANATORY NOTES.

1. Pursuant to Statutes of Canada, 1883, chapter 26, the Government of Canada loaned to The Saint John Bridge and Railway Extension Company, on the security of a mortgage, \$433,900 with interest at 4 per cent. Canadian Pacific Railway Company acquired the majority of the common stock of that Company in 1905 and for many years has owned all its outstanding stock and securities. The interest on the loan has been regularly paid and the Canadian Pacific is prepared to repay the principal which the Government has now requested. It is necessary, however, that upon repayment the title of Her Majesty in the properties mortgaged be vested in Canadian Pacific Railway Company.

2. This clause pertains to the internal relations of the Canadian Pacific Railway Company and its subsidiary The Saint John Bridge and Railway Extension Company.

Agreements
for sale,
lease or
amalgama-
tion.

3. Subject to the provisions of sections 151, 152 and 153 of the *Railway Act*, chapter 170 of the Revised Statutes of Canada, 1927, The Saint John Bridge and Railway Extension Company and Canadian Pacific Railway Company may enter into an agreement or agreements for any of the purposes specified in the said section 151, but the approval of the shareholders of the Canadian Pacific Railway Company to such agreement or agreements is sufficient if the provisions of section 6 of chapter 47 of the statutes of 1890 are complied with. 5 10

4. Upon the coming into force of the Revised Statutes of Canada, 1952, section 3 of this Act is repealed and the following substituted therefor:

Agreements
for sale,
lease or
amalgama-
tion.

“3. Subject to the provisions of sections 153, 154 and 155 of the *Railway Act*, chapter 234 of the Revised Statutes of Canada, 1952, The Saint John Bridge and Railway Extension Company and Canadian Pacific Railway Company may enter into an agreement or agreements for any of the purposes specified in the said section 153, but the approval of the shareholders of the Canadian Pacific Railway Company to such agreement or agreements is sufficient if the provisions of section 6 of chapter 47 of the statutes of 1890 are complied with.” 15 20

3. The Saint John Bridge and Railway Extension Company whose shares and securities are owned solely by Canadian Pacific Railway Company is by ownership and operation an integral part of the Canadian Pacific System. In view of this it is desirable that the Companies be given the powers contemplated by Section 151 of the *Railway Act*.

4. The purpose of this clause is to bring the Act into line with the new Revised Statutes of Canada, which are now in press and are expected to appear during the current session.

THE SENATE OF CANADA

BILL M.

An Act to amend The Canadian Overseas
Telecommunication Corporation Act.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL M.

An Act to amend The Canadian Overseas
Telecommunication Corporation Act.

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

PART I.

1. Paragraph (b) of section 2 of *The Canadian Overseas Telecommunication Corporation Act*, chapter 10 of the statutes of 1949, is repealed and the following substituted therefor: 5

“Cablehead”. “(b) ‘cablehead’ means the shore end of a submarine cable;”

Repeal. 2. Subsection (2) of section 14 and section 15 of the said Act are repealed.

Corporation to deliver certificates of payments. 3. Section 16 of the said Act is repealed and the following substituted therefor:

“16. The Corporation shall execute and deliver to the Minister of Finance, in such form as he may approve, 15 certificates evidencing payments made to it by him under this Act and the terms and conditions under which such payments were made.”

Repeal. 4. Sections 18, 19 and 21 of the said Act are repealed.

5. Section 23 of the said Act is repealed and the following substituted therefor: 20

Annual budget. | “23. The Corporation shall submit annually to the Minister for his consideration and approval an operating budget for the next following financial year of the Corporation.” 25

EXPLANATORY NOTES.

PART I.

1. Paragraph (b) of section 2 of *The Canadian Overseas Telecommunication Corporation Act* now reads as follows:

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

2. The purpose of clauses 2, 3, 4 and 5 is to bring the Corporation completely within the framework of Part VIII of *The Financial Administration Act*.

Subsection 2 of section 14 and section 15 now read as follows:

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

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

(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.”

3. Section 16 now reads as follows:

“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.”

4. The sections to be repealed read as follows:

“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 the Corporation 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.”

“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.

(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.”

“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.”

5. Section 23 now reads as follows:

“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.

(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.

(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.”

PART II.

- "Cablehead". **6.** Paragraph (b) of section 2 of the *Canadian Overseas Telecommunication Corporation Act*, chapter 42 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:
 "(b) 'cablehead' means the shore end of a submarine cable;" 5
- Repeal. **7.** Subsection (2) of section 14 and section 15 of the said Act are repealed.
- Corporation to deliver certificates of payments. **8.** Section 16 of the said Act is repealed and the following substituted therefor: 10
 "16. The Corporation shall execute and deliver to the Minister of Finance, in such form as he may approve, certificates evidencing payments made to it by him under this Act and the terms and conditions under which such payments were made." 15
- Repeal. **9.** Sections 18, 19 and 21 of the said Act are repealed.
- Annual budget. **10.** Section 23 of the said Act is repealed and the following substituted therefor:
 "23. The Corporation shall submit annually to the Minister for his consideration and approval an operating budget for the next following financial year of the Corporation." 20
- Coming into force. **11.** This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force. 25
- Repeal.

PART II.

The purpose of Part II is to amend the new Revised Statutes, which are now in press and are expected to appear during the present session.

BILL N.

An Act respecting the Administration of
National Railways

Read a first time, Monday, 24th November, 1914.

Presented by the Minister of Railways

EDWARD CLAPHAM, Esq., Clerk of the House of Commons
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
LONDON: 1914

THE SENATE OF CANADA

BILL N.

An Act respecting the appointment of Auditors for
National Railways.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL N.

An Act respecting the appointment of Auditors for National Railways.

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

Auditors. **1.** Notwithstanding the provisions of section 13 of *The Canadian National-Canadian Pacific Act, 1933*, chapter 33 5
of the statutes of 1932-33, as enacted by section 3 of chapter 25 of the statutes of 1936, respecting the appointment of auditors by joint resolution of the Senate and House of Commons, George A. Touche and Company, of the cities of Montreal and Toronto, chartered accountants, are ap- 10
pointed as independent auditors for the year 1953, to make a continuous audit under the provisions of the said section, of the accounts of National Railways as defined in the said Act.

Auditors. **2.** (1) This section shall come into force on the day the 15
Revised Statutes of Canada, 1952, come into force.
(2) Notwithstanding the provisions of section 13 of the *Canadian National-Canadian Pacific Act*, chapter 39 of the Revised Statutes of Canada, 1952, respecting the ap-
pointment of auditors by joint resolution of the Senate 20
and House of Commons, George A. Touche and Company, of the cities of Montreal and Toronto, chartered accountants, are appointed as independent auditors for the year 1953 to make a continuous audit under the provisions of that section of the accounts of National Railways as de- 25
fined in that Act.

THE SENATE OF CANADA

BILL O.

An Act respecting the Criminal Code

Enacted in the 24th year of the reign of His Majesty King Edward VII.

EXPLANATORY NOTE.

2. The purpose of this section is to bring the Act into line with the new Revised Statutes of Canada, which are now in press and are expected to appear during the current session.

THE SENATE OF CANADA

BILL O.

An Act respecting the Criminal Law.

Read a first time, Monday, 24th November, 1952.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA.

BILL O.

An Act respecting the Criminal Law.

HER 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 *Criminal Code*.

INTERPRETATION.

- Definitions. **2.** In this Act, 5
"Act." (1) "Act" includes
 (a) an Act of the Parliament of Canada,
 (b) an Act of the legislature of the late province of
 Canada,
 (c) an Act of the legislature of a province, and 10
 (d) an Act or ordinance of the legislature of a
 province, territory or place in force at the time that
 province, territory or place became a province of
 Canada;
"Attorney (2) "Attorney General" means the Attorney General 15
General." or Solicitor General of a province in which proceedings
 to which this Act applies are taken and, with respect
 to the Northwest Territories and the Yukon Territory,
 means the Attorney General of Canada;
"Bank- (3) "bank-note" includes any negotiable instrument 20
note." (a) issued by or on behalf of a person carrying on
 the business of banking in or out of Canada,
 (b) issued under the authority of the Parliament of
 Canada or under lawful authority of the govern-
 ment of a state other than Canada, 25

EXPLANATORY NOTES.

Unless otherwise indicated, a reference to a section, subsection, paragraph or subparagraph is to the provision in the present *Criminal Code* that corresponds with the provision that appears in the text of the Bill.

1. Section 1.

2. Section 2.

(1) Section 2 (1).

(2) Section 2 (2).

(3) Section 2 (4).

intended to be used as money or as the equivalent of money, immediately upon issue or at some time subsequent thereto, and includes bank bills and bank post bills;

“Canadian Forces.”

- (4) “Canadian Forces” means the naval, army and air forces of Her Majesty raised by Canada and consist of three services, namely, the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force; 5

“Cattle.”

- (5) “cattle” means neat cattle or an animal of the bovine species by whatever technical or familiar name it is known, and includes a horse, mule, ass, pig, sheep or goat; 10

“Clerk of the court.”

- (6) “clerk of the court” includes a person, by whatever name or title he may be designated, who from time to time performs the duties of a clerk of the court; 15

“Counsel.”

- (7) “counsel” means a barrister or solicitor, in respect of the matters or things that barristers and solicitors, respectively, are authorized by the law of the province to do or perform in relation to legal proceedings;

“Count.”

- (8) “count” means a charge in an information or indictment; 20

“Court of appeal.”

- (9) “court of appeal” means
- (a) in the province of Ontario, the Court of Appeal,
 - (b) in the province of Quebec, the Court of Queen’s Bench, appeal side, 25
 - (c) in the province of Nova Scotia, the Supreme Court *in banco*,
 - (d) in the province of New Brunswick, the Court of Appeal, otherwise known as the Appeal Division of the Supreme Court, 30
 - (e) in the province of British Columbia, the Court of Appeal,
 - (f) in the province of Prince Edward Island, the Supreme Court,
 - (g) in the province of Manitoba, the Court of Appeal, 35
 - (h) in the province of Saskatchewan, the Court of Appeal,
 - (i) in the province of Alberta, the Appellate Division of the Supreme Court, 40
 - (j) in the province of Newfoundland, the Supreme Court, constituted by two or more of the judges thereof,
 - (k) in the Yukon Territory, the Court of Appeal for the province of British Columbia, and 45
 - (l) in the Northwest Territories
 - (i) for those parts of the Territories west of the one hundred and second meridian of west longitude, the court of appeal for the province of Alberta, and 50
 - (ii) for those parts of the Territories east of the one hundred and second meridian of west

(4) Section 2 (4a).

(5) Section 2 (5).

(6) New.

(7) New.

(8) Section 2 (17).

(9) Section 2 (7).

"Court in general jurisdiction"

"Day"

"Document of title to goods"

"Goods likely to be lost or damaged"

"House"

"Party"

"Party"

longitude, the court of appeal for the province of Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland;

"Court of criminal jurisdiction."

- (10) "court of criminal jurisdiction" means 5
 (a) a court of general or quarter sessions of the peace, when presided over by a superior court judge or a county or district court judge, or in the cities of Montreal and Quebec, by a recorder or judge of the sessions of the peace, 10
 (b) a magistrate or judge acting under Part XVI, and
 (c) in the province of New Brunswick, the county court;

"Day."

- (11) "day" means the period between six o'clock in the forenoon and nine o'clock in the afternoon of the same day; 15

"Document of title to goods."

- (12) "document of title to goods" includes a bought and sold note, bill of lading, warrant, certificate or order for the delivery or transfer of goods or any other valuable thing, and any other document used in the ordinary course of business as evidence of the possession or control of goods, authorizing or purporting to authorize, by endorsement or by delivery, the person in possession of the document to transfer or receive any goods thereby represented or therein mentioned or referred to; 20 25

"Document of title to lands."

- (13) "document of title to lands" includes any writing that is or contains evidence of the title, or any part of the title to real property, or to any interest in real property, and any notarial or registrar's copy thereof, and any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada with respect to registration of titles, that relates to title to real property or to an interest in real property; 30 35

"Dwelling house."

- (14) "dwelling house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes a building within the curtilage of a dwelling house that is connected to it by a doorway or by a covered and enclosed passageway; 40

"Every one."
 "Person."
 "Owner."

- (15) "every one," "person," "owner," and similar expressions include Her Majesty and public bodies, bodies corporate, societies, companies and inhabitants of counties, parishes, municipalities or other districts in relation to the acts and things that they are capable of doing and owning respectively; 45

"Explosive substance."

- (16) "explosive substance" includes
 (a) anything intended to be used to make an explosive substance, and

(10) New.

(11) Section 2 (24).

(12) Section 2 (11).

(13) Section 2 (12).

(14) Section 335 (1) (g) and section 339, in part.

(15) Section 2 (13).

(16) Section 2 (14).

- (b) anything, or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance;
- “Feeble-minded person.” (17) “feeble-minded person” means a person in whom there exists and has existed from birth or from an early age, mental defectiveness not amounting to imbecility, but so pronounced that he requires care, supervision and control for his protection or for the protection of others; 5
- “Highway.” (18) “highway” means a road to which the public has the right of access, and includes bridges over which or tunnels through which a road passes; 10
- “Her Majesty’s Forces.” (19) “Her Majesty’s Forces” means the naval, army and air forces of Her Majesty wheresoever raised, and includes the Canadian Forces; 15
- “Indictment.” (20) “indictment” includes
 (a) information, presentment and a count therein,
 (b) a plea, replication or other pleading, and
 (c) any record; 20
- “Justice.” (21) “justice” means a justice of the peace or a magistrate, and includes two or more justices where two or more justices are, by law, required to act or, by law, act or have jurisdiction; 25
- “Magistrate.” (22) “magistrate” means a police magistrate, a stipendiary magistrate, a district magistrate, a provincial magistrate, a judge of the sessions of the peace, a recorder, or any person having the power and authority of two or more justices of the peace, and includes the lawful deputy of each of them; 30
- “Military.” (23) “military” shall be construed as relating to all or any of the Canadian Forces; 35
- “Military law.” (24) “military law” includes all laws, regulations or orders relating to the Canadian Forces; 35
- “Motor vehicle.” (25) “motor vehicle” means a vehicle that is drawn, propelled or driven by any means other than by muscular power, but does not include a vehicle of a railway that operates on rails; 35
- “Municipality.” (26) “municipality” includes the corporation of a city, town, village, county, township, parish or other territorial or local division of a province, the inhabitants of which are incorporated or are entitled to hold property collectively for a public purpose; 40
- “Newly-born child.” (27) “newly-born child” means a person under the age of one year; 45
- “Night.” (28) “night” means the period between nine o’clock in the afternoon and six o’clock in the forenoon of the following day; 45
- “Offensive weapon.”
 “Weapon.” (29) “offensive weapon” or “weapon” means
 (a) anything that is designed to be used as a weapon, and 50

(17) Section 2 (15).

(18) Section 285 (9).

(19) Section 2 (16a).

(20) Section 2 (17).

(21) Section 2 (19).

(22) Section 2 (28).

(23) Section 2 (20a).

(24) Section 2 (21).

(25) New.

(26) Section 2 (22).

(27) New.

(28) Section 2 (24).

(29) Section 2 (25).

- (b) anything that a person uses or intends to use as a weapon, whether or not it is designed to be used as a weapon,
and, without restricting the generality of the foregoing, includes a firearm, air-gun or air-pistol and ammunition 5
for a firearm, air-gun or air-pistol;
- “Peace officer.” (30) “peace officer” includes
(a) a mayor, warden, reeve, sheriff, deputy sheriff, sheriff’s officer and justice of the peace,
(b) a warden, deputy warden, instructor, keeper, 10
gaoler, guard and any other officer or permanent employee of a prison,
(c) a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service 15
or execution of civil process, and
(d) an officer or person having the powers of a customs or excise officer when performing any duty in the administration of the *Customs Act* or the *Excise Act*; 20
- “Prison.” (31) “prison” includes a penitentiary, common gaol, public or reformatory prison, lock-up, guard-room or other place in which persons who are charged with or convicted of offences are usually kept in custody;
- “Property.” (32) “property” includes 25
(a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods,
(b) property originally in the possession or under the 30
control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by such conversion or exchange, and
(c) any postal card, postage stamp or other stamp 35
issued or prepared for issue under the authority of the Parliament of Canada or of the legislature of a province for the payment to the Crown or a corporate body of any fee, rate or duty, whether or not it is in the possession of the Crown or of any 40
person;
- “Prosecutor.” (33) “prosecutor” means the Attorney General or, where the Attorney General does not intervene, means the person who institutes proceedings to which this Act applies, and includes counsel acting on behalf of either 45
of them;
- “Public department.” (34) “public department” means a department of the Government of Canada or a branch thereof or a board, commission, corporation or other body that is an agent of Her Majesty in right of Canada; 50

(30) Section 2 (27).

(31) Section 2 (29).

(32) Section 2 (31).

(33) New.

(34) Section 2 (32).

- "Public officer." (35) "public officer" includes
 (a) an officer of customs or excise,
 (b) an officer of the Canadian Forces,
 (c) an officer of the Royal Canadian Mounted Police,
 and
 (d) any officer while he is engaged in enforcing the laws of Canada relating to revenue, customs, excise, trade or navigation; 5
- "Public stores." (36) "public stores" includes any movable property that is under the care, supervision, administration or control of a public department or of any person in the service of a public department; 10
- "Steal." (37) "steal" means to commit theft;
- "Superior court of criminal jurisdiction." (38) "superior court of criminal jurisdiction" means
 (a) in the province of Ontario, the Supreme Court, 15
 (b) in the province of Quebec, the Court of Queen's Bench,
 (c) in the provinces of Nova Scotia, New Brunswick, Alberta and Newfoundland respectively, the Supreme Court, 20
 (d) in the province of British Columbia, the Supreme Court or the Court of Appeal,
 (e) in the province of Prince Edward Island, the Supreme Court of Judicature,
 (f) in the provinces of Manitoba and Saskatchewan respectively, the Court of Appeal or the Court of Queen's Bench, 25
 (g) in the Yukon Territory, the Territorial Court, and
 (h) in the Northwest Territories, the Territorial Court; 30
- "Territorial division." (39) "territorial division" includes any province, county, union of counties, township, city, town, parish or other judicial division or place to which the context applies;
- "Testamentary instrument." (40) "testamentary instrument" includes any will, codicil or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be as after his death, whether it relates to real or personal property, or to both; 35
- "Trustee." (41) "trustee" means a person who is declared by any Act to be a trustee or is, by the law of the province, a trustee, and without restricting the generality of the foregoing, includes a trustee on an express trust created by deed, will or instrument in writing, or by parol; 40 45
- "Valuable security." (42) "valuable security" includes
 (a) an order, exchequer acquittance or other security that entitles or evidences the title of any person

(35) Section 2 (33).

(36) Section 2 (34).

(37) New.

(38) Section 2 (38).

(39) Section 2 (39).

(40) Section 2 (40).

(41) Section 2 (42).

(42) Section 2 (43).

- (i) to a share or interest in a public stock or fund or in any fund of a body corporate, company or society, or
- (ii) to a deposit in a savings bank or other bank,
- (b) a debenture, deed, bond, bill, note, warrant, order or other security for money or for the payment of money, 5
- (c) a document of title to lands or goods wheresoever situate,
- (d) a stamp or writing that secures or evidences title to or an interest in a chattel personal, or that evidences delivery of a chattel personal, and 10
- (e) a release, receipt, discharge or other instrument evidencing payment of money;
- "Wreck." (43) "wreck" includes the cargo, stores and tackle of a vessel and all parts of a vessel separated from the vessel, and the property of persons who belong to, are on board or have quitted a vessel that is wrecked, stranded or in distress at any place in Canada; and 15
- "Writing." (44) "writing" includes a document of any kind and any mode in which, and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or a map or plan is inscribed. 20

PART I

GENERAL

3. (1) For the purposes of this Act a person shall be deemed to have been of a given age when the anniversary of his birthday, the number of which corresponds to that age, is fully completed, and until then he shall be under that age.

(2) For the purposes of this Act a postal card or stamp referred to in sub-paragraph (c) of paragraph (32) of section 2 shall be deemed to be a cheque, and the postal revenue to the amount of the post.

(43) Section 2 (36) and (44).

(3) For the purposes of this Act, the following rules apply for the purpose of determining the value of a valuable security where value is assessed, namely—

(44) Section 2 (45).

(a) where the valuable security is a cheque, postal card or stamp, the value is the value of the cheque, interest, deposit or unpaid money, as the case may be, that is secured by the valuable security;

(b) where the valuable security is one mentioned in sub-paragraph (a) or (c) of paragraph (43) of section 2, the value is the value of the land, goods, chattels, personal or interest in the chattel personal, as the case may be; and

(c) where the valuable security is one mentioned in sub-paragraph (a) of paragraph (43) of section 2, the value is the amount of money that has been paid.

(4) For the purposes of this Act—

(a) a person has anything in possession when he has it in his personal possession or constructive possession;

(b) he has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and

(c) when one of two or more persons with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

(5) Where an offence that is dealt with in this Act relates to a subject that is dealt with in another Act, the words and expressions used in this Act shall have the same meaning as in that other Act, unless the context or subject-matter requires otherwise.

PART I.

GENERAL.

Determina-
tion of age.

3. (1) For the purposes of this Act a person shall be deemed to have been of a given age when the anniversary of his birthday, the number of which corresponds to that age, is fully completed, and until then to have been under that age.

5

Postcard a
chattel,
value.

(2) For the purposes of this Act a postal card or stamp referred to in subparagraph (c) of paragraph (32) of section 2 shall be deemed to be a chattel, and to be equal in value to the amount of the postage, rate or duty expressed on its face.

10

Value of
valuable
security.

(3) For the purposes of this Act, the following rules apply for the purpose of determining the value of a valuable security where value is material, namely,

(a) where the valuable security is one mentioned in subparagraph (a) or (b) of paragraph (42) of section 2, 15 the value is the value of the share, interest, deposit or unpaid money, as the case may be, that is secured by the valuable security;

(b) where the valuable security is one mentioned in subparagraph (c) or (d) of paragraph (42) of section 2, 20 the value is the value of the lands, goods, chattel personal or interest in the chattel personal, as the case may be; and

(c) where the valuable security is one mentioned in subparagraph (e) of paragraph (42) of section 2, the 25 value is the amount of money that has been paid.

Possession.

(4) For the purposes of this Act,

(a) a person has anything in possession when he has it in his personal possession or knowingly

(i) has it in the actual possession or custody of another 30 person, or

(ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and

(b) where one of two or more persons, with the knowl- 35 edge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

Meaning of
expressions
taken from
other Acts.

(5) Where an offence that is dealt with in this Act relates to a subject that is dealt with in another Act, 40 the words and expressions used in this Act with respect to that offence have, subject to this Act, the meaning assigned to them in that other Act.

3. (1) Subsection (2) of section 2.

(2) Section 3.

(3) Section 4.

(4) Sections 5 (1) (b) and (2).

(5) Section 6.

Sexual
intercourse.

(6) For the purposes of this Act, sexual intercourse is complete upon penetration to even the slightest degree, notwithstanding that seed is not emitted.

Canadian
Forces not
affected.

4. Nothing in this Act affects any law relating to the government of the Canadian Forces. 5

Punishment
only after
conviction.

5. (1) Where an enactment creates an offence and authorizes a punishment to be imposed in respect thereof,
(a) a person shall be deemed not to be guilty of that offence until he is convicted thereof; and

Punishment
only as
prescribed.

(b) a person who is convicted of that offence is not liable to any punishment in respect thereof other than the punishment prescribed by this Act or by the enactment that creates the offence. 10

Offences
outside of
Canada.

(2) Subject to this Act or any other Act of the Parliament of Canada, no person shall be convicted in Canada for an offence committed outside of Canada. 15

Application
to territories.

6. The provisions of this Act apply throughout Canada except

R.S., c. 142.

(a) in the Northwest Territories, in so far as they are inconsistent with the *Northwest Territories Act*, and 20

R.S., c. 215.

(b) in the Yukon Territory, in so far as they are inconsistent with the *Yukon Act*.

Application
of criminal
law of
England.

7. (1) The criminal law of England that was in force in a province immediately before the coming into force of this Act continues in force in the province except as altered, varied, modified or affected by this Act or any other Act of the Parliament of Canada. 25

Common law
principles
continued.

(2) Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of proceedings for an offence under this Act or any other Act of the Parliament of Canada, except in so far as they are altered by or are inconsistent with this Act or any other Act of the Parliament of Canada. 30

Criminal
offences to be
under law of
Canada.

8. Notwithstanding anything in this Act or any other Act no person shall be convicted 35

(a) of an offence at common law,

(b) of an offence under an Act of the Parliament of England, or of Great Britain, or of the United Kingdom of Great Britain and Ireland, or 40

(c) of an offence under an Act or ordinance in force in any province, territory or place before that province, territory or place became a province of Canada, but nothing in this section affects the power, jurisdiction or authority that a court, judge, justice or magistrate had, immediately before the coming into force of this Act, to impose punishment for contempt of court. 45

(6) Section 7.

4. Section 8.

5. (1) Sections 1027, 1030 to 1033 and 1051.

(2) New.

6. Section 9.

7. (1) New.

(2) Section 16.

8. New.

Civil
remedy not
suspended.

9. No civil remedy for an act or omission is suspended or affected by reason that the act or omission is a criminal offence.

Offence
punishable
under more
than one Act.

10. Where an act or omission is an offence under more than one Act of the Parliament of Canada, whether punishable by indictment or on summary conviction, a person who does the act or makes the omission is, unless a contrary intention appears, subject to proceedings under any of those Acts, but is not liable to be punished more than once for the same offence. 5 10

Electing
procedure.

11. Where an offence is punishable by indictment or on summary conviction the prosecutor is entitled to elect whether the proceedings shall be by indictment or on summary conviction.

Child under
seven.

12. No person shall be convicted of an offence in respect of an act or omission on his part while he was under the age of seven years. 15

Person
between
seven and
fourteen.

13. No person shall be convicted of an offence in respect of an act or omission on his part while he was seven years of age or more, but under the age of fourteen years, unless he was competent to know the nature and consequences of his conduct and to appreciate that it was wrong. 20

Consent to
death.

14. No person is entitled to consent to have death inflicted upon him, and such consent does not affect the criminal responsibility of any person by whom death may be inflicted upon the person by whom consent is given. 25

Obedience to
de facto law.

15. No person shall be convicted of an offence in respect of an act or omission in obedience to the laws for the time being made and enforced by persons in *de facto* possession of the sovereign power in and over the place where the act or omission occurs. 30

Insanity.

16. (1) No person shall be convicted of an offence in respect of an act or omission on his part while he was insane.

When insane.

(2) For the purposes of this section a person is insane when he is in a state of natural imbecility or has disease of the mind to an extent that renders him incapable of appreciating the nature and quality of an act or omission or of knowing that an act or omission is wrong. 35

Delusions.

(3) A person who has specific delusions, but is in other respects sane, shall not be acquitted on the ground of insanity unless the delusions caused him to believe in the existence of a state of things that, if it existed, would have justified or excused his act or omission. 40

9. Section 13.

10. Section 15.

11. New.

12. Section 17.

13. Section 18.

14. Section 67.

15. Section 68.

16. Section 19.

Presumption of sanity. (4) Every one shall, until the contrary is proved, be presumed to be and to have been sane.

Compulsion by threats. **17.** A person who commits an offence under compulsion by threats of immediate death or grievous bodily harm from a person who is present when the offence is committed is excused for committing the offence if he believes that the threats will be carried out and if he is not a party to a conspiracy or association whereby he is subject to compulsion, but this section does not apply where the offence that is committed is treason, murder, piracy, attempted murder, assisting in rape, forcible abduction, robbery, causing bodily harm or arson. 5 10

Compulsion of wife. **18.** No presumption arises that a married woman who commits an offence does so under compulsion by reason only that she commits it in the presence of her husband. 15

Ignorance of the law. **19.** Ignorance of the law by a person who commits an offence is not an excuse for committing that offence.

Execution of warrant on Sunday or holiday. **20.** A warrant that is authorized by this Act may be issued or executed on a Sunday or statutory holiday.

PARTIES TO OFFENCES.

Parties to offence. **21.** (1) Every one is a party to an offence who (a) actually commits it, (b) does or omits to do anything for the purpose of aiding any person to commit it, or (c) abets any person in committing it. 20

Common intention. (2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence. 25 30

Person counselling offence. **22.** (1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled or procured is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured. 35

17. Section 20.

18. Section 21.

19. Section 22.

20. Section 661 (3).

21. Section 69.

22. Section 70.

Idem. (2) Every one who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring. 5

Accessory after the fact. **23.** (1) An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists him for the purpose of enabling him to escape. 10

Husband or wife, when not accessory. (2) No married person whose spouse has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting the spouse for the purpose of enabling the spouse to escape.

When wife not accessory. (3) No married woman whose husband has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to that offence for the purpose of enabling her husband or that other person to escape. 15 20

Attempts. **24.** (1) Every one who, having an intent to commit an offence, does or omits to do anything for the purpose of carrying out his intention is guilty of an attempt to commit the offence whether or not it was possible under the circumstances to commit the offence. 25

Question of law. (2) The question whether an act or omission by a person who has an intent to commit an offence is or is not mere preparation to commit the offence, and too remote to constitute an attempt to commit the offence, is a question of law. 30

PROTECTION OF PERSONS ADMINISTERING AND ENFORCING THE LAW.

Protection of persons acting under authority. **25.** (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law
 (a) as a private person,
 (b) as a peace officer or public officer, 35
 (c) in aid of a peace officer or public officer, or
 (d) by virtue of his office,
 is, if he acts on reasonable and probable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose. 40

(3) Where a person is required or authorized by law to execute a process or to carry out a sentence, he or any person who assists him is, if he acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.

23. Section 71.

(1) A person is authorized by law to arrest another person if he believes on reasonable and probable grounds that it is necessary for the purpose of preserving himself or any one under his protection from death or grievous bodily harm.

(2) Every one who is authorized by law to arrest another person is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

24. Section 72.

(1) Everyone is justified in using as much force as is reasonably necessary to prevent the commission of a crime.

(2) For which it is warranted, the person who committed it might be arrested without warrant.

(3) That would be likely to cause immediate and serious injury to the person or property of anyone.

(4) To prevent anything being done that, on reasonable and probable grounds he believes would, if it were done, be an offence mentioned in paragraph (a).

25. Sections 23 to 27, 29, 30 to 37, 39, 41 to 45.

(1) Where a person who is authorized by law to arrest another person believes, in good faith and on reasonable and probable grounds, that the person whom he arrests is the person named in the warrant, he is justified in the arrest.

(2) Where a person is authorized to execute a warrant named in the warrant.

(3) Every one who is being called upon to assist him in an arrest believes that the person in whose arrest he is called upon to assist is the person named in the warrant, and

(4) Every keeper of a prison who is required to receive and detain a person who he believes has been arrested under the warrant.

is justified in respect thereof to the same extent as if that person were the person named in the warrant.

Idem.

(2) Where a person is required or authorized by law to execute a process or to carry out a sentence, he or any person who assists him is, if he acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction. 5

When not protected.

(3) Notwithstanding subsection (1) a person is not justified for the purposes of that subsection in using force that is intended or is likely to cause death or grievous bodily harm unless he believes on reasonable and probable grounds that it is necessary for the purpose of preserving himself or any one under his protection from death or grievous bodily harm. 10

Excessive force.

26. Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess. 15

Use of force to prevent commission of offence.

27. Every one is justified in using as much force as is reasonably necessary 20

(a) to prevent the commission of an offence

(i) for which, if it were committed, the person who committed it might be arrested without warrant, and

(ii) that would be likely to cause immediate and serious injury to the person or property of anyone; or 25

(b) to prevent anything being done that, on reasonable and probable grounds he believes would, if it were done, be an offence mentioned in paragraph (a). 30

Arrest of wrong person.

28. (1) Where a person who is authorized to execute a warrant to arrest believes, in good faith and on reasonable and probable grounds, that the person whom he arrests is the person named in the warrant, he is justified in respect thereof to the same extent as if that person were the person named in the warrant. 35

Person assisting.

(2) Where a person is authorized to execute a warrant to arrest,

(a) every one who, being called upon to assist him, believes that the person in whose arrest he is called upon to assist is the person named in the warrant, and 40

(b) every keeper of a prison who is required to receive and detain a person who he believes has been arrested under the warrant,

is justified in respect thereof to the same extent as if that person were the person named in the warrant. 45

Duty of person arresting.

29. (1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice.

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of

(a) the process or warrant under which he makes the arrest, or

(b) the reason for the arrest.

Failure to comply.

(3) Failure to comply with subsection (1) or (2) does not of itself deprive a person who executes a process or warrant, or a person who makes an arrest, or those who assist them, of protection from criminal responsibility.

Preventing breach of peace.

30. Every one who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal thereof and may detain any person who commits or is about to join in or to renew the breach of the peace, for the purpose of giving him into the custody of a peace officer, if he uses no more force than is reasonably necessary to prevent the continuance or renewal of the breach of the peace or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of the breach of the peace.

Arrest for breach of peace.

31. (1) Every peace officer who witnesses a breach of the peace and every one who lawfully assists him is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable and probable grounds, he believes is about to join in or renew the breach of the peace.

Giving person in charge.

(2) Every peace officer is justified in receiving into custody any person who is given into his charge as having been a party to a breach of the peace by one who has, or who on reasonable and probable grounds he believes has, witnessed the breach of the peace.

SUPPRESSION OF RIOTS.

Use of force to suppress riot.

32. (1) Every peace officer is justified in using or in ordering the use of as much force as he believes, in good faith and on reasonable and probable grounds,

(a) is necessary to suppress a riot, and

(b) is not excessive, having regard to the danger to be apprehended from the continuance of the riot.

Person bound by military law.

(2) Every one who is bound by military law to obey the command of his superior officer is justified in obeying any command given by his superior officer for the suppression of a riot unless the order is manifestly unlawful.

29. Section 40.

(1) Every one is justified in obeying an order if the order is not manifestly unlawful.

Order of the court

30. Section 46.

(1) Where the prosecution reveals that an offence has been committed, it is the duty of a peace officer and of a person who is lawfully required by him to assist to disperse or to arrest persons who do not comply with the prohibition.

Duty of peace officer

31. Section 47.

(1) Nothing in this section limits or affects any power, duty or function that are conferred or imposed by this Act with respect to the suppression of riots.

Suppression of riots

32. Sections 48, 49, 50 and 51.

(1) Every one who is unlawfully assaulted and who causes or attempts to cause grievous bodily harm to himself or another person is justified in using force if the force is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself.

Defence of persons

- Obeying order of peace officer. (3) Every one is justified in obeying an order of a peace officer to use force to suppress a riot if
 (a) he acts in good faith, and
 (b) the order is not manifestly unlawful.
- Apprehension of serious mischief. (4) Every one who, in good faith and on reasonable and probable grounds, believes that serious mischief will result from a riot before it is possible to secure the attendance of a peace officer is justified in using as much force as he believes in good faith and on reasonable grounds,
 (a) is necessary to suppress the riot, and
 (b) is not excessive, having regard to the danger to be apprehended from the continuance of the riot.
- Question of law. (5) For the purposes of this section the question whether an order is manifestly unlawful or not is a question of law.
- Duty of officers if rioters do not disperse. **33.** (1) Where the proclamation referred to in section 68 has been made or an offence against paragraph (a) or (b) of section 69 has been committed, it is the duty of a peace officer and of a person who is lawfully required by him to assist, to disperse or to arrest persons who do not comply with the proclamation.
- Protection of officers. (2) No civil or criminal proceedings lie against a peace officer or a person who is lawfully required by a peace officer to assist him in respect of any death or injury that is caused as a result of the performance by the peace officer or that person of a duty that is imposed by subsection (1).
- Section not restrictive. (3) Nothing in this section limits or affects any powers, duties or functions that are conferred or imposed by this Act with respect to the suppression of riots.

DEFENCE OF PERSON.

- Self defence against unprovoked assault. **34.** (1) Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force if the force he uses is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself.
- Extent of justification. (2) Every one who is unlawfully assaulted and who causes death or grievous bodily harm in repelling the assault is justified if
 (a) he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purposes, and
 (b) he believes, on reasonable and probable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

27. Every one who has without justification assaulted another but did not commence the assault with intent to cause death or grievous bodily harm, or has without justification provoked an assault upon himself by another, may justify the use of force subsequent to the assault if

(a) he uses the force

(b) under reasonable apprehension of death or grievous bodily harm from the violence of the person whom he has assaulted or provoked, and

(c) in the belief on reasonable and probable grounds that it is necessary in order to preserve himself from death or grievous bodily harm.

33. Section 93.

(a) he did not at any time before the necessity of preserving himself from death or grievous bodily harm, endeavour to cause death or grievous bodily harm; and

(b) he did not further assault and injure or attempt to do so before the necessity of preserving himself from death or grievous bodily harm arose.

34. Section 53 (1) and (2).

28. (1) Every one who is in peaceable possession of movable property, and every one lawfully exercising his right in possession of that property, is justified

(a) in preventing a trespasser from taking it, or (b) in taking it from a trespasser who has taken it, if he does not strike or cause bodily harm to the trespasser.

(2) Where a person who is in peaceable possession of movable property lays hands upon it, a trespasser who persists in attempting to wrong it, or who it is proved from any one lawfully exercising his right shall be deemed to commit an assault without justification or provocation.

Self defence
in case of
aggression.

35. Every one who has without justification assaulted another but did not commence the assault with intent to cause death or grievous bodily harm, or has without justification provoked an assault upon himself by another, may justify the use of force subsequent to the assault if 5

(a) he uses the force

(i) under reasonable apprehension of death or grievous bodily harm from the violence of the person whom he has assaulted or provoked, and

(ii) in the belief, on reasonable and probable grounds, 10 that it is necessary in order to preserve himself from death or grievous bodily harm;

(b) he did not, at any time before the necessity of preserving himself from death or grievous bodily harm arose, endeavour to cause death or grievous bodily 15 harm; and

(c) he declined further conflict and quitted or retreated from it as far as it was feasible to do so before the necessity of preserving himself from death or grievous 20 bodily harm arose.

Provocation.

36. Provocation includes, for the purposes of sections 34 and 35, provocation by blows, words or gestures.

Preventing
assault.

37. (1) Every one is justified in using force to defend himself or any one under his protection from assault, if he uses no more force than is necessary to prevent the assault 25 or the repetition of it.

Extent of
justification.

(2) Nothing in this section shall be deemed to justify the wilful infliction of any hurt or mischief that is excessive, having regard to the nature of the assault that the force used was intended to prevent. 30

DEFENCE OF PROPERTY.

Defence of
movable
property.

38. (1) Every one who is in peaceable possession of movable property, and every one lawfully assisting him, is justified

(a) in preventing a trespasser from taking it, or

(b) in taking it from a trespasser who has taken it, 35 if he does not strike or cause bodily harm to the trespasser.

Assault by
trespasser.

(2) Where a person who is in peaceable possession of movable property lays hands upon it, a trespasser who persists in attempting to keep it or take it from him or from any one lawfully assisting him shall be deemed to 40 commit an assault without justification or provocation.

35. Section 54 (1).

Every one who is in possession of a dwelling house or real property under a claim of right, and every one who is in possession of a dwelling house or real property under a claim of right, is protected from criminal responsibility for preventing his entry or for preventing his possession, even though a person entitled by law to possession of it, if he has no more force than is necessary.

Every one who is in possession of a dwelling house, and every one lawfully assisting him or acting under his authority, is justified in using as much force as is necessary to prevent any person from lawfully breaking into or lawfully entering the dwelling house without lawful authority.

36. Sections 53 (3) and 54 (2).

37. Section 55.

(3) A trespasser who enters an attempt by a person who is in possession of a dwelling house or real property or a person lawfully assisting him or acting under his authority to prevent his entry or to remove him shall be deemed to commit an assault without justification or provocation.

38. Section 56.

(1) Every one is justified in lawfully preventing a person who is lawfully entitled to possession of a dwelling house or real property by day to take possession of it if he or some other person under such a claim of right is lawfully entitled to possession of it.

(2) Where a person (a) lawfully prevents a person who has a claim of right or real property under a claim of right or (b) lawfully prevents the entry of a person who has a claim of right or real property into or lawfully enters a dwelling house or real property under a claim of right, and who is entering it for the purpose of preventing him from entering it, the assault shall be deemed to be without justification or provocation.

Defence with
claim of
right.

39. (1) Every one who is in peaceable possession of movable property under a claim of right, and every one acting under his authority is protected from criminal responsibility for defending that possession, even against a person entitled by law to possession of it, if he uses no more force than is necessary. 5

Defence
without
claim of
right.

(2) Every one who is in peaceable possession of movable property, but does not claim it as of right or does not act under the authority of a person who claims it as of right, is not justified or protected from criminal responsibility for defending his possession against a person who is entitled by law to possession of it. 10

Defence of
dwelling.

40. Every one who is in peaceable possession of a dwelling house, and every one lawfully assisting him or acting under his authority, is justified in using as much force as is necessary to prevent any person from forcibly breaking into or forcibly entering the dwelling house without lawful authority. 15

Defence of
house or
real property.

41. (1) Every one who is in peaceable possession of a dwelling house or real property and every one lawfully assisting him or acting under his authority is justified in using force to prevent any person from trespassing on the dwelling house or real property, or to remove a trespasser therefrom, if he uses no more force than is necessary. 20

Assault by
trespasser.

(2) A trespasser who resists an attempt by a person who is in peaceable possession of a dwelling house or real property or a person lawfully assisting him or acting under his authority to prevent his entry or to remove him, shall be deemed to commit an assault without justification or provocation. 25 30

Assertion of
right to house
or real
property.

42. (1) Every one is justified in peaceably entering a dwelling house or real property by day to take possession of it if he, or some other person under whose authority he acts, is lawfully entitled to possession of it. 35

Assault in
case of
lawful entry.

(2) Where a person 35
(a) not having peaceable possession of a dwelling house or real property under a claim of right, or
(b) not acting under the authority of a person who has peaceable possession of a dwelling house or real property under a claim of right, 40
assaults a person who is lawfully entitled to possession of it and who is entering it peaceably by day to take possession of it, for the purpose of preventing him from entering, the assault shall be deemed to be without justification or provocation. 45

39. Sections 57 and 58.

(1) Where a person (a) having possession of a dwelling house or real property under a claim of right, or (b) acting under the authority of a person who has possession of a dwelling house or real property under a claim of right, assaults any person who is lawfully entitled to possession of it and who is entering it peaceably by day to take possession of it for the purpose of preventing his claim entering, the assault shall be deemed to be provoked by the person who is entering.

40. Sections 59 and 60.

40. Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction towards a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

41. Section 61.

41. The master or officer in command of a vessel is justified in using as much force as he believes, on reasonable and probable grounds, is necessary for the purpose of maintaining good order and discipline on the vessel.

42. Section 62.

42. Every one is protected from criminal responsibility for performing a surgical operation upon any person for the benefit of that person if (a) the operation is performed with reasonable care and skill, and (b) it is reasonable to perform the operation in the circumstances regard to the state of health of the person in the case.

Trespasser
provoking
assault.

- (3) Where a person
 (a) having peaceable possession of a dwelling house or real property under a claim of right, or
 (b) acting under the authority of a person who has peaceable possession of a dwelling house or real property under a claim of right, 5
 assaults any person who is lawfully entitled to possession of it and who is entering it peaceably by day to take possession of it, for the purpose of preventing him from entering, the assault shall be deemed to be provoked by 10
 the person who is entering.

PROTECTION OF PERSONS IN AUTHORITY.

Correction of
child by
force.

43. Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction towards a pupil or child, as the case may be, who is under his care, if the force does not exceed what is 15
 reasonable under the circumstances.

Master of
ship main-
taining
discipline.

44. The master or officer in command of a vessel on a voyage is justified in using as much force as he believes, on reasonable and probable grounds, is necessary for the purpose of maintaining good order and discipline on the 20
 vessel.

Surgical
operations.

45. Every one is protected from criminal responsibility for performing a surgical operation upon any person for the benefit of that person if
 (a) the operation is performed with reasonable care and 25
 skill, and
 (b) it is reasonable to perform the operation, having regard to the state of health of the person at the time the operation is performed and to all the circumstances 30
 of the case.

TART II

OFFENCES AGAINST PUBLIC ORDER

TREASON AND OTHER OFFENCES AGAINST THE QUEEN'S AUTHORITY AND PERSON

43. (1) Every one commits treason who, in Canada, (a) kills or attempts to kill Her Majesty; (b) forces war against Canada or does any act preparatory thereto;

43. Section 63.

(c) assists or engages at war with Canada or any allied force against whom Canadian forces are engaged in hostilities whether or not a state of hostilities exists between Canada and the country whose forces they are assisting; (d) uses force or violence for the purpose of overthrowing the government of Canada or a province;

44. Section 64.

(e) conspires with an agent of a state other than Canada to communicate information or to do an act that is likely to be prejudicial to the national defence of Canada;

45. Section 65.

(f) conspires with any person to do anything mentioned in paragraph (a) to (d); or (g) forms an intention to do anything mentioned in paragraph (a) to (e) and manifests that intention by any overt act.

(2) Notwithstanding subsection (1), a Canadian citizen or a person who owes allegiance to Her Majesty in right of Canada commits treason if, while in or out of Canada, he does an thing mentioned in subsection (1). (3) Where it is proven to a person with any person, the act of conspiracy is an overt act of treason.

47. (1) Every one who commits treason is guilty of an indictable offence and is liable (a) to be sentenced to death, if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 43; or

(b) to be sentenced to death or to imprisonment for life, if he is guilty of an offence under paragraph (d), (e), (f) or (g) of subsection (1) of section 43. (2) No person shall be convicted of treason upon the evidence of only one witness, unless the evidence of that witness is substantiated in a material particular by evidence that implicates the accused.

48. (1) No proceedings for an offence of treason as defined by paragraph (a) of subsection (1) of section 43 shall be commenced more than three years after the time when the offence is alleged to have been committed.

PART II.

OFFENCES AGAINST PUBLIC ORDER.

TREASON AND OTHER OFFENCES AGAINST THE QUEEN'S
AUTHORITY AND PERSON.

Treason.

- 46.** (1) Every one commits treason who, in Canada,
 (a) kills or attempts to kill Her Majesty;
 (b) levies war against Canada or does any act preparatory thereto;
 (c) assists an enemy at war with Canada, or any armed forces against whom Canadian forces are engaged in hostilities whether or not a state of war exists between Canada and the country whose forces they are;
 (d) uses force or violence for the purpose of overthrowing the government of Canada or a province;
 (e) conspires with an agent of a state other than Canada to communicate information or to do an act that is likely to be prejudicial to the safety or interests of Canada;

Canadian citizen or person owing allegiance.

- (f) conspires with any person to do anything mentioned in paragraphs (a) to (d); or
 (g) forms an intention to do anything mentioned in paragraphs (a) to (e) and manifests that intention by an overt act.
- (2) Notwithstanding subsection (1), a Canadian citizen or a person who owes allegiance to Her Majesty in right of Canada commits treason if, while in or out of Canada, he does anything mentioned in subsection (1).

Overt act.

- (3) Where it is treason to conspire with any person, the act of conspiring is an overt act of treason.

Punishment.

- 47.** (1) Every one who commits treason is guilty of an indictable offence and is liable
 (a) to be sentenced to death, if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46, or
 (b) to be sentenced to death or to imprisonment for life, if he is guilty of an offence under paragraph (d), (e), (f) or (g) of subsection (1) of section 46.

Corroboration.

- (2) No person shall be convicted of treason upon the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Limitation.

- 48.** (1) No proceedings for an offence of treason as defined by paragraph (d) of subsection (1) of section 46 shall be commenced more than three years after the time when the offence is alleged to have been committed.

(1) The provisions shall be deemed to have been made in respect of an overt act of treason expressed or declared by open and considered speech unless

(a) an information setting out the overt act and the words by which it was expressed or declared is laid under oath before a justice within six days after the time when the words are alleged to have been spoken, and

(2) a warrant for the arrest of the accused is issued within ten days after the

46. Sections 74, 75, 77 and 78.

(1) Every one who does a prohibited act for a purpose prohibited to

(a) the safety or interests of Canada, or

(b) the safety or security of the naval, army or air forces of any state other than Canada that are lawfully engaged in Canada,

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

(2) In this section, "prohibited act" means an act or omission that

(a) causes the efficiency or impedes the working of any vessel, vehicle, aircraft, railway, apparatus or other thing, or

(b) causes property, by whomsoever it may be owned, to be lost, damaged or destroyed.

(3) Every one who commits an offence under this section is liable to imprisonment for fourteen years.

(4) In this section, "aircraft" means a machine that is at war with Canada, or

(5) a state against whose forces Canadian forces are engaged in hostilities, whether or not a state with which there exists between Canada and the state whose forces they are.

(5) Every one who commits an offence under this section is liable to imprisonment for fourteen years.

47. (1) Section 74 (2).

(1) Section 74 (2) is amended to read as follows:

(a) knowing that a person is about to commit treason, does not with all reasonable dispatch inform a justice of the facts or other facts about the treason or other treasonable offence to which the person is about to be engaged.

(2) Section 1002.

(1) Every one who commits an offence under section 1002 is liable to imprisonment for fourteen years.

48. (1) Section 1140 (1) (a).

(1) Every one who

(a) commits an offence under section 1140 is liable to imprisonment for fourteen years.

Information
for
reasonable
words.

(2) No proceedings shall be commenced under section 47 in respect of an overt act of treason expressed or declared by open and considered speech unless

- (a) an information setting out the overt act and the words by which it was expressed or declared is laid under oath before a justice within six days after the time when the words are alleged to have been spoken, and 5
- (b) a warrant for the arrest of the accused is issued within ten days after the time when the information is laid. 10

Sabotage.

49. (1) Every one who does a prohibited act for a purpose prejudicial to

- (a) the safety or interests of Canada, or
- (b) the safety or security of the naval, army or air forces of any state other than Canada that are lawfully present in Canada, 15

is guilty of an indictable offence and is liable to imprisonment for ten years.

"Prohibited
act."

(2) In this section, "prohibited act" means an act or omission that 20

- (a) impairs the efficiency or impedes the working of any vessel, vehicle, aircraft, machinery, apparatus or other thing, or
- (b) causes property, by whomsoever it may be owned, to be lost, damaged or destroyed. 25

Assisting
alien enemy
to leave
Canada.

50. (1) Every one commits an offence who

- (a) incites or assists a subject of
 - (i) a state that is at war with Canada, or
 - (ii) a state against whose forces Canadian forces are engaged in hostilities, whether or not a state of war exists between Canada and the state whose forces they are, 30

to leave Canada without the consent of the Crown, unless the accused establishes that assistance to the state referred to in subparagraph (i) or the forces of the state referred to in subparagraph (ii), as the case may be, was not intended thereby, or 35

Omitting to
prevent
treason.

- (b) knowing that a person is about to commit treason does not, with all reasonable dispatch, inform a justice of the peace or other peace officer thereof or make other reasonable efforts to prevent that person from committing treason. 40

Punishment.

(2) Every one who commits an offence under subsection (1) is guilty of an indictable offence and is liable to imprisonment for fourteen years. 45

Intimidating
Parliament or
legislature.

51. Every one who does an act of violence in order to intimidate the Parliament of Canada or the legislature of a province is guilty of an indictable offence and is liable to imprisonment for fourteen years.

(2) Section 1140 (2).

49. Section 509A.

50. Section 76. Subparagraph (ii) of paragraph (a) of subclause (1) is new.

51. Section 79.

Acts intended to alarm Her Majesty or break public peace.

52. Every one who wilfully, in the presence of Her Majesty,

(a) does an act with intent to alarm Her Majesty or to break the public peace, or

(b) does an act that is intended or is likely to cause 5
bodily harm to Her Majesty,

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Inciting to mutiny.

53. Every one who

(a) attempts, for a traitorous or mutinous purpose, to 10
seduce a member of the Canadian Forces from his duty and allegiance to Her Majesty, or

(b) attempts to incite or to induce a member of the Canadian Forces to commit a traitorous or mutinous act, 15

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Assisting deserter.

54. Every one who aids, assists, harbours or conceals a person who he knows is a deserter or absentee without leave from the Canadian Forces is guilty of an offence punishable 20 on summary conviction, but no proceedings shall be instituted under this section without the consent of the Attorney General of Canada.

Evidence of overt acts.

55. In proceedings for an offence against any provision in section 47 or sections 49 to 53, no evidence is admissible 25 of an overt act unless that overt act is set out in the indictment or unless the evidence is otherwise relevant as tending to prove an overt act that is set out therein.

Resisting execution of search warrant.

56. Every one who resists the execution of a warrant that authorizes a building to be broken open for the purpose 30 of searching for a deserter or an absentee without leave from the Canadian Forces is guilty of an offence punishable on summary conviction.

Offences in relation to members of R.C.M.P. Police.

57. Every one who

(a) procures, persuades or counsels a member of the 35
Royal Canadian Mounted Police to desert or absent himself without leave,

(b) aids, assists, harbours or conceals a member of the Royal Canadian Mounted Police who he knows is a deserter or absentee without leave, or 40

(c) aids or assists a member of the Royal Canadian Mounted Police to desert or absent himself without leave, knowing that the member is about to desert or absent himself without leave,

is guilty of an offence punishable on summary conviction. 45

52. Section 80.

53. Section 81.

54. Section 82.

55. Section 847 (1).

56. Section 83.

57. Section 84.

PASSPORTS.

False statement to procure passport.

58. (1) Every one who, while in or out of Canada, for the purpose of procuring a passport or a visa thereof or an endorsement thereon for himself or any other person, makes a written or verbal statement that he knows is false or misleading is guilty of an indictable offence and is liable to imprisonment for two years. 5

"Passport."

(2) In this section, "passport" includes

- (a) a document issued by or under the authority of the Secretary of State for External Affairs for the purpose of identifying the holder thereof, and 10
- (b) an emergency certificate authorized by the Secretary of State for External Affairs to be issued in lieu of a passport by a person duly authorized to issue passports outside of Canada.

Fraudulent use of certificate of citizenship.

59. (1) Every one who 15

(a) uses a certificate of citizenship or a certificate of naturalization for a fraudulent purpose, or

(b) being a person to whom a certificate of citizenship or a certificate of naturalization has been granted, knowingly parts with the possession of that certificate with intent that it should be used for a fraudulent purpose, 20

is guilty of an indictable offence and is liable to imprisonment for two years.

"Certificate of citizenship."
"Certificate of naturalization."

(2) In this section, "certificate of citizenship" and "certificate of naturalization", respectively, mean a certificate of citizenship and a certificate of naturalization as defined by the *Canadian Citizenship Act*. 25

SEDITION.

"Seditious words."

60. (1) Seditious words are words that express a seditious intention. 30

"Seditious libel."

(2) A seditious libel is a libel that expresses a seditious intention.

"Seditious conspiracy."

(3) A seditious conspiracy is an agreement between two or more persons to carry out a seditious intention.

"Seditious intention."

(4) Without limiting the generality of the meaning of the expression "seditious intention", every one shall be presumed to have a seditious intention who 35

(a) teaches or advocates, or

(b) publishes or circulates any writing that advocates, the use, without the authority of law, of force as a means of accomplishing a governmental change within Canada. 40

58. Sections 405A and 405C.

59. Section 405B.

60. Sections 133 and 133A.

Exception.

(5) Notwithstanding subsection (4), no person shall be deemed to have a seditious intention by reason only that he intends, in good faith,

(a) to show that Her Majesty has been misled or mistaken in her measures, 5

(b) to point out errors or defects in

(i) the government or constitution of Canada or a province,

(ii) the Parliament of Canada or the legislature of a province, or 10

(iii) the administration of justice in Canada,

(c) to procure, by lawful means, the alteration of any matter of government in Canada, or

(d) to point out, for the purpose of removal, matters that produce or tend to produce feelings of hostility and ill-will between different classes of persons in Canada. 15

Punishment of seditious offences.

61. Every one who

(a) speaks seditious words,

(b) publishes a seditious libel, or

(c) is a party to a seditious conspiracy, 20

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Libel on head of foreign state.

62. Every one who, without lawful justification, publishes a libel that tends to degrade, revile or expose to hatred and contempt in the estimation of the people of a foreign state any person who exercises sovereign authority over that state is guilty of an indictable offence and is liable to imprisonment for two years. 25

Offences in relation to military forces and R.C.M. Police.

63. (1) Every one who

(a) interferes with, impairs or influences the loyalty or discipline of a member of a force, 30

(b) publishes, edits, issues, circulates or distributes a writing that advises, counsels or urges insubordination, disloyalty, mutiny or refusal of duty by a member of a force, or 35

(c) advises, counsels, urges or in any manner causes insubordination, disloyalty, mutiny or refusal of duty by a member of a force,

is guilty of an indictable offence and is liable to imprisonment for five years. 40

(7) In this section, "member of a force" means a member of the Canadian Forces,
 (8) the naval, army or the forces of a state other than Canada that are lawfully present in Canada, or
 (9) the Royal Canadian Mounted Police.

UNLAWFUL ASSEMBLIES AND RALLIES 4-2

61. (1) An unlawful assembly is an assembly of three or more persons who with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear on reasonable grounds that they

(a) will disturb the peace tumultuously or
 (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

(2) Persons who are lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose.

61. Section 134.

(3) Persons are not unlawfully assembled if they are assembled to protest the burning down of any one of them against persons who are disseminating or publishing or causing to be disseminated or published a false or defamatory statement.

62. Section 135.

62. A riot is an unlawful assembly that has become a riot if the persons present

(a) have used or threatened to use violence, or
 (b) have used or threatened to use force against persons who are disseminating or publishing or causing to be disseminated or published a false or defamatory statement.

63. Section 132A.

63. Every one who is a member of a riotous assembly is guilty of an offence punishable on summary conviction.

64. A justice, mayor or sheriff of the judicial district in which a riot is taking place may, at any place within the jurisdiction, twelve or more persons are tumultuously and riotously assembled together, shall go to that place and after approaching as near as safely he may do shall command those and the persons who are present to be made in a loud voice a proclamation in the following words or to the like effect:

"Member of
a force."

- (2) In this section, "member of a force" means a member
of
- (a) the Canadian Forces,
 - (b) the naval, army or air forces of a state other than
Canada that are lawfully present in Canada, or
 - (c) the Royal Canadian Mounted Police.

5

UNLAWFUL ASSEMBLIES AND RIOTS.

"Unlawful
assembly."

64. (1) An unlawful assembly is an assembly of three
or more persons who, with intent to carry out any common
purpose, assemble in such a manner or so conduct them-
selves when they are assembled as to cause persons in the
neighbourhood of the assembly to fear, on reasonable
grounds, that they

- (a) will disturb the peace tumultuously, or
- (b) will by that assembly needlessly and without reason-
able cause provoke other persons to disturb the peace
tumultuously.

Lawful
assembly
becoming
unlawful.

(2) Persons who are lawfully assembled may become an
unlawful assembly if they conduct themselves with a
common purpose in a manner that would have made the
assembly unlawful if they had assembled in that manner
for that purpose.

Exception.

(3) Persons are not unlawfully assembled by reason
only that they are assembled to protect the dwelling house
of any one of them against persons who are threatening to
break and enter it for the purpose of committing an in-
dictable offence therein.

"Riot."

65. A riot is an unlawful assembly that has begun to
disturb the peace tumultuously.

Punishment
of rioter.

66. Every one who takes part in a riot is guilty of an
indictable offence and is liable to imprisonment for two
years.

Punishment
of member of
unlawful
assembly.

67. Every one who is a member of an unlawful assembly
is guilty of an offence punishable on summary conviction.

Reading
proclamation.

68. A justice, mayor or sheriff or the lawful deputy of a
mayor or sheriff who receives notice that, at any place within
his jurisdiction, twelve or more persons are unlawfully and
riotously assembled together, shall go to that place and,
after approaching as near as safely he may do, shall command
silence and thereupon make or cause to be made in a loud
voice a proclamation in the following words or to the like
effect:

64. Section 87.

65. Section 88.

66. Section 90.

67. Section 89.

68. Section 91.

Her Majesty the Queen charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business upon the pain of being guilty of an offence for which, upon conviction, they may be sentenced to imprisonment for life. 5

GOD SAVE THE QUEEN.

69. Every one is guilty of an indictable offence and is liable to imprisonment for life who

Preventing proclamation.

(a) opposes, hinders or assaults, wilfully and with force, 10
a person who begins to make or is about to begin to make or is making the proclamation referred to in section 68 so that it is not made,

Failure to disperse and depart.

(b) does not peaceably disperse and depart from a place where the proclamation referred to in section 68 is made 15 immediately after it is made, or

Failure to depart.

(c) does not depart from a place immediately when he has reasonable ground to believe that the proclamation referred to in section 68 would have been made in that place if some person had not opposed, hindered or 20 assaulted, wilfully and with force, a person who would have made it.

Neglect by peace officer.

70. A peace officer who receives notice that there is a riot within his jurisdiction and, without reasonable excuse, fails to take all reasonable steps to suppress the riot is 25 guilty of an indictable offence and is liable to imprisonment for two years.

UNLAWFUL DRILLING.

Orders by Governor in Council.

71. (1) The Governor in Council may from time to time by proclamation make orders

(a) to prohibit assemblies, without lawful authority, of 30 persons for the purpose

- (i) of training or drilling themselves,
- (ii) of being trained or drilled to the use of arms, or
- (iii) of practising military exercises; or

(b) to prohibit persons when assembled for any purpose 35 from training or drilling themselves or from being trained or drilled.

General or special order.

(2) An order that is made under subsection (1) may be general or may be made applicable to particular places, districts or assemblies to be specified in the order. 40

Punishment.

(3) Every one who contravenes an order made under this section is guilty of an indictable offence and is liable to imprisonment for five years.

69. Section 92.

70. Section 94.

71. Section 99.

DUELS.

Duelling.

72. Every one who
 (a) challenges or attempts by any means to provoke another person to fight a duel, or
 (b) attempts to provoke a person to challenge another person to fight a duel,
 is guilty of an indictable offence and is liable to imprisonment for two years.

5

FORCIBLE ENTRY AND DETAINER.

"Forcible entry."

73. (1) A person commits forcible entry when he enters real property that is in actual and peaceable possession of another in a manner that is likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, whether or not he is entitled to enter. 10

"Forcible detainer."

(2) A person commits forcible detainer when, being in actual possession of real property without colour of right, he detains it in a manner that is likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against a person who is entitled by law to possession of it. 15

Questions of law.

(3) The questions whether a person is in actual and peaceable possession or is in actual possession without colour of right are questions of law. 20

Punishment.

74. Every one who commits forcible entry or forcible detainer is guilty of an indictable offence and is liable to imprisonment for two years.

PIRACY.

Piracy by law of nations

75. (1) Every one commits piracy who does any act that, by the law of nations, is piracy. 25

Punishment.

(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life, but if while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person he shall be sentenced to death. 30

Piratical acts.

76. Every one who, while in or out of Canada,
 (a) steals a Canadian ship,
 (b) steals or without lawful authority throws overboard, damages or destroys anything that is part of the cargo, supplies or fittings in a Canadian ship. 35

- (c) does or attempts to do a mutinous act on a Canadian ship, or
 (d) counsels or procures a person to do anything mentioned in paragraph (a), (b) or (c),
 is guilty of an indictable offence and is liable to imprisonment for fourteen years. 5

DANGEROUS SUBSTANCES.

Duty or care re explosive.

77. Every one who has an explosive substance in his possession or under his care or control is under a legal duty to use reasonable care to prevent bodily harm or death to persons or damage to property by that explosive substance.

Breach of duty.

78. Every one who, being under a legal duty within the meaning of section 77, fails without lawful excuse to perform that duty, is guilty of an indictable offence and if as a result an explosion of an explosive substance occurs that
 (a) causes death or is likely to cause death to any person, is liable to imprisonment for life, or 10
 (b) causes bodily harm or damage to property or is likely to cause bodily harm or damage to property, is liable to imprisonment for fourteen years. 15

Causing injury with intent.

79. (1) Every one commits an offence who
 (a) does anything with intent to cause an explosion of an explosive substance that is likely to cause serious bodily harm or death to persons or is likely to cause serious damage to property 20
 (b) with intent to do bodily harm to any person 25
 (i) causes an explosive substance to explode,
 (ii) sends or delivers to a person or causes a person to take or receive an explosive substance or other substance or thing,
 (iii) places or throws anywhere or at or upon a person a corrosive fluid, explosive substance or any other dangerous substance or thing, 30
 (c) with intent to destroy or damage property without lawful excuse, places or throws an explosive substance anywhere, or
 (d) makes or has in his possession or has under his care or control any explosive substance with intent thereby 35
 (i) to endanger life or to cause serious damage to property, or
 (ii) to enable another person to endanger life or to cause serious damage to property.

Punishment.

(2) Every one who commits an offence under subsection (1) is guilty of an indictable offence and is liable
 (a) for an offence under paragraph (a) or (b), to imprisonment for life, or
 (b) for an offence under paragraph (c) or (d), to imprisonment for fourteen years. 40

77. New.

78 and 79. Sections 111, 112, 113, 279, 280 and new.

Possessing
explosive
without
lawful
excuse.

80. Every one who without lawful excuse, the proof of which lies upon him,
 (a) makes or has in his possession or under his care or control an explosive substance in circumstances that give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful purpose, or
 (b) has in his possession a bomb, grenade or other explosive weapon,
 is guilty of an indictable offence and is liable to imprisonment for five years. 5

PRIZE FIGHTS.

Engaging in
prize fight.

81. (1) Every one who
 (a) engages as a principal in a prize fight,
 (b) advises, encourages or promotes a prize fight, or
 (c) is present at a prize fight as an aid, second, surgeon, 15
 umpire, backer or reporter,
 is guilty of an offence punishable on summary conviction.

"Prize
fight."

(2) In this section, "prize fight" means an encounter or fight with fists or hands between two persons who have met for that purpose by previous arrangement made by or for them, but a boxing contest between amateur sportsmen, where the contestants wear boxing gloves of not less than five ounces each in weight, or any boxing contest held with the permission or under the authority of an athletic board or commission or similar body established by or under the authority of the legislature of a province for the control of sport within the province, shall be deemed not to be a prize fight. 25

OFFENSIVE WEAPONS.

Possession of
weapon.

82. Every one who carries or has in his custody or possession an offensive weapon for a purpose dangerous to the public peace or for the purpose of committing an offence is guilty of an indictable offence and is liable to imprisonment for five years. 30

Carrying
weapon
while in
possession of
anything
liable to
seizure.

83. Every one who, while carrying an offensive weapon, has custody or possession of anything that he knows is liable to seizure under any law relating to customs, excise, trade or navigation is guilty of an indictable offence and is liable to imprisonment for ten years. 35

Carrying
concealed
weapon.

84. Every one who carries concealed an offensive weapon other than a pistol or revolver is guilty of an offence punishable on summary conviction. 40

80. Section 114.

81. (1) Sections 105 and 106.

(2) Section 2 (30).

82. Sections 115 and 463.

83. Section 116.

84. Section 117.

Short-barrel
shot-gun or
rifle.

85. (1) Every one who carries or has in his custody or possession a sawed-off shot-gun or sawed-off rifle, with a barrel less than twenty inches in length, is guilty of an indictable offence and is liable to imprisonment for five years.

5

Silencers.

(2) Every one who, without lawful excuse, the proof of which lies upon him, has in his possession any device or contrivance designed or intended to muffle or stop the sound or report of a firearm is guilty of an offence punishable on summary conviction.

10

Pointing
firearm.

86. Every one who, without lawful excuse, points at another person a firearm, air-gun or air-pistol, whether loaded or unloaded, is guilty of an offence punishable on summary conviction.

While attend-
ing public
meeting.

87. Notwithstanding anything in this Act, every one who has an offensive weapon in his possession while he is attending or is on his way to attend a public meeting is guilty of an offence punishable on summary conviction.

15

Delivering
firearms to
minors.

88. (1) Every one who sells, barter, gives, lends, transfers or delivers a firearm, air-gun or air-pistol or ammunition therefor to a person under the age of fourteen years who does not have a valid permit in Form 45 is guilty of an offence punishable on summary conviction.

Seizure.

(2) Notwithstanding section 96, a peace officer who finds a person under the age of fourteen years in possession of a firearm, air-gun, air-pistol or ammunition therefor without a valid permit in Form 45 relating to that firearm, air-gun, air-pistol or ammunition may seize it, and upon seizure it is forfeited to Her Majesty and may be disposed of as the Attorney General may direct.

30

Unauthorized
issue of
certificates
or permits.

89. Every one who, not being a local registrar of firearms or a person authorized to issue permits, purports to issue a firearms registration certificate or permit, as the case may be, is guilty of an offence punishable on summary conviction.

35

Unregistered
firearm in
dwelling
house.

90. (1) Every one commits an offence who has an unregistered firearm in his dwelling house or place of business.

Firearm else-
where than in
dwelling
house with-
out permit.

(2) Every one commits an offence who has a firearm elsewhere than in his dwelling house or place of business, unless he has a valid permit in Form 42 or Form 44 relating to that firearm.

40

Firearm in
motor
vehicle.

(3) Every one who is an occupant of a motor vehicle in which he knows there is a firearm commits an offence unless some occupant of the motor vehicle has a valid permit in Form 42 or Form 44 relating to that firearm, but no person shall be convicted of an offence under this subsection where he establishes that he did not know that

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85. (1) Section 118.

(2) New.

86. Section 119.

87. New.

88. Section 120.

89. Section 121.

90. Section 122.

no occupant of the motor vehicle had a valid permit relating to that firearm and that he took reasonable steps to discover whether any occupant of the motor vehicle had such a permit.

Buying and
selling
firearms.

(4) Every one commits an offence who conducts, operates, 5
or engages in the business of buying or selling firearms at
retail unless he has a permit in Form 43.

Transfer of
firearm.

(5) Every one who sells, barter or makes a gift of a
firearm commits an offence if he delivers it before

(a) it is registered in the name of the purchaser or the 10
person to whom it is bartered or given, or

(b) the purchaser or the person to whom it is bartered
or given has a valid permit, as contained in Form 44,
relating to that firearm.

Accepting
firearm.

(6) Every one who buys or accepts in barter or as a 15
gift a firearm commits an offence if he receives delivery of
it before

(a) it is registered in his name, or

(b) he has a valid permit, as contained in Form 44,
relating to that firearm. 20

Finding
firearm.

(7) Every one commits an offence who, upon finding
a firearm that he has reasonable grounds to believe has
been lost or abandoned, does not forthwith

(a) deliver it to a peace officer, or

(b) report to a peace officer that he has found it. 25

Tampering
with serial
number,
certificate or
permit.

(8) Every one commits an offence who, without lawful
authority, the proof of which lies upon him,

(a) alters, defaces or removes a serial number on a
firearm, or

(b) alters, defaces or falsifies a firearms registration
certificate or permit. 30

Punishment.

(9) Every one who commits an offence under this section
is guilty of

(a) an indictable offence and is liable to imprisonment
for two years, or

(b) an offence punishable on summary conviction. 35

Retail
transactions
in
firearms.

91. (1) Every one who conducts, operates or engages in
the business of buying and selling firearms at retail

(a) shall keep a record of every transaction that he
enters into with respect to firearms, and

(b) shall produce that record for inspection at the request 40
of a peace officer.

Punishment.

(2) Every one who fails to comply with subsection (1)
is guilty of an offence punishable on summary conviction.

Onus of
proof.

92. (1) Where, in proceedings under section 88 or
90, any question arises with respect to permits or registra- 45
tion certificates, the onus lies upon the accused to prove that
he has the permit or registration certificate.

Evidence.

(2) A permit or registration certificate is *prima facie*
evidence of its contents and of the signature and official
character of the person by whom it purports to be signed.

98. (1) The Commission shall cause to be maintained in which shall be kept a record of every license registration certificate that is issued under the authority of this Act.

(2) An application for registration of a licensee shall be made on Form 44 to a local registrar of licensees.

(3) A local registrar of licensees who receives an application for registration of a licensee shall, after signing the application:

(a) send one copy thereof to the Commission;

(b) deliver one copy thereof to the applicant; and

(c) retain one copy thereof.

(4) The Commission shall, upon receipt of an application for registration of a licensee signed by the applicant and a local registrar of licensees, cause a license registration certificate to be issued in the name of the applicant in the amount of the fee described in the application.

(5) License registration certificates shall be in a form to be prescribed by the Commission.

(6) A local registrar of licensees shall refuse to accept an application for registration of a licensee that does not bear a serial number sufficient, in his opinion, to distinguish it from other licenses.

(7) Subsection (6) does not apply to licenses that in the opinion of a local registrar of licensees are serial or valueless only as activities.

(8) A license registration certificate is void if the Commission determines that the license to which it relates is registered.

99. (1) A person in Form 43 may be issued by the Commission or a person authorized in writing by the Attorney General of a province or a person authorized in writing by him.

(2) A person in Form 43 may be issued by a local registrar of licensees.

91. Section 123.

(1) A person to convey an interest in real property shall be issued by a local registrar of licensees to authorize a person who has consented in writing to receive a license to convey such an interest in real property in his name to convey the license from the place where he takes delivery of it or from his place of residence or business to the office of the local registrar of licensees and thence to his place of residence or business.

92. New.

(1) A person in Form 45 shall be issued only to a person who pays it a license that the applicant in Form 45 shall register the license to which it relates.

(a) to protect his life or property;

(b) to use in connection with his profession or occupation.

Registry.

93. (1) The Commissioner shall cause a registry to be maintained in which shall be kept a record of every firearms registration certificate that is issued under the authority of this Act.

Application for registration.
Duties of local registrar.

(2) An application for registration of a firearm shall be made on Form 44 to a local registrar of firearms. 5

(3) A local registrar of firearms who receives an application for registration of a firearm shall, after signing the application,

(a) send one copy thereof to the Commissioner, 10

(b) deliver one copy thereof to the applicant, and

(c) retain one copy thereof.

Duty of Commissioner.

(4) The Commissioner shall, upon receipt of an application for registration of a firearm signed by the applicant and a local registrar of firearms, cause a firearms registration certificate to be issued in the name of the applicant in respect of the firearm described in the application. 15

Form of certificate.

(5) Firearms registration certificates shall be in a form to be prescribed by the Commissioner.

Refusal of application.

(6) A local registrar of firearms shall refuse to accept an application for registration of a firearm that does not bear a serial number sufficient, in his opinion, to distinguish it from other firearms. 20

Exception.

(7) Subsection (6) does not apply to firearms that, in the opinion of a local registrar of firearms, are useful or valuable only as antiques. 25

Evidence of registration.

(8) A firearms registration certificate is *prima facie* evidence that the firearm to which it relates is registered.

Who may issue permits in Form 42.

94. (1) A permit in Form 42 may be issued by

(a) the Commissioner or a person authorized in writing by him, or 30

(b) the Attorney General of a province or a person authorized in writing by him.

In Form 43.

(2) A permit in Form 43 may be issued by a local registrar of firearms. 35

In Form 44.

(3) A permit to convey, as contained in Form 44, may be issued by a local registrar of firearms to authorize a person who buys, accepts in barter, accepts as a gift or finds a firearm that is not registered in his name, to convey the firearm from the place where he takes delivery of it or from his place of residence or business to the office of the local registrar of firearms and thence to his place of residence or business.

Permit in Form 42—when issued.

(4) A permit in Form 42 shall be issued only where the person who issues it is satisfied that the applicant for the permit requires the firearm to which it relates 40

(a) to protect his life or property,

(b) for use in connection with his profession or occupation, or

93. Section 124.

(1) A person who is a party to a conspiracy...
 (2) A person who is a party to a conspiracy...
 (3) A person who is a party to a conspiracy...
 (4) A person who is a party to a conspiracy...
 (5) A person who is a party to a conspiracy...

Section 124
 (1) A person who is a party to a conspiracy...
 (2) A person who is a party to a conspiracy...
 (3) A person who is a party to a conspiracy...
 (4) A person who is a party to a conspiracy...
 (5) A person who is a party to a conspiracy...

94. Section 125.

(1) A person who is a party to a conspiracy...
 (2) A person who is a party to a conspiracy...
 (3) A person who is a party to a conspiracy...
 (4) A person who is a party to a conspiracy...
 (5) A person who is a party to a conspiracy...

Section 125
 (1) A person who is a party to a conspiracy...
 (2) A person who is a party to a conspiracy...
 (3) A person who is a party to a conspiracy...
 (4) A person who is a party to a conspiracy...
 (5) A person who is a party to a conspiracy...

- (c) for use in target practice in connection with a shooting club approved by the Attorney General of the province in which the shooting club is situated.
- Validity of permit in Form 42 or 45. (5) A permit in Form 42 or Form 45 is valid until
 (a) the expiration of the period for which it is expressed to be issued, 5
 (b) it is revoked, or
 (c) the expiration of the calendar year in which it is issued,
 whichever is the earliest. 10
- Validity of permit in Form 43. (6) A permit in Form 43 is valid until it is revoked.
 Validity of permit in Form 44. (7) A permit as contained in Form 44 is valid only during the period for which it is expressed to be valid.
 Permits supplied by Commissioner. (8) Permits shall be supplied in blank by the Commissioner to persons who are authorized to issue them.
- Revocation. **95.** Permits may be revoked by any person who is 15 authorized to issue them.
- Search and seizure. **96.** (1) Whenever a peace officer believes on reasonable grounds that an offence is being committed or has been committed against any of the provisions of sections 82 20 to 91 he may search, without warrant, a person or vehicle, or premises other than a dwelling house, and may seize anything by means of or in relation to which he reasonably believes the offence is being committed or has been committed. 25
- Detention. (2) Anything seized pursuant to subsection (1) may be detained for a period of two months following the time of seizure unless during that period proceedings are instituted, in which case it may be further detained until the proceedings are concluded. 30
- Forfeiture. (3) Where a person is convicted of an offence against any of the provisions of sections 82 to 91, anything by means of or in relation to which the offence was committed, upon such conviction, in addition to any punishment imposed, is forfeited to Her Majesty and may be disposed of as the Attorney General may direct. 35
- Persons who do not commit offences. Wholesalers. **97.** (1) A person does not commit an offence under subsection (1) or (5) of section 90 by doing anything mentioned in those subsections in the ordinary course of conducting, operating or engaging in the business of buying and selling firearms at wholesale. 40
- Exception. (2) A person does not commit an offence under subsection (1) of section 90 by doing anything mentioned in that subsection in the ordinary course of conducting, operating or engaging in
 (a) the business of repairing firearms, or 45
 (b) the business of buying and selling firearms or revolvers at retail, if he has a permit in Form 43.
- Repairers.
 Retailers.

PART III

OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE

INTERPRETATION.

29. In this Part...

(a) "evidence" means an assertion of fact, opinion, belief or knowledge whether material or not and whether admissible or not;

98. Section 129.

(b) "government" means

- (i) the Government of Canada,
- (ii) the government of a province, or
- (iii) Her Majesty in right of Canada or in right of a province;

(c) "judicial proceeding" means a proceeding

- (i) in or under the authority of a court of justice or before a grand jury,
- (ii) before the Senate or House of Commons of Canada or a committee of the Senate or House of Commons, or before a legislative council, legislative assembly or house of assembly or a committee thereof that is authorized by law to administer an oath,
- (iii) before a court, judge, justice, magistrate or coroner,
- (iv) before an arbitrator or umpire or a person or body of persons authorized by law to make an inquiry and take evidence therein under oath, or
- (v) before a tribunal by which a legal right or legal liability may be established.

whether or not the proceeding is invalid for want of jurisdiction or for any other reason;

(d) "office" includes

- (i) an office or appointment under the government,
- (ii) a civil or military commission, and
- (iii) a position or employment in a public department;

(e) "official" means a person who

- (i) holds an office, or
- (ii) is appointed to discharge a public duty; and

(f) "witness" means a person who gives evidence orally under oath or by affidavit in a judicial proceeding and who is competent to be a witness and includes a child or tender years who gives evidence but does not give it under oath, because, in the opinion of the person presiding, the child does not understand the nature of an oath.

- (3) Notwithstanding anything in sections 82 to 90,
 (a) a member of the Canadian Forces or of the naval, army or air forces of a state other than Canada that are lawfully present in Canada,
 (b) a peace officer or public officer, or 5
 (c) an officer under the *Immigration Act*, the *Customs Act* or the *Excise Act*,
- is not guilty of an offence under any of the provisions of those sections by reason only that he has in his possession an offensive weapon for the purpose of his duties or employment. 10
- Definitions.
- "Commissioner."
 (a) "Commissioner" means the Commissioner of the Royal Canadian Mounted Police,
 "Firearm."
 (b) "firearm" means a pistol, revolver, or a firearm that 15 is capable of firing bullets in rapid succession during one pressure of the trigger; and
 "Local registrar of firearms."
 (c) "local registrar of firearms" means 20
 (i) the Commissioner or a person appointed in writing by him, or
 (ii) the Attorney General of a province or a person appointed in writing by him.

PART III

OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE

INTERPRETATION.

22. In this Part

(a) "evidence" means an assertion of fact, opinion, belief or knowledge whether material or not and whether admissible or not;

(b) "government" means (i) the Government of Canada, (ii) the government of a province, or (iii) Her Majesty in right of Canada or in right of a province;

(c) "judicial proceeding" means a proceeding (i) in or under the authority of a court of justice or before a grand jury,

(ii) before the Senate or House of Commons of Canada or a committee of the Senate or House of Commons, or before a legislative council, legislative assembly or house of assembly, or a committee thereof that is authorized by law to administer an oath,

(iii) before a court, judge, justice, magistrate or coroner,

(iv) before an arbitrator or umpire, or a person or body of persons authorized by law to make an inquiry and take evidence therein under oath, or

(v) before a tribunal by which a legal right or legal liability may be established;

whether or not the proceeding is invalid for want of jurisdiction or for any other reason;

(d) "office" includes (i) an office or appointment under the government,

(ii) a civil or military commission, and (iii) a position or engagement in a public department;

(e) "officer" means a person who (i) holds an office, or

(ii) is appointed to discharge a public duty; and

(f) "witness" means a person who gives evidence orally under oath or by affidavit in a judicial proceeding whether or not he is competent to be a witness and includes a child of tender years who gives evidence but does not give it under oath, because, in the opinion of the person presiding, the child does not understand the nature of an oath.

"Witness"

"Government"

"Judicial proceeding"

"Office"

"Officer"

"Witness"

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98. Section 129.

PART III

OFFENCES AGAINST THE ADMINISTRATION
OF LAW AND JUSTICE.

INTERPRETATION.

- 99.** In this Part,
- “Evidence.” (a) “evidence” means an assertion of fact, opinion, belief or knowledge whether material or not and whether admissible or not;
- “Government.” (b) “government” means 5
 (i) the Government of Canada,
 (ii) the government of a province, or
 (iii) Her Majesty in right of Canada or in right of a province;
- “Judicial proceeding.” (c) “judicial proceeding” means a proceeding 10
 (i) in or under the authority of a court of justice or before a grand jury,
 (ii) before the Senate or House of Commons of Canada or a committee of the Senate or House of Commons, or before a legislative council, legis- 15
 lative assembly or house of assembly or a committee thereof that is authorized by law to administer an oath,
 (iii) before a court, judge, justice, magistrate or coroner, 20
 (iv) before an arbitrator or umpire, or a person or body of persons authorized by law to make an inquiry and take evidence therein under oath, or
 (v) before a tribunal by which a legal right or legal liability may be established, 25
 whether or not the proceeding is invalid for want of jurisdiction or for any other reason;
- “Office.” (d) “office” includes
 (i) an office or appointment under the government,
 (ii) a civil or military commission, and 30
 (iii) a position or employment in a public department;
- “Official.” (e) “official” means a person who
 (i) holds an office, or
 (ii) is appointed to discharge a public duty; and
- “Witness.” (f) “witness” means a person who gives evidence orally 35
 under oath or by affidavit in a judicial proceeding, whether or not he is competent to be a witness, and includes a child of tender years who gives evidence but does not give it under oath, because, in the opinion of the person presiding, the child does not understand the 40
 nature of an oath.

CORRUPTION AND DISOBEDIENCE.

Bribery of
judicial
officers, etc.**100.** (1) Every one who

(a) being the holder of a judicial office, or being a member of the Parliament of Canada or of a legislature, corruptly

(i) accepts or obtains,

(ii) agrees to accept, or

(iii) attempts to obtain,

any money, valuable consideration, office, place or employment for himself or another person in respect of anything done or omitted or to be done or omitted by him in his official capacity; or

(b) gives or offers corruptly to a person who holds a judicial office, or is a member of the Parliament of

Canada or of a legislature, any money, valuable consideration, office, place or employment in respect of

anything done or omitted or to be done or omitted by him in his official capacity for himself or another person,

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Consent of
Attorney
General.

(2) No proceedings against a person who holds a judicial office shall be instituted under this section without the consent in writing of the Attorney General of Canada.

101. Every one who

(a) being a justice, police commissioner, peace officer, public officer, or officer of a juvenile court, or being

employed in the administration of criminal law, corruptly

(i) accepts or obtains,

(ii) agrees to accept, or

(iii) attempts to obtain,

for himself or any other person any money, valuable consideration, office, place or employment with intent

(iv) to interfere with the administration of justice,

(v) to procure or facilitate the commission of an offence, or

(vi) to protect from detection or punishment a person who has committed or who intends to

commit an offence; or

(b) gives or offers, corruptly, to a person mentioned in paragraph (a) any money, valuable consideration, office, place or employment with intent that the person

should do anything mentioned in subparagraph (iv), (v) or (vi) of paragraph (a),

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Bribery of
officers.

Idem.

Frauds upon
the Govern-
ment.Offer or
gift to
influence
official.**102.** (1) Every one commits an offence who

(a) directly or indirectly

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100. Sections 156 and 593.

(i) gives, offers, or agrees to give or offer to an official or to any one for the benefit of another person, a reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with the transaction of business with or any matter of business relating to the government or

(ii) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to

101. Section 157.

whether or not in fact, the official is able to co-operate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

(2) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind upon an employee or official of the government with whom he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, or of which he is upon duty;

(3) being an official or employee of the government, demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies upon him;

(4) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

(i) anything mentioned in subparagraph (ii) or (iv) of paragraph (e), or

(ii) the appointment of any person, including himself, to an office;

(5) offers, gives or agrees to offer or give to a minister of the government or an official a reward or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

102. Section 158.

(1) offers, gives or agrees to offer or give to a minister of the government or an official a reward or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

Official
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- (i) gives, offers, or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or
- (ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person,
- a loan, reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with
- (iii) the transaction of business with or any matter of business relating to the government, or
- (iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow,

whether or not, in fact, the official is able to co-operate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

Giving reward or commission to official without consent.

- (b) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind upon an employee or official of the government with which he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, the proof of which lies upon him;

Acceptance of commission or gift without consent.

- (c) being an official or employee of the government, demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies upon him;

Compensation for procuring settlement of claim, etc.

- (d) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

(i) anything mentioned in subparagraph (iii) or (iv) of paragraph (a), or

(ii) the appointment of any person, including himself, to an office;

Offer of reward for appointment.

- (e) offers, gives or agrees to offer or give to a minister of the government or an official a reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

Reward for withdrawal of tender.

- (i) anything mentioned in subparagraph (iii) or (iv) of paragraph (a), or
- (ii) the appointment of any person, including himself, to an office; or
- (f) having made a tender to obtain a contract with the government 5

Contractor subscribing to election fund.

- (i) gives, offers or agrees to give to another person who has made a tender, or to a member of his family, or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or 10
 - (ii) demands, accepts or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind as consideration for the withdrawal of his tender. 15
- (2) Every one commits an offence who, being a party to a contract with the government directly or indirectly subscribes, gives, or agrees to subscribe or give, to any person any valuable consideration 20

Punishment.

- (a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Parliament of Canada or a legislature, or
 - (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Parliament of Canada or a legislature. 25
- (3) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for five years. 30

Breach of trust by public officer.

103. Every official who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and is liable to imprisonment for five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person. 35

Municipal corruption.

- 104.** (1) Every one who
- (a) gives, offers or agrees to give or offer to a municipal official, or
 - (b) being a municipal official, demands, accepts or offers or agrees to accept from any person, a loan, reward, advantage or benefit of any kind as consideration for the official 40
 - (c) to abstain from voting at a meeting of the municipal council or a committee thereof, 45
 - (d) to vote in favour of or against a measure, motion or resolution,
 - (e) to aid in procuring or preventing the adoption of a measure, motion or resolution, or

(1) to perform or fail to perform an official act in guilty of an indictable offence and is liable to imprisonment for two years.

(2) Every one who (a) by suppression of the truth, in the case of a person who is under a duty to disclose the truth,

(b) by threats or deceit, or (c) by any unlawful means

influences or attempts to influence a municipal official to do anything mentioned in paragraphs (a) or (1) of subsection (1) is guilty of an indictable offence and is liable to imprisonment for two years.

(3) In this section "municipal official" means a member of a municipal council or a person who holds an office under a municipal government.

102. Every one who

(a) purports to sell or agrees to sell an appointment to or resignation from an office, or a consent to any such appointment or resignation, or receives or agrees to receive a reward or profit from the purported sale

(b) purports to purchase or gives a reward or profit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so,

is guilty of an indictable offence and is liable to imprisonment for five years.

103. Every one who

(a) receives, agrees to receive, gives or promises to do so, directly or indirectly, a reward, advantage or benefit of any kind as consideration for co-operation, assistance or exercise of influence in any office;

(b) solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from an office, an expectation of a direct or indirect reward,

103. Section 160.

104. Section 161.

(c) accepts without lawful authority, the use of which law has been given a place for transactions in which any business relating to the filling of vacancies in offices, (ii) the sale or purchase of offices, or (iii) appointments to or resignations from offices, is guilty of an indictable offence and is liable to imprisonment for five years.

107. Every one who, without lawful excuse, contravenes any Act of the Parliament of Canada by wilfully doing anything that it requires to be done or wilfully omitting to do anything that it requires to be done is, unless some penalty or punishment is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years.

(f) to perform or fail to perform an official act, is guilty of an indictable offence and is liable to imprisonment for two years.

Influencing
municipal
official.

(2) Every one who

(a) by suppression of the truth, in the case of a person 5
who is under a duty to disclose the truth,

(b) by threats or deceit, or

(c) by any unlawful means,

influences or attempts to influence a municipal official to do anything mentioned in paragraphs (c) or (f) of subsection 10
(1) is guilty of an indictable offence and is liable to imprisonment for two years.

"Municipal
official."

(3) In this section "municipal official" means a member of a municipal council or a person who holds an office under a municipal government. 15

105. Every one who

Selling office.

(a) purports to sell or agrees to sell an appointment to or resignation from an office, or a consent to any such appointment or resignation, or receives, or agrees to receive a reward or profit from the purported sale 20
thereof, or

Purchasing
office.

(b) purports to purchase or gives a reward or profit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so, is guilty of an indictable offence and is liable to imprison- 25
ment for five years.

106. Every one who

Reward for
influencing
appointment.

(a) receives, agrees to receive, gives or procures to be given, directly or indirectly, a reward, advantage or benefit of any kind as consideration for co-operation, 30
assistance or exercise of influence to secure the appointment of any person to an office;

Reward for
negotiating
appointment.

(b) solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from an office, in expectation of a direct or indirect reward, 35
advantage or benefit; or

Establish-
ment for
dealing in
offices.

(c) keeps without lawful authority, the proof of which lies upon him, a place for transacting or negotiating any business relating to

(i) the filling of vacancies in offices, 40

(ii) the sale or purchase of offices, or

(iii) appointments to or resignations from offices,

is guilty of an indictable offence and is liable to imprisonment for five years.

Disobeying
a statute.

107. Every one who, without lawful excuse, contravenes 45
an Act of the Parliament of Canada by wilfully doing anything that it forbids or by wilfully omitting to do anything that it requires to be done is, unless some penalty or punishment is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years. 50

108. Every one who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order, other than an order for the payment of money, is, unless some penalty or punishment or other mode of proceeding is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years.

Indictable offence

109. Every peace officer or constable who, being authorized with the execution of a process, wilfully
 (a) misconducts himself in the execution of the process, or
 (b) makes a false return to the process,
 is guilty of an indictable offence and is liable to imprisonment for two years.

Misconduct in execution of process

110. Section 162.
 110. Every one who
 (a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer,
 (b) omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so,
 (c) resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure,
 is guilty of an indictable offence and is liable to imprisonment for two years.

Obstructing public officer

Refusal to assist public officer

Resisting or obstructing

106. Section 163.

111. Every one who
 (a) falsely represents himself to be a peace officer or a public officer, or
 (b) not being a peace officer or public officer uses a badge or article of uniform or equipment in a manner that is likely to cause anyone to believe that he is a peace officer or a public officer, as the case may be,
 is guilty of an offence punishable on summary conviction.

Falsely representing peace officer

Misconduct Justice

112. Every one commits perjury who being a witness in a judicial proceeding, with intent to mislead gives false evidence, knowing that the evidence is false.

Perjury

107. Section 164.

113. (1) Every one who commits perjury who being a witness in a judicial proceeding, with intent to mislead gives false evidence, knowing that the evidence is false,
 is guilty of an indictable offence and is liable to imprisonment for fourteen years, but if he commits perjury to procure the conviction of a person for an offence punishable by death, he is liable to imprisonment for life.

Indictable offence

Disobeying
order of
court.

108. Every one who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order, other than an order for the payment of money is, unless some penalty or punishment or other mode of proceeding is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years. 5

Misconduct
of officers
executing
process.

109. Every peace officer or coroner who, being entrusted with the execution of a process, wilfully
(a) misconducts himself in the execution of the process, or 10
(b) makes a false return to the process,
is guilty of an indictable offence and is liable to imprisonment for two years.

Obstructing
public or
peace officer.

110. Every one who
(a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer, 15

Neglect to
aid public or
peace officer.

(b) omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, 20
or

Resisting
execution of
process.

(c) resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, 25
is guilty of an indictable offence and is liable to imprisonment for two years.

Personating
peace officer.

111. Every one who
(a) falsely represents himself to be a peace officer or a public officer, or 30
(b) not being a peace officer or public officer uses a badge or article of uniform or equipment in a manner that is likely to cause persons to believe that he is a peace officer or a public officer, as the case may be,
is guilty of an offence punishable on summary conviction. 35

MISLEADING JUSTICE.

Perjury.

112. Every one commits perjury who, being a witness in a judicial proceeding, with intent to mislead gives false evidence, knowing that the evidence is false.

Punishment
for perjury.

113. (1) Every one who commits perjury is guilty of an indictable offence and is liable to imprisonment for fourteen years, but if he commits perjury to procure the conviction of a person for an offence punishable by death, he is liable to imprisonment for life. 40

108. Section 165.

109. Section 166.

110. Sections 95, 167 and 168.

111. Section 169.

112. Section 170.

113. (1) Sections 172 and 174.

Proof of former trial upon trial of indictment for perjury.

(2) Where a person is charged with an offence under section 112 or 116, a certificate specifying with reasonable particularity the proceeding in which that person is alleged to have given the evidence in respect of which the offence is charged, is *prima facie* evidence that it was given in a judicial proceeding, without proof of the signature or official character of the person by whom the certificate purports to be signed if it purports to be signed by the clerk of the court or other official having the custody of the record of that proceeding or by his lawful deputy. 5 10

False statements in extra-judicial proceedings.

114. Every one who, not being a witness in a judicial proceeding but being permitted, authorised or required by law to make a statement by affidavit, by solemn declaration or orally under oath, makes in such a statement, before a person who is authorised by law to permit it to be made before him, an assertion with respect to a matter of fact, opinion, belief or knowledge, knowing that the assertion is false, is guilty of an indictable offence and is liable to imprisonment for fourteen years. 15

Corroboration.

115. No person shall be convicted of an offence under section 113 or 114 upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused. 20

Witness giving contradictory evidence.

116. (1) Every one who, being a witness in a judicial proceeding, gives evidence with respect to any matter of fact or knowledge and who subsequently, in a judicial proceeding, gives evidence that is contrary to his previous evidence is guilty of an indictable offence and is liable to imprisonment for fourteen years, whether or not the prior or the later evidence or either of them is true, unless he establishes that none of the evidence was given with intent to mislead. 25 30

"Evidence."

(2) Notwithstanding paragraph (a) of section 99, "evidence", for the purposes of this section, does not include evidence that is not material. 35

Fabricating evidence.

117. Every one who, with intent to mislead, fabricates evidence for the purpose of a judicial proceeding, existing or proposed, by any means other than perjury or incitement to perjury is guilty of an indictable offence and is liable to imprisonment for fourteen years. 40

Signing pretended affidavit.

118. Every one who (a) signs a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared before him when the writing was not so sworn or declared or when he knows that he has no authority to administer the oath or declaration, 45

(2) Section 979.

114. Sections 173, 175 and 176.

115. Section 1002.

116. New.

117. Section 177.

118. Section 179.

Using pretended affidavit.

(b) uses or offers for use any writing purporting to be an affidavit or statutory declaration that he knows was not sworn or declared, as the case may be, by the affiant or declarant or before a person authorized in that behalf, or

5

Writing purporting to be affidavit.

(c) signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by him, as the case may be, when the writing was not so sworn or declared, is guilty of an indictable offence and is liable to imprisonment for two years.

Obstructing justice.

119. (1) Every one who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice is guilty of an indictable offence and is liable to imprisonment for two years.

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(2) Without restricting the generality of subsection (1), every one shall be deemed wilfully to attempt to obstruct, pervert or defeat the course of justice who in a judicial proceeding, existing or proposed,

Corrupting witness.

(a) dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence,

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Corrupting juror.

(b) influences or attempts to influence by threats, bribes or other corrupt means, a person in his conduct as a juror,

Accepting bribe.

(c) accepts a bribe or other corrupt consideration to abstain from giving evidence, or to do or to refrain from doing anything as a juror, or

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Indemnifying bondsman.

(d) before or after being released from custody under recognizance, indemnifies or agrees to indemnify in any way, in whole or in part, his bondsman, or

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Bondsman accepting indemnity.

(e) being a bondsman, accepts or agrees to accept indemnity, in whole or in part, from a person who is released or is to be released from custody under a recognizance.

Public mischief.

120. Every one who causes a peace officer to enter upon an investigation by wilfully

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(a) making a false statement that accuses some other person of having committed an offence,

(b) doing anything that is intended to cause some other person to be suspected of having committed an offence that he has not committed, or to divert suspicion from himself, or

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(c) reporting that an offence has been committed when it has not been committed,

is guilty of an indictable offence and is liable to imprisonment for five years.

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Compounding indictable offence.

121. Every one who asks or obtains or agrees to receive or obtain any valuable consideration for himself or any

other person by agreeing to compound or conceal an indictable offence is guilty of an indictable offence and is liable to imprisonment for two years.

120. Every one who corruptly influences, directly or indirectly, another person to do or omit to do any act in relation to the commission of an indictable offence is guilty of an indictable offence and is liable to imprisonment for two years.

121. Every one who (a) publicly advertises a reward for the return of any thing that has been stolen or lost, or (b) posts or publishes any advertisement referred to in paragraph (a) or (b), is guilty of an offence punishable on summary conviction.

119. Section 180.

122. Every one who (a) publishes or offers in a public advertisement to return to a person who has advanced money by way of loan or has borrowed anything that has been stolen or lost, the money so advanced or paid, or any other sum of money for the return of that thing, or (b) posts or publishes any advertisement referred to in paragraph (a) or (b), is guilty of an offence punishable on summary conviction.

123. Every one who (a) by force or violence breaks a prison with intent to set at liberty himself or any person confined therein, or (b) with intent to escape forcibly breaks out of or takes any part of a cell or other place within a prison in which he is confined, is guilty of an indictable offence and is liable to imprisonment for two years.

120. New.

124. Every one who (a) enters the expiration of a term of imprisonment to which he was sentenced, at large within Canada without lawful excuse, the proof of which lies upon him, or (b) having been charged with a criminal offence and being at large on remand, fails to appear in accordance with the requirements of the proper court and place for his preliminary inquiry, is guilty of an indictable offence and is liable to imprisonment for two years.

121. New.

125. Every one who (a) enters the expiration of a term of imprisonment to which he was sentenced, at large within Canada without lawful excuse, the proof of which lies upon him, or (b) having been charged with a criminal offence and being at large on remand, fails to appear in accordance with the requirements of the proper court and place for his preliminary inquiry, is guilty of an indictable offence and is liable to imprisonment for two years.

other person by agreeing to compound or conceal an indictable offence is guilty of an indictable offence and is liable to imprisonment for two years.

Corruptly taking reward for recovery of goods.

122. Every one who corruptly accepts any valuable consideration, directly or indirectly, under pretence or upon account of helping any person to recover any thing obtained by the commission of an indictable offence is guilty of an indictable offence and is liable to imprisonment for five years. 5

Advertising reward and immunity.

123. Every one who 10

(a) publicly advertises a reward for the return of anything that has been stolen or lost, and in the advertisement uses words to indicate that no questions will be asked if it is returned,

Idem.

(b) uses words in a public advertisement to indicate that a reward will be given or paid for anything that has been stolen or lost, without interference with or inquiry about the person who produces it, 15

Advertising return of money advanced on stolen property.

(c) promises or offers in a public advertisement to return to a person who has advanced money by way of loan on, or has bought, anything that has been stolen or lost, the money so advanced or paid, or any other sum of money for the return of that thing, or 20

Printing advertisement.

(d) prints or publishes any advertisement referred to in paragraph (a), (b) or (c), 25

is guilty of an offence punishable on summary conviction.

ESCAPES AND RESCUES.

Prison-breach.

124. Every one who

(a) by force or violence breaks a prison with intent to set at liberty himself or any person confined therein, or

(b) with intent to escape forcibly breaks out of, or makes any breach in, a cell or other place within a prison in which he is confined, 30

is guilty of an indictable offence and is liable to imprisonment for five years.

125. Every one who

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(a) escapes from lawful custody,

(b) is, before the expiration of a term of imprisonment to which he was sentenced, at large within Canada without lawful excuse, the proof of which lies upon him, or 40

Escape. Being unlawfully at large.

Skipping bail.

(c) having been charged with a criminal offence and being at large on recognizance fails, without lawful excuse, the proof of which lies upon him, to appear in accordance with the recognizance at the proper time and place for his preliminary inquiry, to stand his trial, to receive sentence or for the hearing of an appeal, as the case may be, 45

is guilty of an indictable offence and is liable to imprisonment for two years.

- 126.** Every one who
- Permitting escape. (a) permits a person whom he has in lawful custody to escape, by failing to perform a legal duty,
- Conveying things into prison. (b) conveys or causes to be conveyed into a prison, anything, with intent to facilitate the escape of a person imprisoned therein, or 5
- Discharge under pretended authority. (c) directs or procures, under colour of pretended authority, the discharge of a prisoner who is not entitled to be discharged,
- is guilty of an indictable offence and is liable to imprisonment 10 for two years.
- 127.** Every one who
- Rescue. (a) rescues any person from lawful custody or assists any person in escaping or attempting to escape from lawful custody, 15
- Peace officer permitting escape. (b) being a peace officer, wilfully permits a person in his lawful custody to escape, or
- Prison officer permitting escape. (c) being an officer of or an employee in a prison, wilfully permits a person to escape from lawful custody therein, is guilty of an indictable offence and is liable to imprisonment for five years. 20
- 128.** Every one who knowingly and wilfully
- Assisting prisoner of war to escape. (a) assists a prisoner of war in Canada to escape from a place where he is detained, or
- (b) assists a prisoner of war, who is permitted to be at large on parole in Canada, to escape from the place where he is at large on parole, 25
- is guilty of an indictable offence and is liable to imprisonment for five years.
- 129.** (1) A person who escapes while undergoing 30 imprisonment is, after undergoing any punishment to which he is sentenced for that escape, required to serve the portion of his term that he had not served at the time of his escape.
- (2) For the purposes of subsection (1), the portion of a person's term that he had not served at the time of his escape shall be served 35
- (a) in the prison from which the escape was made, if imprisonment for the escape is not awarded, or
- (b) in the prison to which he is sentenced for the escape, if imprisonment for the escape is awarded. 40
- (3) Where a person is sentenced to imprisonment for an escape he may, for the purposes of this section, be sentenced to imprisonment in a penitentiary or in the prison from which the escape was made, whether the imprisonment is for less than two years or for two years or more. 45
- (4) For the purposes of this section, "escape" means breaking prison, escaping from lawful custody or, without lawful excuse, being at large within Canada before the expiration of a term of imprisonment to which a person has been sentenced. 50
- Full term to be served when retaken.
- Service of remant.
- Imprisonment for escape.
- "Escape."

126. Sections 193, 194 and 195.

127. Sections 191 and 192.

128. Section 186.

129. Section 196.

PART IV.

SEXUAL OFFENCES, PUBLIC MORALS AND
DISORDERLY CONDUCT.

INTERPRETATION.

- 130.** In this Part,
- “Guardian.” (a) “guardian” includes any person who has in law or in fact the custody or control of another person;
- “Public place.” (b) “public place” includes any place to which the public have access as of right or by invitation, express or implied; and 5
- “Theatre.” (c) “theatre” includes any place that is open to the public where entertainments are given, whether or not any charge is made for admission.

SPECIAL PROVISIONS.

- Corroboration. **131.** (1) No accused shall be convicted of an offence 10 under section 140, 143, 144, 145, 146 or 155 upon the evidence of only one witness unless the evidence of the witness is corroborated in a material particular by evidence that implicates the accused.
- Marriage a defence. (2) No accused shall be convicted of an offence under 15 section 144, paragraph (b) of section 145 or section 146 where he proves that, subsequent to the time of the alleged offence, he married the person in respect of whom he is alleged to have committed the offence.
- Burden of proof. (3) In proceedings for an offence under subsection (2) 20 of section 138 or section 143, 144 or paragraph (b) of section 145 the burden of proving that the female person in respect of whom the offence is alleged to have been committed was not of previously chaste character is upon the accused.
- Previous sexual intercourse with accused. (4) In proceedings for an offence under subsection (2) of 25 section 138 or under section 143 or paragraph (b) of section 145, evidence that the accused had, prior to the time of the alleged offence, sexual intercourse with the female person in respect of whom the offence is alleged to have been committed shall be deemed not to be evidence that she 30 was not of previously chaste character.

132. Where an accused is charged with an offence under section 141 or 142 in respect of a person under the age of fourteen years, the fact that the person consented to the commission of the offence is not a defence to the charge.

133. No proceedings for an offence under section 141, paragraph (2) of section 142, or under section 143, 144 or 145 shall be commenced more than one year after the time when the offence is alleged to have been committed.

130. Section 197.

134. Notwithstanding anything in any Act or other Act of the Parliament of Canada, where an accused is charged with an offence under section 135, 137 or 138, the judge shall, if the only evidence that implicates the accused is the evidence, given under oath, of the female person in respect of whom the offence is alleged to have been committed, instruct the jury that it is not safe to find the accused guilty in the absence of evidence that corroborates the evidence of that female person, but that they are entitled to find the accused guilty if they are satisfied beyond a reasonable doubt that the evidence is true.

131. (1) Section 1002.

(2) Section 214(2).

(3) Section 210.

(4) Sections 211(2), 213(2) and 301(4).

135. Every one who attempts to commit rape is guilty of an indictable offence and is liable to imprisonment for a term not exceeding five years.

136. (1) Every one who commits rape is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years.

(2) Every one who commits rape is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years.

Consent of
child under
fourteen
no defence.

132. Where an accused is charged with an offence under section 138, 141 or 148 in respect of a person under the age of fourteen years, the fact that the person consented to the commission of the offence is not a defence to the charge.

Limitation.

133. No proceedings for an offence under section 143, 144, paragraph (b) of section 145, or under section 155, 156 or 157 shall be commenced more than one year after the time when the offence is alleged to have been committed. 5

Instruction to
jury.

134. Notwithstanding anything in this Act or any other Act of the Parliament of Canada, where an accused 10 is charged with an offence under section 136, 137 or subsection (1) or (2) of section 138, the judge shall, if the only evidence that implicates the accused is the evidence, given under oath, of the female person in respect of whom the offence is alleged to have been committed, instruct the 15 jury that it is not safe to find the accused guilty in the absence of evidence that corroborates the evidence of that female person, but that they are entitled to find the accused guilty if they are satisfied beyond a reasonable doubt that her evidence is true. 20

SEXUAL OFFENCES.

Rape.

135. A male person commits rape when he has sexual intercourse with a female person who is not his wife,
(a) without her consent, or
(b) with her consent if the consent 25
(i) is extorted by threats or fear of bodily harm,
(ii) is obtained by personating her husband, or
(iii) is obtained by false and fraudulent representations as to the nature and quality of the act.

Punishment
for rape.

136. Every one who commits rape is guilty of an indictable offence and is liable to imprisonment for life and 30 to be whipped.

Attempt to
commit
rape.

137. Every one who attempts to commit rape is guilty of an indictable offence and is liable to imprisonment for ten years and to be whipped.

Sexual
intercourse
with female
under
fourteen.

138. (1) Every male person who has sexual intercourse 35 with a female person who
(a) is not his wife, and
(b) is under the age of fourteen years,
whether or not he believes that she is fourteen years of age or more, is guilty of an indictable offence and is liable to 40 imprisonment for life and to be whipped.

132. Section 294.

133. Sections 215 (7) and 1140 (1) (c).

134. New.

135. Section 298(1).

136. Section 299.

137. Section 300.

138. Section 301.

Sexual intercourse with female between fourteen and sixteen.

(2) Every male person who has sexual intercourse with a female person who
 (a) is not his wife,
 (b) is of previously chaste character, and
 (c) is fourteen years of age or more and is under the age of sixteen years,
 whether or not he believes that she is sixteen years of age or more, is guilty of an indictable offence and is liable to imprisonment for five years. 5

Acquittal where accused not chiefly to blame.

(3) Where an accused is charged with an offence under subsection (2), the court may find the accused not guilty if it is of opinion that the evidence does not show that, as between the accused and the female person, the accused is wholly or chiefly to blame. 10

Age.

139. No male person shall be deemed to commit an offence under section 136, 137, 138 or 142 while he is under the age of fourteen years.

Sexual intercourse with feeble-minded, etc.

140. Every male person who, under circumstances that do not amount to rape, has sexual intercourse with a female person
 (a) who is not his wife, and
 (b) who is and who he knows or has good reason to believe is feeble-minded, insane, or is an idiot or imbecile, 20

is guilty of an indictable offence and is liable to imprisonment for five years. 25

Indecent assault on female.

141. (1) Every one who indecently assaults a female person is guilty of an indictable offence and is liable to imprisonment for five years and to be whipped.

Consent by false representations.

(2) An accused who is charged with an offence under subsection (1) may be convicted if the evidence establishes that the accused did anything to the female person with her consent that, but for her consent, would have been an indecent assault, if her consent was obtained by false and fraudulent representations as to the nature and quality of the act. 30 35

Incest.

142. (1) Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person. 40

Punishment.

(2) Every one who commits incest is guilty of an indictable offence and is liable to imprisonment for fourteen years, and in the case of a male person is liable, in addition, to be whipped.

(b) If a female person is convicted of an offense under this section and the court is satisfied that she committed the offense by reason only that she was under restraint, duress or fear of the person with whom she had the sexual intercourse, the court is not required to impose any punishment upon her.

(c) In this section, "brother," "sister," "nephew," "niece," "half-brother" and "half-sister" include half-brother and half-sister.

138. Every male person who, being at least twenty years of age or more, seduces a female person of previously chaste character who is sixteen years of age or more but less than eighteen years of age is guilty of an indictable offense and is liable to imprisonment for two years.

139. Section 298(2).

139. Every male person, being at least twenty years of age or more, who, under promise of marriage, seduces an unmarried female person of previously chaste character who is less than twenty-one years of age is guilty of an indictable offense and is liable to imprisonment for two years.

140. Section 219.

140. Every male person who, being at least twenty years of age, has illicit sexual intercourse with his step-daughter, his daughter or his wife; or has illicit sexual intercourse with a female person of previous chaste character and under the age of twenty-one years who is in his employment;

141. Section 292 (a) and (b).

(a) is in a common law or statutory employment, or is in any way subject to his control or direction, or receives his wages or salary directly or indirectly from him;

(b) is guilty of an indictable offense and is liable to imprisonment for two years.

142. Section 204.

(1) Where an accused is charged with an offense under paragraph (b) of subsection (1), the judge may, if he is of opinion that the evidence does not show that he is between the ages of sixteen and twenty-one years, the accused is guilty of an indictable offense and is liable to imprisonment for two years.

143. Every male person who, being the owner or master of a vessel, seduces or procures a female person to be seduced by the crew of his vessel, or by the crew of a vessel on board the vessel with a female person is guilty of an indictable offense and is liable to imprisonment for two years.

144. Every one who commits perjury or bestiality is guilty of an indictable offense and is liable to imprisonment for fourteen years.

Compulsion
of female.

(3) Where a female person is convicted of an offence under this section and the court is satisfied that she committed the offence by reason only that she was under restraint, duress or fear of the person with whom she had the sexual intercourse, the court is not required to impose any punishment upon her. 5

"Brother."
"Sister."

(4) In this section, "brother" and "sister", respectively, include half-brother and half-sister.

Seduction of
female
between
sixteen and
eighteen.

143. Every male person who, being eighteen years of age or more, seduces a female person of previously chaste character who is sixteen years or more but less than eighteen years of age is guilty of an indictable offence and is liable to imprisonment for two years. 10

Seduction
under
promise of
marriage.

144. Every male person, being twenty-one years of age or more, who, under promise of marriage, seduces an unmarried female person of previously chaste character who is less than twenty-one years of age is guilty of an indictable offence and is liable to imprisonment for two years. 15

Sexual
intercourse
with step-
daughter,
etc.
Sexual
intercourse
with
female
employee.

145. (1) Every male person who
(a) has illicit sexual intercourse with his step-daughter, foster daughter or female ward; or 20
(b) has illicit sexual intercourse with a female person of previously chaste character and under the age of twenty-one years who
(i) is in his employment, 25
(ii) is in a common, but not necessarily similar, employment with him and is, in respect of her employment or work, under or in any way subject to his control or direction, or
(iii) receives her wages or salary directly or indirectly from him, 30

is guilty of an indictable offence and is liable to imprisonment for two years.

Acquittal
where
accused not
chiefly to
blame.

(2) Where an accused is charged with an offence under paragraph (b) of subsection (1), the court may find the accused not guilty if it is of opinion that the evidence does not show that, as between the accused and the female person, the accused is wholly or chiefly to blame. 35

Seduction of
female
passengers
on vessels.

146. Every male person who, being the owner or master of, or employed on board a vessel, seduces, or by threats or by the exercise of his authority, has illicit sexual intercourse on board the vessel with a female passenger is guilty of an indictable offence and is liable to imprisonment for two years. 40

Buggery or
bestiality.

147. Every one who commits buggery or bestiality is guilty of an indictable offence and is liable to imprisonment for fourteen years. 45

143. Section 211 (1).

144. Section 212.

145. Section 213.

146. Section 214 (1).

147. Section 202.

Indecent
assault on
male.

148. Every male person who assaults another person with intent to commit buggery or who indecently assaults another male person is guilty of an indictable offence and is liable to imprisonment for ten years and to be whipped.

Acts of
gross
indecenty.

149. Every one who commits an act of gross indecency with another person is guilty of an indictable offence and is liable to imprisonment for five years. 5

OFFENCES TENDING TO CORRUPT MORALS.

Obscene
matter.

150. (1) Every one commits an offence who
(a) makes, prints, publishes, distributes, circulates, or has in his possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or other thing whatsoever, or 10

Crime
comic.

(b) makes, prints, publishes, distributes, sells or has in his possession for the purpose of publication, distribution or circulation, a crime comic. 15

(2) Every one commits an offence who knowingly, without lawful justification or excuse,

Selling
obscene
matter.

(a) sells, exposes to public view or has in his possession for such a purpose any obscene written matter, picture, model, phonograph record or other thing whatsoever, 20

Indecent
show.

(b) publicly exhibits a disgusting object or an indecent show,

Offering to
sell
contracep-
tives.

(c) offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means, instructions, medicine, drug or article intended or represented as a method of preventing conception or causing abortion or miscarriage, or 25

Offering to
sell other
drugs.

(d) advertises or publishes an advertisement of any means, instructions, medicine, drug or article intended or represented as a method for restoring sexual virility or curing venereal diseases or diseases of the generative organs. 30

Defence of
public good.

(3) No person shall be convicted of an offence under this section if he establishes that the public good was served by the acts that are alleged to constitute the offence and that the acts alleged did not extend beyond what served the public good. 35

Question of
law and
question
of fact.

(4) For the purposes of this section it is a question of law whether an act served the public good and whether there is evidence that the act alleged went beyond what served the public good, but it is a question of fact whether the acts did or did not extend beyond what served the public good. 40

Motives
irrelevant.

(5) For the purposes of this section the motives of an accused are irrelevant. 45

148. Section 293.

149. Section 206.

150. Section 207.

Ignorance of
nature no
defence.

(6) Where an accused is charged with an offence under subsection (1) the fact that the accused was ignorant of the nature or presence of the matter, picture, model, phonograph record, crime comic or other thing by means of or in relation to which the offence was committed is not a defence to the charge. 5

"Crime
comic."

(7) In this section, "crime comic" means a magazine, periodical or book that exclusively or substantially comprises matter depicting pictorially the commission of crimes, real or fictitious. 10

Restriction
on
publication of
reports of
judicial pro-
ceedings.

151. (1) A proprietor, editor, master printer or publisher commits an offence who prints or publishes
(a) in relation to any judicial proceedings any indecent matter or indecent medical, surgical or physiological details, being matter or details that, if published, are calculated to injure public morals; 15
(b) in relation to any judicial proceedings for dissolution of marriage, nullity of marriage, judicial separation or restitution of conjugal rights, any particulars other than 20
(i) the names, addresses and occupations of the parties and witnesses,
(ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given, 25
(iii) submissions on a point of law arising in the course of the proceedings, and the decision of the court in connection therewith, and
(iv) the summing up of the judge, the finding of the jury and the judgment of the court and the observations that are made by the judge in giving judgment. 30

Saving.

(2) Nothing in paragraph (b) of subsection (1) affects the operation of paragraph (a) of that subsection.

Consent of
Attorney
General.
Exceptions.

(3) No proceedings for an offence under this section shall be commenced without the consent of the Attorney General. 35

(4) This section does not apply to a person who
(a) prints or publishes any matter for use in connection with any judicial proceedings or communicates it to persons who are concerned in the proceedings; 40
(b) prints or publishes a notice or report pursuant to directions of a court; or
(c) prints or publishes any matter
(i) in a volume or part of a *bona fide* series of law reports that does not form part of any other publication and consists solely of reports of proceedings in courts of law, or 45

(b) in a production of a theatrical performance that is
being presented for exhibition among members
of the lay or secular profession.

152. (1) Every one commits an offence who, being the
owner, manager, agent or person in charge of a theatre,
presents or gives or allows to be presented or given therein
an immoral, indecent or obscene performance, entertain-
ment or representation.

(2) Every one commits an offence who takes part or
appears as an actor, performer, or assistant in any capacity,
in an immoral, indecent or obscene performance, entertain-
ment or representation in a theatre.

151. Section 207A.

153. Every one commits an offence who, in violation of
the rules for the purpose of transmitting or delivering
anything that is obscene, indecent, immoral or scurrilous.

154. Every one who commits an offence under section
153, 152 or 151 is guilty of
(a) an indictable offence and is liable to imprisonment
for two years; or
(b) an offence punishable on summary conviction.

155. Every one who, being the spouse or partner of a
female person,
(a) procures her to have illicit sexual intercourse with
a person other than her spouse; or

(b) induces in part by means of knowingly receiving the
avails of the debauchery, seduction or prostitution of
the female person,
a party of an indictable offence and is liable to
(1) imprisonment for fourteen years, if the female person
is under the age of fourteen years; or
(2) imprisonment for five years, if the female person is
fourteen years of age or more.

156. Every one who
(a) being the owner, occupier or manager of premises,
or
(b) having control of premises or standing in the manage-
ment or control of premises,

knowingly receives a female person under the age of sixteen
years to resort to or to be in or upon the premises for the
purpose of having illicit sexual intercourse with a particular
male person or with more persons generally is guilty of an
indictable offence and is liable to imprisonment for five years.

(ii) in a publication of a technical character that is *bona fide* intended for circulation among members of the legal or medical professions.

Immoral
theatrical
performance.

152. (1) Every one commits an offence who, being the lessee, manager, agent or person in charge of a theatre, 5
presents or gives or allows to be presented or given therein
an immoral, indecent or obscene performance, entertain-
ment or representation.

Person
taking
part.

(2) Every one commits an offence who takes part or
appears as an actor, performer, or assistant in any capacity, 10
in an immoral, indecent or obscene performance, entertain-
ment or representation in a theatre.

Mailing
obscene
matter.

153. Every one commits an offence who makes use of
the mails for the purpose of transmitting or delivering
anything that is obscene, indecent, immoral or scurrilous. 15

Punishment.

154. Every one who commits an offence under section
150, 151, 152 or 153 is guilty of
(a) an indictable offence and is liable to imprisonment
for two years, or
(b) an offence punishable on summary conviction. 20

Parent or
guardian
procuring
defilement.

155. Every one who, being the parent or guardian of a
female person,
(a) procures her to have illicit sexual intercourse with
a person other than the procurer, or
(b) orders, is party to, permits or knowingly receives the 25
avails of, the defilement, seduction or prostitution of
the female person,
is guilty of an indictable offence and is liable to
(c) imprisonment for fourteen years, if the female person
is under the age of fourteen years, or 30
(d) imprisonment for five years, if the female person is
fourteen years of age or more.

Householder
permitting
defilement.

156. Every one who
(a) being the owner, occupier or manager of premises,
or 35
(b) having control of premises or assisting in the manage-
ment or control of premises,
knowingly permits a female person under the age of eighteen
years to resort to or to be in or upon the premises for the
purpose of having illicit sexual intercourse with a particular 40
male person or with male persons generally is guilty of an
indictable offence and is liable to imprisonment for five years.

Corrupting children.

157. (1) Every one who, in the home of a child, participates in adultery or sexual immorality or indulges in habitual drunkenness or any other form of vice, and thereby endangers or is likely to endanger the morals of the child or renders or is likely to render the home an unfit place for the child to be in, is guilty of an indictable offence and is liable to imprisonment for two years. 5

Child's lack of understanding no defence.

(2) In proceedings under subsection (1) it is not a defence that a child is not old enough to understand or appreciate the nature of the conditions that prevail in the home or the nature of the acts that are alleged to have taken place in the home, or to be immediately affected thereby. 10

'Child.'

(3) For the purposes of this section, "child" means a person who is or appears to be under the age of eighteen years. 15

Who may institute prosecutions.

(4) No proceedings shall be commenced under subsection (1) without the consent of the Attorney General, unless they are instituted by or at the instance of a recognized society for the protection of children or by an officer of a juvenile court. 20

DISORDERLY CONDUCT.

Indecent acts.

158. Every one who wilfully does an indecent act
(a) in a public place in the presence of one or more persons, or
(b) in any place, with intent thereby to insult or offend any person, 25
is guilty of an offence punishable on summary conviction.

Nudity.

159. (1) Every one who, without lawful excuse,
(a) is nude in a public place, or
(b) is nude and exposed to public view while on private property, whether or not the property is his own, 30
is guilty of an offence punishable on summary conviction.

"Nude."

(2) For the purposes of this section a person is nude who is so clad as to offend against public decency or order.

Causing disturbance.

160. Every one who
(a) not being in a dwelling house causes a disturbance 35
in or near a public place,
(i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,
(ii) by being drunk, or
(iii) by impeding or molesting other persons; 40
(b) openly exposes or exhibits an indecent exhibition in a public place;

Indecent exhibition.

157. Section 215 (2) to (6).

(4) directs the person and each of the occupants of a dwelling house by discharging firearms in any other disorderly conduct in a public place.

Disturbance of Public Peace

(1) Every one who... (a) by threats or force, unlawfully obstructs or prevents or interferes with the performance of any other function in connection with his calling;

(b) knowing that a clergyman or minister is about to perform, in any way to perform, or is returning from the performance of any of the duties or functions mentioned in paragraph (a);

(c) arrests him upon a civil process, or under the process of executing a civil process, is guilty of an indictable offence and is liable to imprisonment for two years.

158. Section 205.

(2) Every one who wilfully disturbs an assembly of persons met for religious, moral, social or benevolent purposes is guilty of an offence punishable on summary conviction.

(3) Every one who... (a) wilfully does anything that obstructs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction.

159. Section 205A (1).

159. Every one who, without lawful excuse, the proof of which lies upon him, loots, prowls or wanders upon the property of another person at night is guilty of an offence punishable on summary conviction.

160. Sections 100, 222B and 238.

160. Every one who... (a) as a result of his conduct causes damage to property or... (b) a theft or breach of trust or device from which any... is guilty of an offence punishable on summary conviction.

Loitering in public place.

(c) loiters in a public place and in any way obstructs persons who are there; or

Disturbing occupants of dwelling.

(d) disturbs the peace and quiet of the occupants of a dwelling house by discharging firearms or by other disorderly conduct in a public place,

is guilty of an offence punishable on summary conviction. 5

DISTURBING RELIGIOUS SERVICES.

Obstructing officiating clergyman.

161. (1) Every one who

(a) by threats or force, unlawfully obstructs or prevents or endeavours to obstruct or prevent a clergyman or minister from celebrating divine service or performing any other function in connection with his calling; 10

Violence to or arrest of officiating clergyman.

(b) knowing that a clergyman or minister is about to perform, is on his way to perform, or is returning from the performance of any of the duties or functions mentioned in paragraph (a) 15

(i) assaults or offers any violence to him, or

(ii) arrests him upon a civil process, or under the pretence of executing a civil process,

is guilty of an indictable offence and is liable to imprisonment for two years. 20

Disturbing religious worship or certain meetings.

(2) Every one who wilfully disturbs or interrupts an assemblage of persons met for religious worship or for a moral, social or benevolent purpose is guilty of an offence punishable on summary conviction.

Idem.

(3) Every one who, at or near a meeting referred to in subsection (2), wilfully does anything that disturbs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction. 25

Trespassing at night.

162. Every one who, without lawful excuse, the proof of which lies upon him, loiters, prowls or wanders upon the property of another person at night is guilty of an offence punishable on summary conviction. 30

Offensive volatile substance.

163. Every one other than a peace officer engaged in the discharge of his duty who has in his possession in a public place or who deposits, throws or injects or causes to be deposited, thrown or injected in, into or near any place, 35

(a) an offensive volatile substance that is likely to alarm, inconvenience, discommode or cause discomfort to any person or to cause damage to property, or

(b) a stink or stench bomb or device from which any substance mentioned in paragraph (a) is or is capable of being liberated, 40

is guilty of an offence punishable on summary conviction.

161. (1) Every one commits an offence who...
 (a) not having any apparent means of support
 (b) lives without employment, or
 (c) is found wandering abroad or trespassing and
 does not, when required, justify his presence in
 the place where he is found;
 (d) begs from door to door or in a public place;
 (e) being a common prostitute or night walker is found in
 a public place and does not, when required, give a good
 account of herself;

161. Sections 199, 200 and 201.

(1) Every one who commits a common nuisance...
 (a) having at any time been convicted of an offence under
 a provision mentioned in paragraph (a) or (b) of 18
 subsection (1) of section 601, is found loitering or
 wandering in or near a school ground, playground,
 public park or bathing area;
 (2) Every one who commits a nuisance is guilty of an
 offence punishable on summary conviction.
 (3) No person who is aged or infirm shall be convicted of
 an offence under paragraph (a) of subsection (1).

162. New.

163. Section 510A.

Every one who willfully publishes...
 (a) publishes without lawful excuse to perform any
 duty that is imposed upon him by law or that he under-
 takes with reference to the burial of a dead human
 body or human remains;
 (b) knowingly or recklessly interferes with or offers
 any obstacle to a dead human body or human remains
 being buried or not
 is guilty of an indictable offence and is liable to imprison-
 ment for five years.

- No apparent means of support. **164.** (1) Every one commits vagrancy who
 (a) not having any apparent means of support
 (i) lives without employment, or
 (ii) is found wandering abroad or trespassing and does not, when required, justify his presence in the place where he is found; 5
- Begging. (b) begs from door to door or in a public place;
 Prostitute or night walker. (c) being a common prostitute or night walker is found in a public place and does not, when required, give a good account of herself; 10
- Living by gaming or crime. (d) supports himself in whole or in part by gaming or crime and has no lawful profession or calling by which to maintain himself; or
- Sexual offenders loitering near schools, etc. (e) having at any time been convicted of an offence under a provision mentioned in paragraph (a) or (b) of 15 subsection (1) of section 661, is found loitering or wandering in or near a school ground, playground, public park or bathing area.
- Punishment. (2) Every one who commits vagrancy is guilty of an offence punishable on summary conviction. 20
- Aged or infirm persons. (3) No person who is aged or infirm shall be convicted of an offence under paragraph (a) of subsection (1).

NUISANCES.

- Common nuisance. **165.** (1) Every one who commits a common nuisance and thereby
 (a) endangers the lives, safety or health of the public, or
 (b) causes physical injury to any person, is guilty of an indictable offence and is liable to imprisonment for two years. 30
- Definition. (2) For the purposes of this section, every one commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby
 (a) endangers the lives, safety, health, property or comfort of the public, or 35
 (b) obstructs the public in the exercise or enjoyment of any right that is common to all the subjects of Her Majesty in Canada.
- Spreading false news. **166.** Every one who wilfully publishes a tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and is liable to imprisonment for two years. 40
- Not burying dead. **167.** Every one who
 (a) neglects, without lawful excuse, to perform any duty that is imposed upon him by law or that he undertakes with reference to the burial of a dead human body or human remains, or 45
 (b) improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not, 50
 is guilty of an indictable offence and is liable to imprisonment for five years.
- Indignity to dead body.

164. Sections 238 and 239.

PART 7

DISORDERLY HOUSES, GAMING AND BETTING

DEFINITIONS

164. (1) In this Part
(a) "bet" means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of Canada.

(b) "common betting house" means a place that is
(i) kept or opened or
(ii) resorted to by one or more persons for the purpose of prostitution or the practice of acts of indecency.

(c) "common betting house" means a place that is
(i) enabled, encouraged or assisted for the purpose of resort thereto to bet between themselves or with the keeper, or
(ii) enabling any person to receive resort, register, transmit or pay bets.

165. Sections 221 and 222.

(d) "common gaming house" means a place that is
(i) kept for sale to which persons resort for the purpose of playing games; or
(ii) kept or used for the purpose of playing games
(A) in which a bank is kept by one or more persons, not all of the players,
(B) in which all or any portion of the bets on or proceeds from a game, or proceeds from a game, are transmitted, to the keeper, or
(C) in which, directly or indirectly, a fee is charged or paid by the players for the privilege of playing or participating in a game or using conduct of which the chances are equally favourable to all persons who play the game, including the person, if any, who conducts the game.

166. Section 136.

(e) "disorderly house" means a common betting house or common gaming house.

167. Section 237.

(f) "game" means a game of chance or mixed chance and skill.

PART V.

DISORDERLY HOUSES, GAMING AND BETTING.

INTERPRETATION.

- "Bet." **168.** (1) In this Part,
- (a) "bet" means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing, includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of Canada; 5
- "Common bawdy-house." (b) "common bawdy-house" means a place that is
- (i) kept or occupied, or
- (ii) resorted to by one or more persons 10
for the purpose of prostitution or the practice of acts of indecency;
- "Common betting house." (c) "common betting house" means a place that is
- (i) enabling, encouraging or assisting persons who resort thereto to bet between themselves or with the keeper, or 15
- (ii) enabling any person to receive, record, register, transmit or pay bets or to announce the results of betting; 20
- "Common gaming house." (d) "common gaming house" means a place that is
- (i) kept for gain to which persons resort for the purpose of playing games; or
- (ii) kept or used for the purpose of playing games
- (A) in which a bank is kept by one or more but not all of the players, 25
- (B) in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,
- (C) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or
- (D) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game; 35
- "Disorderly house." (e) "disorderly house" means a common bawdy-house, a common betting house or a common gaming house;
- "Game." (f) "game" means a game of chance or mixed chance and skill; 40

(v) "gaming equipment" means anything that is or may be used for the purpose of playing games or for betting;

(vi) "keeper" includes any person who, at the time (i) is an owner or occupier of a place, (ii) assists or acts on behalf of an owner or occupier of a place, (iii) appears to be, or to assist or act on behalf of an owner or occupier of a place, (iv) has the care or management of a place, or (v) uses a place permanently or temporarily, with or without the consent of the owner or occupier;

168. (1) (a) New.

(i) "place" includes any place, whether the roof is or is not over it, (ii) it is covered or enclosed, (iii) it is used permanently or temporarily, or (iv) any person has an exclusive right to it.

(b) Section 225.

(3) A place is not a gaming house within the meaning of paragraph (1) or clause (b) or (c) of sub-paragraph (ii) of paragraph (4) of subsection (1) if (a) while it is occupied and used for the purpose of gaming, it is not used for the purpose of gaming, or (b) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and (c) no fee in excess of ten cents an hour or fifty cents a day is charged to persons for the right or privilege of participating in the games played therein; or

(c) Section 227.

(5) While occasionally it is used by charitable or religious organizations for the purpose of playing games for which a direct fee is charged to persons for the right or privilege of playing, if the proceeds from the games are to be used for a charitable or religious object, (6) The case of proving that, by virtue of subsection (3), a place is not a gaming house is on the accused. (7) A place may be a common gaming house notwithstanding that (a) it is used for the purpose of playing part of a game and another part of the game is played elsewhere; or (b) the game that is played for is in some other place.

(d) Section 226.

(e) Section 2 (9) (a).

(f) New.

- "Gaming equipment." (g) "gaming equipment" means anything that is or may be used for the purpose of playing games or for betting;
- "Keeper." (h) "keeper" includes a person who
- (i) is an owner or occupier of a place,
 - (ii) assists or acts on behalf of an owner or occupier of a place, 5
 - (iii) appears to be, or to assist or act on behalf of an owner or occupier of a place,
 - (iv) has the care or management of a place, or
 - (v) uses a place permanently or temporarily, with 10 or without the consent of the owner or occupier; and
- "Place." (i) "place" includes any place, whether or not
- (i) it is covered or enclosed,
 - (ii) it is used permanently or temporarily, or 15
 - (iii) any person has an exclusive right of user with respect to it.
- Exception. (2) A place is not a common gaming house within the meaning of subparagraph (i) or clause (B) or (C) of subparagraph (ii) of paragraph (d) of subsection (1) 20
- (a) while it is occupied and used by an incorporated *bona fide* social club or branch thereof if
- (i) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and 25
 - (ii) no fee in excess of ten cents an hour or fifty cents a day is charged to persons for the right or privilege of participating in the games played therein; or
- Charitable organizations. (b) while occasionally it is used by charitable or religious 30 organizations for the purpose of playing games for which a direct fee is charged to persons for the right or privilege of playing, if the proceeds from the games are to be used for a charitable or religious object.
- Onus. (3) The onus of proving that, by virtue of subsection (2), 35 a place is not a common gaming house is on the accused.
- (4) A place may be a common gaming house notwithstanding that
- (a) it is used for the purpose of playing part of a game and another part of the game is played elsewhere; or 40
 - (b) the stake that is played for is in some other place.
- Effect when game partly played on premises.

(g) New.

(h) Sections 227 (2) and 229 (3).

(i) Section 227 (2).

(2) Section 226 (1) (b) (ii) in part.

(3) New.

(4) Section 226 (2).

PRESUMPTIONS.

- From obstruction. **169.** In proceedings under this Part,
 (a) evidence that a peace officer who was authorized to enter a place was wilfully prevented from entering or was wilfully obstructed or delayed in entering is *prima facie* evidence that the place is a disorderly house; 5
- From device for concealment. (b) evidence that a place was found to be equipped with gaming equipment or any device for concealing, removing or destroying gaming equipment is *prima facie* evidence that the place is a common gaming house or a common betting house, as the case may be; 10
- From gaming equipment. (c) evidence that gaming equipment was found in a place entered under a warrant issued pursuant to this Part, or on or about the person of anyone found therein, is *prima facie* evidence that the place is a common gaming house and that the persons found therein were playing games, whether or not any person acting under the warrant observed any persons playing games therein; and 15
- From previous conviction. (d) evidence that a person was convicted of keeping a disorderly house is, for the purpose of proceedings against any one who is alleged to have been an inmate or to have been found in that house at the time the person committed the offence of which he was convicted, *prima facie* evidence that the house was, at that time, a disorderly house. 20 25
- Conclusive presumption from slot machine. **170.** (1) For the purpose of proceedings under this Part, a place that is found to be equipped with a slot machine shall be conclusively presumed to be a common gaming house.
- "Slot machine." (2) In this section "slot machine" means any automatic machine or slot machine 30
 (a) that is used or intended to be used for any purpose other than vending merchandise or services; or
 (b) that is used or intended to be used for the purpose of vending merchandise or services if 35
 (i) the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator,
 (ii) as a result of a given number of successive operations by the operator the machine produces different results, or 40
 (iii) on any operation of the machine it discharges or emits a slug or token.

169. Sections 985 and 986 (1), (2) and (3).

170. Section 986 (4).

SEARCH.

Warrant to search.

171. (1) A justice who receives from a peace officer a report in writing that he has reasonable ground to believe and does believe that an offence under section 176, 177, 179 or 182 is being committed at any place within the jurisdiction of the justice, may issue a warrant under his hand authorizing a peace officer to enter and search the place by day or night and seize anything found therein that may be evidence that an offence under section 176, 177, 179 or 182, as the case may be, is being committed at that place, and to take into custody all persons who are found in or at that place and requiring those persons and things to be brought before him or before another justice having jurisdiction, to be dealt with according to law. 5 10

Search without warrant, seizure and arrest.

(2) A peace officer may, whether or not he is acting under a warrant issued pursuant to this section, take into custody any person whom he finds keeping a common gaming house and any person whom he finds therein, and may seize anything that may be evidence that such an offence is being committed and shall bring those persons and things before a justice having jurisdiction, to be dealt with according to law. 15 20

Disposal of property seized.

(3) Except where otherwise expressly provided by law, a court, judge, justice or magistrate before whom anything that is seized under this section is brought may

(a) declare that any money or security for money so seized is forfeited, and 25

(b) direct that anything so seized, other than money or security for money, shall be destroyed,

if no person shows sufficient cause why it should not be forfeited or destroyed, as the case may be. 30

When declaration or direction may be made.

(4) No declaration or direction shall be made pursuant to subsection (3) in respect of anything seized under this section until

(a) it is no longer required as evidence in any proceedings that are instituted pursuant to the seizure, or 35

(b) the expiration of thirty days from the time of seizure where it is not required as evidence in any proceedings.

Converting security into money.

(5) Where any security for money is forfeited under this section, the Attorney General may, for the purpose of converting the security into money, deal with the security in all respects as if he were the person entitled to the proceeds thereof. 40

Telephones exempt from seizure.

(6) Nothing in this section authorizes the seizure, forfeiture or destruction of telephone, telegraph or other communication facilities or equipment owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of such a person. 45

171. Section 641.

171. A justice who is satisfied by information upon oath that a person is guilty of an offence under section 640 may issue a warrant for the arrest of that person...

172. A peace officer may, for the purpose of executing a warrant issued under section 171 or 172, use any force as is necessary to effect entry into the place in respect of which the warrant is issued.

173. (1) A justice before whom a person is brought in a warrant issued under section 171 or 172 is not bound to inquire into the person's guilt...

- (a) the purpose for which the place related to in the warrant is or has been used, kept or occupied, and
(b) any matter relating to the execution of the warrant
(c) a reason to believe the person applies who
(d) refuses to answer a question.

174. Every one who, for the purpose of procuring, obtaining or detaining a peace officer who is executing a warrant issued under this Part in respect of a disorderly person or who is otherwise authorized to enter a disorderly house, does anything or omits to do so with intent to that person is guilty of an offence punishable on summary conviction.

Common Betting

175. (1) Every one who keeps a common betting house or common betting house in which an indictable offence is liable to imprisonment for two years.
(2) Every one who
(a) is found, without lawful excuse, in a common betting house or
(b) is found, without lawful excuse, in a common betting house or

Search for
woman in
bawdy-house.

172. A justice who is satisfied by information upon oath that there is reasonable ground to believe that a female person has been enticed to or is concealed in a common bawdy-house may issue a warrant under his hand authorizing a peace officer or other person named therein to enter and search the place, by day or night, and requiring her and the keeper of the place to be brought before him or another justice having jurisdiction to be kept in custody or released as he considers proper. 5

Use of force.

173. A peace officer may, for the purpose of executing a warrant issued under section 171 or 172, use as much force as is necessary to effect entry into the place in respect of which the warrant is issued. 10

Examination
of persons
arrested in
disorderly
houses.

174. (1) A justice before whom a person is taken pursuant to a warrant issued under section 171 or 172 may require that person to be examined on oath and to give evidence with respect to 15

(a) the purpose for which the place referred to in the warrant is or has been used, kept or occupied, and
(b) any matter relating to the execution of the warrant. 20

Person
refusing to be
examined.

(2) A person to whom this section applies who
(a) refuses to be sworn, or,
(b) refuses to answer a question,
may be dealt with in the same manner as a witness appearing before a superior court of criminal jurisdiction pursuant to a subpoena, and section 5 of the *Canada Evidence Act* applies in respect of a person to whom this section applies. 25

OBSTRUCTION.

Obstructing
execution of
warrant.

175. Every one who, for the purpose of preventing, obstructing or delaying a peace officer who is executing a warrant issued under this Part in respect of a disorderly house or who is otherwise authorized to enter a disorderly house, does anything, or being the keeper of the disorderly house, permits anything to be done to give effect to that purpose is guilty of an offence punishable on summary conviction. 30
35

GAMING AND BETTING.

Keeping
gaming or
betting house.

176. (1) Every one who keeps a common gaming house or common betting house is guilty of an indictable offence and is liable to imprisonment for two years.

Person found
in gaming or
betting house.

(2) Every one who
(a) is found, without lawful excuse, in a common gaming house or common betting house, or 40

172. Section 640.

173. Section 641 (1).

174. Section 642.

175. Section 230.

176. Sections 228 and 229.

Owner
permitting
use.

(b) as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house or common betting house,
is guilty of an offence punishable on summary conviction. 5

Betting,
pool selling,
book-making,
etc.

177. Every one commits an offence who

- (a) uses or knowingly allows a place under his control to be used for the purpose of recording or registering bets or selling a pool;
- (b) imports, makes, buys, sells, rents, leases, hires or 10 keeps, exhibits, employs or knowingly allows to be kept, exhibited or employed in any place under his control a device or apparatus for the purpose of recording or registering bets or selling a pool, or any machine or device for gambling or betting; 15
- (c) has under his control any money or other property relating to a transaction that is an offence under this section;
- (d) records or registers bets or sells a pool;
- (e) engages in pool-selling or book-making, or in the business or occupation of betting, or makes any agree- 20 ment for the purchase or sale of betting or gaming privileges, or for the purchase or sale of information that is intended to assist in book-making, pool-selling or betting;
- (f) prints, provides or offers to print or provide infor- 25 mation intended for use in connection with book-making, pool-selling or betting upon any horse-race, fight, game or sport whether or not it takes place in or out of Canada or has or has not taken place;
- (g) imports or brings into Canada any information or 30 writing that is intended or is likely to promote or be of use in gambling, book-making, pool-selling or betting upon a horse-race, fight, game or sport, and where this paragraph applies it is immaterial
- (i) whether the information is published before, 35 during or after the race, fight, game or sport, or
- (ii) whether the race, fight, game or sport takes place in Canada or elsewhere,
- but this paragraph does not apply to a newspaper, magazine or other periodical published in good faith 40 primarily for a purpose other than the publication of such information;
- (h) advertises, prints, publishes, exhibits, posts up, or otherwise gives notice of any offer, invitation or inducement to bet on, to guess or to foretell the result 45 of a contest, or a result of or contingency relating to any contest;

(1) willfully and knowingly sends, transmits, delivers or receives any message by telegram, telephone, mail or express that conveys any information relating to book-making, pool-selling, betting or wagering, or that is intended to assist in book-making, pool-selling, betting or wagering;

177. Section 235 (1).

(2) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.

Indictment

Exemption

178. (1) Sections 176 and 177 do not apply to any person or association by reason of his or their possessing the cashless or depositary of any money, property or valuable thing stated to be paid to

(i) the winner of a lawful race, sport, game or exercise;

(ii) the owner of a horse engaged in a lawful race;

(iii) the winner of any bet between not more than ten individuals;

(iv) a private bet between individuals not engaged in any way in the business of betting;

(v) bets made or records of bets made through the agency of a pari-mutuel system only as hereinafter provided, upon the race course of an association;

(vi) incorporated before May 19, 1947, if

(A) the association has conducted a race meeting with pari-mutuel betting under the supervision of an officer appointed by the Minister of Agriculture at any time after January 1, 1938 but before May 19, 1947, or

(B) the Minister of Agriculture has before May 19, 1947, made a determination under this section that the provisions of sections 176 and 177 shall not extend to the operation of a pari-mutuel system with respect to running races at a race meeting conducted by the association on a race course of another association or

(ii) incorporated on or after May 19, 1947 by special Act of the Parliament of Canada or of the Legislature of a province;

during the actual progress of a race meeting conducted by the association upon races being run thereon and if, as in race meetings of which lists are running there, the following provisions are complied with, namely:

(iii) no race meeting shall continue for more than fourteen consecutive days on days on which racing may be lawfully carried on and there shall be no more than eight races on any of those days

and

(i) wilfully and knowingly sends, transmits, delivers or receives any message by telegraph, telephone, mail or express that conveys any information relating to book-making, pool-selling, betting or wagering, or that is intended to assist in book-making, pool-selling, betting 5 or wagering; or

(j) aids or assists in any manner in anything that is an offence under this section.

Punishment.

(2) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.

Exemption.

178. (1) Sections 176 and 177 do not apply to

(a) any person or association by reason of his or their becoming the custodian or depository of any money, 15 property or valuable thing staked, to be paid to

(i) the winner of a lawful race, sport, game or exercise,

(ii) the owner of a horse engaged in a lawful race, or 20

(iii) the winner of any bets between not more than ten individuals;

(b) a private bet between individuals not engaged in any way in the business of betting;

(c) bets made or records of bets made through the agency 25 of a pari-mutuel system only as hereinafter provided, upon the race course of an association

(i) incorporated before May 19, 1947, if

(A) the association has conducted a race meeting with pari-mutuel betting under the super- 30 vision of an officer appointed by the Minister of Agriculture at any time after January 1, 1938 but before May 19, 1947, or

(B) the Minister of Agriculture has, before May 19, 1947, made a determination under this 35 section that the provisions of sections 176 and 177 shall not extend to the operation of a pari-mutuel system with respect to running races at a race meeting conducted by the association on a race course of another association, or 40

(ii) incorporated on or after May 19, 1947 by special Act of the Parliament of Canada or of the legislature of a province,

during the actual progress of a race meeting conducted by the association upon races being run thereon and 45 if, as to race meetings at which there are running races, the following provisions are complied with, namely,

(iii) no race meeting shall continue for more than fourteen consecutive days on days on which racing may be lawfully carried on and there shall be 50 not more than eight races on any of those days, and

(1) no association shall hold, and no race shall be held, except as hereinafter provided in any one calendar year more than one race meeting at which there are running races, days or two such race meetings having an interval of at least twenty days between them of not more than seven such days each.

(2) race meetings at which there are betting or wagering races exclusively where book-making betting or wagering is permitted by an association incorporated in any manner before the 1st day of April 1901.

178. Section 235 (2) to (6).

(3) the year meetings shall not in any one calendar year be conducted for more than fourteen days or fourteen nights or a total of fourteen days and nights on which racing may be lawfully carried on;

(4) no more than eight races or dashes, or four best races or three heats each, or six best races of two heats each shall be held during any twenty-four hour period; and

(5) any part-mutual system of betting used upon the race course shall be used as hereinafter provided:

(a) the operation of a part-mutual system with respect to running races at a race meeting conducted by an association on a race course of another association, if the provisions of sections 175 and 177 do not extend to the operation of a part-mutual system with respect to running races on the race course of both associations;

(b) both race courses are in the same province, and

(c) the Minister of Agriculture so determines in a particular case.

(6) the part-mutual system of betting shall be used upon any race course unless the system has been approved by the Minister of Agriculture, whose duty it shall be to keep the betting before each race and to see that no further amounts are returned.

(7) where any person or association becomes a creditor or debtor of any money, but or stake under a part-mutual system during the actual progress of a race meeting conducted by and on the race course of an association is enforceable with this section, upon race being run thereon, the percentage defined and retained by the person or association in respect of such race from the total

Section 178
Part-mutual system

178

(iv) no association shall hold, and on any one track there shall not be held, except as hereinafter provided, in any one calendar year more than one race meeting, at which there are running races, of more than seven and not exceeding fourteen such days or two such race meetings having an interval of at least twenty days between them of not more than seven such days each; 5

(d) race meetings at which there are trotting or pacing races exclusively where pool-selling, betting or wagering is permitted by an association incorporated in any manner before March 20, 1912, or incorporated after that day by special Act of the Parliament of Canada or of the legislature of a province, on a race course during the actual progress of the race meetings conducted by the association, if the following provisions are complied with, namely, 10 15

(i) the race meetings shall not in any one calendar year be conducted for more than fourteen days or fourteen nights or a total of fourteen days and nights on which racing may be lawfully carried on, 20

(ii) no more than eight races or dashes, or four heat races of three heats each, or six heat races of two heats each shall be held during any twenty-four hour period, and 25

(iii) any pari-mutuel system of betting used upon the race course shall be used as hereinafter provided; or

(e) the operation of a pari-mutuel system with respect to running races at a race meeting conducted by an association on a race course of another association, if 30

(i) the provisions of sections 176 and 177 do not extend to the operation of a pari-mutuel system with respect to running races on the race courses of both associations, 35

(ii) both race courses are in the same province, and

(iii) the Minister of Agriculture so determines in a particular case.

Operation of
pari-mutuel
system.

(2) No pari-mutuel system of betting shall be used upon any race course unless the system has been approved by and its operation is carried on under the supervision, at the expense of the association, of an officer appointed by the Minister of Agriculture, whose duty it shall be to stop the betting before each race and to see that no further amounts are deposited. 40 45

Idem.

(3) Where any person or association becomes a custodian or depository of any money, bet or stakes under a pari-mutuel system during the actual progress of a race meeting conducted by and on the race course of an association in accordance with this section, upon races being run thereon, the percentage deducted and retained by the person or association in respect of each race from the total 50

amount of money so deposited, or of which the person or association becomes the custodian, shall not exceed nine per cent, and, in addition, the person or association may retain the remainder occurring in each calculation under the regulations of the amount payable in respect of each 5 dollar wagered, and any odd cents over any multiple of five cents in the amount so calculated.

Purses.

(4) Where the Minister of Agriculture is not satisfied that a proper proportion of gate receipts and percentages taken from the pari-mutuel pools is being given in purses 10 to horses taking part in the race meeting or that the provisions of this section are being carried out in good faith by the person or association conducting the race meeting, he may at any time order the betting to be stopped for any period that he considers proper. 15

Regulations.

(5) The Minister of Agriculture may make regulations with respect to the carrying out of the provisions of paragraphs (c), (d) and (e) of subsection (1) and subsections (2) and (3), and may, by the regulations, impose such fines, not exceeding in any one case five hundred dollars 20 for any violation of any such regulations, as he considers necessary to ensure compliance with the regulations.

Lotteries.

179. (1) Every one is guilty of an indictable offence and is liable to imprisonment for two years who

Publishing lottery scheme.

(a) makes, prints, advertises or publishes, or causes or 25 procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property, by lots, cards, tickets, or any mode of chance whatsoever; 30

Disposing of lottery tickets.

(b) sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or 35 otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever;

Conveyance of material for lottery.

(c) knowingly sends, transmits, mails, ships, delivers or allows to be sent, transmitted, mailed, shipped or delivered, or knowingly accepts for carriage or transport 40 or conveys any article that is used or intended for use in carrying out any device, proposal, scheme or plan for advancing, lending, giving, selling or otherwise disposing of any property by any mode of chance whatsoever; 45

Conducting lottery scheme.

(d) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining

179. Sections 236 and 442 (b).

- who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, loaned, given, sold or disposed of;
- Conducting scheme for disposal of property. (e) conducts, manages or is a party to any scheme, contrivance or operation of any kind by which any person, upon payment of any sum of money, or the giving of any valuable security, or by obligating himself to pay any sum of money or give any valuable security, shall become entitled under the scheme, contrivance or operation, to receive from the person conducting or managing the scheme, contrivance or operation, or any other person, a larger sum of money or amount of valuable security than the sum or amount paid or given, or to be paid or given, by reason of the fact that other persons have paid or given, or obligated themselves to pay or give any sum of money or valuable security under the scheme, contrivance or operation; 5 10 15
- Disposal of goods by game of chance. (f) disposes of any goods, wares or merchandise by any game of chance or any game of mixed chance and skill in which the contestant or competitor pays money or other valuable consideration; 20
- Inducing persons to stake money. (g) induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, three-card monte, punch board, coin table or on the operation of a wheel of fortune; 25
- Playing three-card monte. (h) for valuable consideration carries on or plays or offers to carry on or to play, or employs any person to carry on or play in a public place or a place to which the public have access, the game of three-card monte; 30
- Receiving bets on three-card monte. (i) receives bets of any kind on the outcome of a game of three-card monte; or 35
- Permitting three-card monte. (j) being the owner of a place, permits any person to play the game of three-card monte therein. 40
- "Three-card monte." (2) In this section "three-card monte" means the game commonly known as three-card monte and includes any other game that is similar to it, whether or not the game is played with cards and notwithstanding the number of cards or other things that are used for the purpose of playing. 45
- Exemption of Agricultural fairs. (3) Paragraphs (f) and (g) of subsection (1), in so far as they do not relate to a dice game, three-card monte, punch board or coin table, do not apply to an agricultural fair or exhibition, or to any operator of a concession leased by an agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair on those grounds. 45
- Offence. (4) Every one who buys, takes or receives a lot, ticket or other device mentioned in subsection (1) is guilty of an offence punishable on summary conviction.

(5) Every sale, lease, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot is void, and all property so sold, leased, given, bartered or exchanged, is forfeited to Her Majesty.

Lottery
and
void

(6) Exemption (5) does not affect any right or title to property acquired by any bona fide purchaser for valuable consideration without notice.

Lottery
and
void

(7) This section applies to the printing or publishing or getting to be printed or published, of any advertisement, scheme, proposal or plan of any lottery, and to any sale or offer for sale of any ticket, chance or share in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contract, or operation for determining the winners in any such lottery.

Lottery
and
void

(8) This section does not apply to (a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests in any such property;

Lottery
and
void

(b) tickets for prizes of small value at any horse race for any charitable or religious object, if permission to sell the same has been obtained from the city or other municipal council, or from the mayor, town or other chief officer of the city, town or other municipality, wherein such horse race is held, and the tickets called for thereat have not been offered for sale and none of them has a value exceeding fifty dollars;

Lottery
and
void

(c) the distribution by lot of premiums given as rewards to promote health by voluntarily insuring persons deposits of weekly savings in any chartered savings bank; or

Lottery
and
void

(d) bonds debentures, debenture stock or other securities receivable by donation of lot and redeemable with interest and payable for payment of premium upon redemption of others.

Lottery
and
void

1878. (1) Every one who drives or attempts to drive anything from any person by placing a mine in a vehicle, vessel or vessel used as a public conveyance for passengers in guilty of an indictable offence and is liable to imprisonment for two years.

Explosives
and
offences

(2) Every person in charge of a vehicle, animal or vessel and any person who has been arrested by a constable or other person who has reasonable cause to believe has committed or attempted to commit or is committing or attempting to commit an offence under this section.

Explosives
and
offences

Lottery
sale
void.

(5) Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged, is forfeited to Her Majesty.

5

Bona fide
purchase.

(6) Subsection (5) does not affect any right or title to property acquired by any *bona fide* purchaser for valuable consideration without notice.

Foreign
lottery
included.

(7) This section applies to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.

Saving.

(8) This section does not apply to

Dividing
property
by lot.

(a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests in any such property;

20

Raffles at
church
bazaars.

(b) raffles for prizes of small value at any bazaar held for any charitable or religious object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for thereat have first been offered for sale and none of them has a value exceeding fifty dollars;

Rewards to
promote
thrift.

(c) the distribution by lot of premiums given as rewards to promote thrift by punctuality in making periodical deposits of weekly savings in any chartered savings bank; or

Recalling
securities by
lot.

(d) bonds, debentures, debenture stock or other securities recallable by drawing of lots and redeemable with interest and providing for payment of premiums upon redemption or otherwise.

Gambling in
public
conveyances.

180. (1) Every one who obtains or attempts to obtain anything from any person by playing a game in a vehicle, aircraft or vessel used as a public conveyance for passengers is guilty of an indictable offence and is liable to imprisonment for two years.

Arrest
without
warrant.

(2) Every person in charge of a vehicle, aircraft or vessel and any person authorized by him may arrest, without warrant, a person who he has good reason to believe has committed or attempted to commit or is committing or attempting to commit an offence under this section.

Section 180

(2) Every person who owns or operates a vehicle, or
 left or moved to which this section applies shall keep
 posted up in some conspicuous part thereof a copy of this
 section or a notice to the same effect, and in default thereof
 is guilty of an offense punishable on summary conviction.

181. Every one who with intent to defraud any person,
 cheats while playing a game or in betting the stakes for a
 game or in betting a game of an unlawful offence and is
 liable on conviction for two years.

180. Section 234.

182. (1) Every one who...
 (2) Every one who...
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 (40) Every one who...

180. Section 234.

Posting up
section.

(3) Every person who owns or operates a vehicle, aircraft or vessel to which this section applies shall keep posted up, in some conspicuous part thereof, a copy of this section or a notice to the like effect, and in default thereof is guilty of an offence punishable on summary conviction. 5

Cheating
at play.

181. Every one who, with intent to defraud any person, cheats while playing a game or in holding the stakes for a game or in betting is guilty of an indictable offence and is liable to imprisonment for two years.

BAWDY-HOUSES.

Keeping
common
bawdy-
house.

182. (1) Every one who keeps a common bawdy-10
house is guilty of an indictable offence and is liable to imprisonment for two years.

(2) Every one who

Inmate.

(a) is an inmate of a common bawdy-house,

Person
found.

(b) is found, without lawful excuse, in a common bawdy- 15
house, or

Liability of
landlord.

(c) as owner, landlord, lessor, tenant, occupier, agent or
otherwise having charge or control of any place, know-
ingly permits the place or any part thereof to be let or
used for the purposes of a common bawdy-house, 20
is guilty of an offence punishable on summary conviction.

Notice of
conviction to
be served on
owner.

(3) Where a person is convicted of an offence under
subsection (1), the court shall cause a notice of the con-
viction to be served upon the owner, landlord or lessor
of the place in respect of which the person is convicted or 25
his agent, and the notice shall contain a statement to the
effect that it is being served pursuant to this section.

Duty of
landlord on
notice.

(4) Where a person upon whom a notice is served under
subsection (3) fails forthwith to exercise any right he
may have to determine the tenancy or right of occupation 30
of the person so convicted, and thereafter any person is
convicted of an offence under subsection (1) in respect of
the same premises, the person upon whom the notice was
served shall be deemed to have committed an offence under
subsection (1) unless he proves that he has taken all reason- 35
able steps to prevent the recurrence of the offence.

Transporting
person to
bawdy-house.

183. Every one who knowingly takes, transports,
directs, or offers to take, transport, or direct any other
person to a common bawdy-house is guilty of an offence
punishable on summary conviction. 40

181. Section 442 (a).

182. Sections 228 and 229 (2), (4), (6) and (7).

183. Section 229 (8).

PROCURING.

Procuring.

184. (1) Every one who

- (a) procures, attempts to procure or solicits a female person to have illicit sexual intercourse with another person, whether in or out of Canada,
- (b) inveigles or entices a female person who is not a common prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit sexual intercourse or prostitution, 5
- (c) knowingly conceals a female person in a common bawdy-house or house of assignation, 10
- (d) procures or attempts to procure a female person to become, whether in or out of Canada, a common prostitute,
- (e) procures or attempts to procure a female person to leave her usual place of abode in Canada, if that place is not a common bawdy-house, with intent that she may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada, 15
- (f) on the arrival of a female person in Canada, directs or causes her to be directed, or takes or causes her to be taken, to a common bawdy-house or house of assignation, 20
- (g) procures a female person to enter or leave Canada, for the purpose of prostitution,
- (h) for the purposes of gain, exercises control, direction or influence over the movements of a female person in such manner as to show that he is aiding, abetting or compelling her to engage in or carry on prostitution with any person or generally, 25
- (i) applies or administers to a female person or causes her to take any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower her in order thereby to enable any person to have illicit sexual intercourse with her, or 30
- (j) being a male person, lives wholly or in part on the avails of prostitution, 35

is guilty of an indictable offence and is liable to imprisonment for ten years.

Presumption.

(2) Evidence that a male person lives with or is habitually in the company of prostitutes, or lives in a common bawdy-house or house of assignation is *prima facie* evidence that he lives on the earnings of prostitution. 40

Corroboration.

(3) No person shall be convicted of an offence under subsection (1), other than an offence under paragraph (j) of that subsection, upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused. 45

Limitation.

(4) No proceedings for an offence under this section shall be commenced more than one year after the time when the offence is alleged to have been committed. 50

PART VI.

OFFENCES AGAINST THE PERSON AND
REPUTATION.

INTERPRETATION.

- 185.** In this Part,
- “Abandon.” (a) “abandon” or “expose” includes
- “Expose.” (i) a wilful omission to take charge of a child by a person who is under a legal duty to do so, and
- (ii) dealing with a child in a manner that is likely to leave that child exposed to risk without protection; 5
- “Child.” (b) “child” includes an adopted child and an illegitimate child;
- “Form of marriage.” (c) “form of marriage” includes a ceremony of marriage that is recognized as valid 10
- (i) by the law of the place where it was celebrated, or
- (ii) by the law of the place where an accused is tried, notwithstanding that it is not recognized as valid by the law of the place where it was celebrated; and 15
- “Guardian.” (d) “guardian” includes a person who has in law or in fact the custody or control of a child.

DUTIES TENDING TO PRESERVATION OF LIFE.

- 186.** (1) Every one is under a legal duty
- (a) as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of sixteen years; 20
- (b) as a husband, to provide necessaries of life for his wife; and
- (c) to provide necessaries of life to a person under his charge if that person 25
- (i) is unable, by reason of detention, age, illness, insanity or other cause, to withdraw himself from that charge, and
- (ii) is unable to provide himself with necessaries of life. 30
- (2) Every one who, being under a legal duty within the meaning of subsection (1) fails, without lawful excuse, the proof of which lies upon him, to perform that duty, is guilty of 35
- (a) an indictable offence and is liable to imprisonment for two years, or
- (b) an offence punishable on summary conviction.
- Duty of persons to provide necessaries.
- Neglect of duty.

(b) For the purpose of proceedings under this section, evidence that a man has cohabited with a woman or has in any way recognized her as being his wife or partner is evidence that they are lawfully married;

(c) Evidence that a person has in any way recognized a child as being his child is prima facie evidence that the child is his child;

(d) Evidence that a man has left his wife and has failed for a period of any one month immediately preceding his so leaving, to make provision for the maintenance of any child of his under the age of sixteen years, is prima facie evidence that he has failed without lawful excuse to provide necessaries of life for that child;

(e) The fact that a wife or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide them is not a defence.

185. Section 240.

185. Every one who undertakes to administer medicine or medical treatment to another person or to any other person and that may endanger the life of another person is except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

186. Every one who undertakes to do an act which is a legal duty to do it is an omission to do the act if or may be dangerous to life.

186. Sections 241, 242 and 244.

187. Every one who is under the age of ten years, so that his life is or is likely to be endangered by a disease, is liable to be permanently injured.

188. Every man who has had the testicles removed, or who has had any part of his testicles removed, is liable to be permanently injured.

189. Every man who has had the testicles removed, or who has had any part of his testicles removed, is liable to be permanently injured.

190. Every man who has had the testicles removed, or who has had any part of his testicles removed, is liable to be permanently injured.

Presump-
tions.

- (3) For the purpose of proceedings under this section,
 (a) evidence that a man has cohabited with a woman or has in any way recognized her as being his wife is *prima facie* evidence that they are lawfully married;
 (b) evidence that a person has in any way recognized a child as being his child is *prima facie* evidence that the child is his child;
 (c) evidence that a man has left his wife and has failed, for a period of any one month subsequent to the time of his so leaving, to make provision for her maintenance or for the maintenance of any child of his under the age of sixteen years, is *prima facie* evidence that he has failed without lawful excuse to provide necessaries of life for them; and
 (d) the fact that a wife or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide them is not a defence.

Duty of persons undertaking acts dangerous to life.

187. Every one who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

Duty of persons undertaking acts.

188. Every one who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

Abandoning child.

189. Every one who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured, is guilty of an indictable offence and is liable to imprisonment for two years.

Causing bodily harm to apprentice or servant.
Master failing to provide necessaries.

190. Every master who
 (a) unlawfully does, or causes to be done, bodily harm to his apprentice or servant so that his life is endangered or his health is or is likely to be permanently injured, or
 (b) omits, without lawful excuse, to provide necessaries of life for an apprentice or servant in accordance with any contract that he has entered into with respect to that apprentice or servant,
 is guilty of an indictable offence and is liable to imprisonment for two years.

CRIMINAL NEGLIGENCE.

"Criminal negligence."

191. (1) Every one is criminally negligent who shows a wanton or reckless disregard for the lives or safety of other persons

(a) by doing anything, or

(b) by omitting to do anything that it is his duty to do. 5

"Duty."

(2) For the purposes of this section, "duty" means

(a) a duty imposed by law, or

(b) a duty for the breach of which a person may be found liable in civil proceedings.

Causing death by criminal negligence.

192. Every one who by criminal negligence causes death to another person is guilty of an indictable offence and is liable to imprisonment for life. 10

Causing bodily harm by criminal negligence.

193. Every one who by criminal negligence causes bodily harm to another person is guilty of an indictable offence and is liable to imprisonment for ten years. 15

HOMICIDE.

Homicide.

194. (1) A person commits homicide when, directly or indirectly, by any means, he causes the death of a human being.

Kinds of homicide. Non culpable homicide. Culpable homicide.

(2) Homicide is culpable or not culpable.

(3) Homicide that is not culpable is not an offence. 20

(4) Culpable homicide is murder or manslaughter or infanticide.

Idem.

(5) A person commits culpable homicide when he causes the death of a human being,

(a) by means of an unlawful act, 25

(b) by criminal negligence,

(c) by causing that human being, by threats or fear of violence or by deception, to do anything that causes his death, or

(d) by wilfully frightening that human being, in the 30 case of a child or sick person.

Exception.

(6) Notwithstanding anything in this section, a person does not commit homicide within the meaning of this Act by reason only that he causes the death of a human being by procuring, by false evidence, the conviction and death 35 of that human being by sentence of the law.

When child becomes human being.

195. (1) A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother whether or not

(a) it has breathed, 40

(b) it has an independent circulation, or

(c) the navel string is severed.

191. New.

192. New.

193. Sections 283, 284 and new.

194. (1) Section 250.

(2) Sections 252 (1).

(3) Section 252 (4).

(4) Section 252(3).

(5) Section 252 (2).

(6) Section 253.

195. Section 251.

- Killing child. (2) A person commits homicide when he causes injuries to a child before or during its birth as a result of which the child dies.
- Death which might have been prevented. **196.** Where a person, by an act or omission, does any thing that results in the death of a human being, he causes the death of that human being notwithstanding that death from that cause might have been prevented by resorting to proper means. 5
- Death from treatment of injury. **197.** Where a person causes to a human being a bodily injury that is of itself of a dangerous nature and from which death results, he causes the death of that human being notwithstanding that the immediate cause of death is proper or improper treatment that is applied in good faith. 10
- Death within year and a day. **198.** No person commits culpable homicide or the offence of causing the death of a human being by criminal negligence unless the death occurs within one year and one day commencing with the time of the occurrence of the last event by means of which he caused or contributed to the cause of death. 15 20
- Acceleration of death. **199.** Where a person causes bodily injury to a human being that results in death, he causes the death of that human being notwithstanding that the effect of the bodily injury is only to accelerate his death from a disease or disorder arising from some other cause. 25
- Killing by influence on the mind. **200.** No person commits culpable homicide by reason only that he causes the death of a human being
 (a) by influencing his mind, or
 (b) by disorder or disease resulting from influencing his mind, 30
 but this section does not apply where a person causes the death of a child or sick person by wilfully frightening him.

MURDER, MANSLAUGHTER AND INFANTICIDE.

- Murder. **201.** Culpable homicide is murder
 (a) where the person who causes the death of a human being 35
 (i) means to cause his death, or
 (ii) means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not;
 (b) where a person, meaning to cause death to a human being or meaning to cause him bodily harm that he knows is likely to cause his death, and being reckless 40

196. Section 257.

197. Section 258.

198. Section 254.

199. Section 256.

200. Section 255.

201. Section 259.

whether death ensues or not, by accident or mistake causes death to another human being, notwithstanding that he does not mean to cause death or bodily harm to that human being; or

- (c) where a person, for an unlawful object, does anything 5
that he knows or ought to know is likely to cause death,
and thereby causes death to a human being, notwith-
standing that he desires to effect his object without
causing death or bodily harm to any human being.

Murder in
commission
of offences.

202. Culpable homicide is murder where a person 10
causes the death of a human being while committing or
attempting to commit treason or an offence mentioned in
section 52, piracy, escape or rescue from prison or lawful
custody, resisting lawful arrest, rape, indecent assault,
forcible abduction, robbery, burglary or arson, whether or 15
not the person means to cause death to any human being
and whether or not he knows that death is likely to be
caused to any human being, if

Intention to
cause bodily
harm.

- (a) he means to cause bodily harm for the purpose of
(i) facilitating the commission of the offence, or 20
(ii) facilitating his flight after committing or attempt-
ing to commit the offence,
and the death ensues from the bodily harm;

Admin-
istering over-
powering
thing.

- (b) he administers a stupefying or overpowering thing
for a purpose mentioned in paragraph (a), and the 25
death ensues therefrom;

Stopping the
breath.

- (c) he wilfully stops, by any means, the breath of a
human being for a purpose mentioned in paragraph
(a), and the death ensues therefrom; or

Using
weapon.

- (d) he uses a weapon or has it upon his person 30
(i) during or at the time he commits or attempts to
commit the offence, or
(ii) during or at the time of his flight after com-
mitting or attempting to commit the offence,
and the death ensues as a consequence. 35

Murder
reduced to
man-
slaughter.

203. (1) Culpable homicide that otherwise would be
murder may be reduced to manslaughter if the person who
committed it did so in the heat of passion caused by sudden
provocation.

What is
provocation.

(2) A wrongful act or insult that is of such a nature as 40
to be sufficient to deprive an ordinary person of the power
of self-control is provocation for the purposes of this section
if the accused acted upon it on the sudden and before there
was time for his passion to cool.

Questions of
fact.

- (3) For the purposes of this section the questions 45
(a) whether a particular wrongful act or insult amounted
to provocation, and

(b) whether the accused was deprived of the power of self-control by the provocation that he alleges he received,

are questions of fact, but no one shall be deemed to have given provocation to another by doing anything that he had a legal right to do, or by doing anything that the accused incited him to do in order to provide the accused with an excuse for causing death or bodily harm to any human being. 5

Death during illegal arrest.

(4) Culpable homicide that otherwise would be murder is not necessarily manslaughter by reason only that it was committed by a person who was being arrested illegally, but the fact that the illegality of the arrest was known to the accused may be evidence of provocation for the purpose of this section. 10 15

Infanticide.

204. A female person commits infanticide when by a wilful act or omission she causes the death of her newly-born child, if at the time of the act or omission she is not fully recovered from the effects of giving birth to the child and by reason thereof or of the effect of lactation consequent on the birth of the child her mind is then disturbed. 20

Man-slaughter.

205. Culpable homicide that is not murder or infanticide is manslaughter.

Punishment for murder.

206. Every one who commits murder is guilty of an indictable offence and shall be sentenced to death. 25

Punishment for man-slaughter.

207. Every one who commits manslaughter is guilty of an indictable offence and is liable to imprisonment for life.

Punishment for infanticide.

208. Every female person who commits infanticide is guilty of an indictable offence and is liable to imprisonment for five years. 30

Killing unborn child.

209. (1) Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life. 35

Saving.

(2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child. 40

Attempt to commit murder.

210. Every one who attempts by any means to commit murder is guilty of an indictable offence and is liable to imprisonment for life.

Accessory
after fact to
murder.

211. Every one who is an accessory after the fact to murder is guilty of an indictable offence and is liable to imprisonment for life.

SUICIDE.

Counselling
or aiding
suicide.

212. Every one who
(a) counsels or procures a person to commit suicide, 5
or
(b) aids or abets a person to commit suicide,
whether suicide ensues or not, is guilty of an indictable
offence and is liable to imprisonment for fourteen years.

Attempt to
commit
suicide.

213. Every one who attempts to commit suicide is 10
guilty of an offence punishable on summary conviction.

NEGLECT IN CHILDBIRTH AND CONCEALING DEAD BODY.

Neglect to
obtain
assistance in
childbirth.

214. A female person who, being pregnant and about to be delivered, with intent that the child shall not live or with intent to conceal the birth of the child, fails to 15
make provision for reasonable assistance in respect of her delivery is, if the child is permanently injured as a result thereof or dies immediately before, during or in a short time after birth, guilty of an indictable offence and is liable to imprisonment for five years. 20

Concealing
body of child.

215. Every one who in any manner disposes of the dead body of a child, with intent to conceal the fact that its mother has been delivered of it, whether the child died before, during or after birth, is guilty of an indictable offence and is liable to imprisonment for two years. 25

BODILY HARM AND ACTS AND OMISSIONS CAUSING DANGER TO THE PERSON.

Causing
bodily harm
with intent.

216. Every one who, with intent
(a) to wound, maim or disfigure any person,
(b) to endanger the life of any person, or
(c) to prevent the arrest or detention of any person,
discharges a firearm, air gun or air pistol at or causes bodily 30
harm in any way to any person, whether or not that person is the one mentioned in paragraph (a), (b) or (c), is guilty of an indictable offence and is liable to imprisonment for fourteen years.

211. Section 267.

212. Section 269.

213. Section 270.

214. Section 271.

215. Section 272.

216. Section 273.

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- Admin-
istering
noxious thing.** **217.** Every one who administers or causes to be administered to any person or causes any person to take poison or any other destructive or noxious thing is guilty of an indictable offence and is liable
- Causing
bodily harm.** (a) to imprisonment for fourteen years, if thereby he endangers the life of or causes bodily harm to that person, or 5
- Intent to
annoy.** (b) to imprisonment for two years, if he aggrieves or annoys that person or does it with intent thereby to aggrieve or annoy that person. 10
- Overcoming
resistance to
commission
of offence.** **218.** Every one who, with intent to enable or assist himself or another person to commit an indictable offence, (a) attempts, by any means, to choke, suffocate or strangle another person, or by any means calculated to choke, suffocate or strangle, attempts to render another person insensible, unconscious or incapable of resistance, or 15
- (b) administers, or causes to be administered to any person, or attempts to administer to any person, or causes or attempts to cause any person to take a stupefying or overpowering drug, matter or thing, is guilty of an indictable offence and is liable to imprisonment for life and to be whipped. 20
- Traps likely
to cause
bodily harm.** **219.** (1) Every one who, with intent to cause death or bodily harm to persons, whether ascertained or not, sets or places or causes to be set or placed a trap, device or other thing whatsoever that is likely to cause death or bodily harm to persons is guilty of an indictable offence and is liable to imprisonment for five years. 25
- Permitting
traps on
premises.** (2) A person who, being in occupation or possession of a place where anything mentioned in subsection (1) has been set or placed, knowingly and wilfully permits it to remain there, shall be deemed, for the purposes of that subsection, to have set or placed it with the intent mentioned therein. 30
- Interfering
with trans-
portation
facilities.** **220.** Every one who, with intent to endanger the safety of any person, places anything upon or does anything to any property that is used for or in connection with the transportation of persons or goods by land, water or air that is likely to cause death or bodily harm to persons is guilty of an indictable offence and is liable to imprisonment for life. 35 40
- Criminal
negligence in
operation of
motor
vehicle.** **221.** (1) Every one who is criminally negligent in the operation of a motor vehicle is guilty of
- (a) an indictable offence and is liable to imprisonment for five years, or
- (b) an offence punishable on summary conviction. 45

217. Sections 277 and 278.

(1) Every one who, having been involved in an accident with a person, horse or vehicle, with intent to escape civil or criminal liability, fails to stop his vehicle, offer assistance and give his name and address is guilty of an indictable offence and is liable to imprisonment for two years or more.

(2) An offence punishable on summary conviction under subsection (1) is an indictable offence if the accused failed to stop his vehicle, offer assistance and give his name and address as prescribed in subsection (1).

218. Section 276.

276. Every one who, while intoxicated or under the influence of a narcotic drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an indictable offence and is liable to imprisonment for not more than thirty days, or to imprisonment for not more than one year and not less than three months; or to imprisonment for not more than one year and not less than three months; or to imprisonment for not more than one year and not less than three months.

219. Section 281.

(1) for a first offence, to imprisonment for not more than thirty days and not less than seven days;

(2) for a second offence, to imprisonment for not more than three months and not less than one month; and

(3) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

220. Section 282.

282. Every one who while intoxicated or under the influence of a narcotic drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an indictable offence or an offence punishable on summary conviction and is liable to a fine of not more than five hundred dollars and not less than fifty dollars or to imprisonment for not more than one year and not less than three months; or to imprisonment for not more than one year and not less than three months; or to imprisonment for not more than one year and not less than three months.

221. (1) New.

(1) Where an offence is committed under section 276 and the evidence does not establish that he committed an offence under that section, but...

Failing to
stop at scene
of accident.

(2) Every one who, having the care, charge or control of a vehicle that is involved in an accident with a person, horse or vehicle, with intent to escape civil or criminal liability fails to stop his vehicle, offer assistance and give his name and address is guilty of

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(a) an indictable offence and is liable to imprisonment for two years, or

(b) an offence punishable on summary conviction.

Prima facie
evidence.

(3) In proceedings under subsection (2), evidence that an accused failed to stop his vehicle, offer assistance and give his name and address is *prima facie* evidence of an intent to escape civil and criminal liability.

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Driving
while
intoxicated.

222. Every one who, while intoxicated or under the influence of a narcotic drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of

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(a) an indictable offence and is liable

(i) for a first offence, to imprisonment for not more than three months and not less than thirty days, and

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(ii) for each subsequent offence, to imprisonment for not more than one year and not less than three months; or

(b) an offence punishable on summary conviction and is liable

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(i) for a first offence, to imprisonment for not more than thirty days and not less than seven days,

(ii) for a second offence, to imprisonment for not more than three months and not less than one month, and

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(iii) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

Driving
while
ability to
drive is
impaired.

223. Every one who, while his ability to drive a motor vehicle is impaired by alcohol or a drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an indictable offence or an offence punishable on summary conviction and is liable

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(a) for a first offence, to a fine of not more than five hundred dollars and not less than fifty dollars or to imprisonment for three months or to both,

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(b) for a second offence, to imprisonment for not more than three months and not less than fourteen days, and

(c) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

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Conviction
under
section
223
when
charged
with offence
under
section 222.

224. (1) Where an accused is charged with an offence under section 222, and the evidence does not establish that he committed an offence under that section, but establishes that he committed an offence under section

(2) Section 285 (2).

(3) Section 285 (2).

222. Section 285 (4).

223. Section 285 (4a).

224. Section 285 (4b) to (4).

223, the accused may be convicted of an offence under section 223 and the conviction bars further proceedings for any such offence under section 222 or 223.

Presumption
of care or
control.

(2) For the purpose of sections 222 and 223, where a person occupies the seat ordinarily occupied by the driver of a motor vehicle he shall be deemed to have the care or control of the vehicle unless he establishes that he did not enter or mount the vehicle for the purpose of setting it in motion. 5

Chemical
analysis.

(3) In any proceedings under section 222 or 223, 10 the result of a chemical analysis of a sample of the blood, urine, breath or other bodily substance of a person may be admitted in evidence on the issue whether that person was intoxicated or under the influence of a narcotic drug or whether his ability to drive was impaired by alcohol or a drug, notwithstanding that he was not, before he gave the sample, warned that he need not give the sample or that the results of the analysis of the sample might be used in evidence. 15

No obliga-
tion to give
sample.

(4) No person is required to give a sample of blood, urine, 20 breath or other bodily substance for chemical analysis for the purposes of this section and evidence that a person refused to give such a sample or that such a sample was not taken is not admissible nor shall such a refusal or the fact that a sample was not taken be the subject of comment by 25 any person in the proceedings.

Order
prohibiting
driving.

225. (1) Where an accused is convicted of an offence under section 192, 193 or 207 committed by means of a motor vehicle or of an offence under subsection (1) of section 221 or under section 222 or 223, the court, judge, 30 justice or magistrate, as the case may be, may, in addition to any other punishment that may be imposed for that offence, make an order prohibiting him from driving a motor vehicle on the highway in Canada

(a) during any period that the court, judge, justice or 35 magistrate considers proper, if he is liable to imprisonment for life in respect of that offence, or

(b) during any period not exceeding three years, if he is not liable to imprisonment for life in respect of that offence. 40

Copy of
order for
registrar.

(2) Where an order is made pursuant to subsection (1), a copy of the order certified under the hand of the justice or magistrate or under the hand of the judge or the clerk of the court and sealed with the seal, if any, of the court, shall 45

(a) where the accused holds a permit or licence to drive a motor vehicle, be sent to the registrar of motor vehicles for the province in which the licence or permit was issued, or

(b) where the accused does not hold a permit or licence 50 to drive a motor vehicle, be sent to the registrar of

motor vehicles for the province in which the accused resides.
 (3) Every one who drives a motor vehicle in Canada while he is disqualified or prohibited from driving a motor vehicle by reason of
 (a) the legal suspension or cancellation, in any province, of his permit or license to drive a motor vehicle in that province or

24/1/19
 1911
 1911

(4) an order made pursuant to subsection (1), is guilty of an offence punishable on summary conviction.
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 224. Every one who owns or has the care, charge or control of a motor vehicle or vessel equipped with an apparatus for making a speed record is guilty of an offence punishable on summary conviction.

Motor vehicle
 1911
 1911

225. Every one who
 (a) prevents or impedes or attempts to prevent or impede any person who is attempting to save his own life, or
 (b) without reasonable cause prevents or impedes or attempts to prevent or impede any person who is attempting to save the life of another person,
 is guilty of an indictable offence and is liable to imprisonment for two years.

1911
 1911

226. (1) Every one who makes or causes to be made an opening in ice that is open to or frequented by the public is under a legal duty to

1911
 1911

225. Section 285 (7) and (8).
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 227. Every one who has an excavation on land that he owns or of which he has charge or supervision is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident or is adequate to warn them that the excavation exists.
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 (2) Every one who fails to perform a duty imposed by subsection (1) or (2)

1911
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(a) is guilty of manslaughter if the death of any person results therefrom,
 (b) is guilty of an offence under subsection (2) of section 221 if bodily harm to any person results therefrom, or
 (c) is guilty of an offence punishable on summary conviction.

228. (1) Every one who, with intent or recklessness to send or bring the master knowingly takes a Canadian ship on a voyage from a place in Canada to any other place, whether that voyage is by sea or by coastal or inland waters or
 (2) on a voyage from a place on the inland waters of the United States to a place in Canada,
 in an unseaworthy condition from any cause, and thereby

1911
 1911

motor vehicles for the province in which the accused resides.

Driving while disqualified.

(3) Every one who drives a motor vehicle in Canada while he is disqualified or prohibited from driving a motor vehicle by reason of

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(a) the legal suspension or cancellation, in any province, of his permit or licence to drive a motor vehicle in that province, or

(b) an order made pursuant to subsection (1), is guilty of an offence punishable on summary conviction. 10

Motor vehicle equipped with smoke screen.

226. Every one who owns or has the care, charge or control of a motor vehicle or vessel equipped with an apparatus for making a smoke screen is guilty of an offence punishable on summary conviction.

Impeding attempt to save life.

227. Every one who

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(a) prevents or impedes or attempts to prevent or impede any person who is attempting to save his own life, or

(b) without reasonable cause prevents or impedes or attempts to prevent or impede any person who is attempting to save the life of another person,

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is guilty of an indictable offence and is liable to imprisonment for ten years.

Duty to safeguard dangerous places.

228. (1) Every one who makes or causes to be made an opening in ice that is open to or frequented by the public is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident or is adequate to warn them that the opening exists. 25

Idem.

(2) Every one who leaves an excavation on land that he owns or of which he has charge or supervision is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident or is adequate to warn them that the excavation exists. 30

Offences.

(3) Every one who fails to perform a duty imposed by subsection (1) or (2)

(a) is guilty of manslaughter, if the death of any person results therefrom, 35

(b) is guilty of an offence under subsection (2) of section 231, if bodily harm to any person results therefrom, or

(c) is guilty of an offence punishable on summary conviction. 40

Sending or taking unseaworthy ship to sea.

229. (1) Every one who sends or attempts to send or being the master knowingly takes a Canadian ship

(a) on a voyage from a place in Canada to any other place, whether that voyage is by sea or by coastal or inland waters, or

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(b) on a voyage from a place on the inland waters of the United States to a place in Canada,

in an unseaworthy condition from any cause, and thereby

...the life of any person is guilty of an indictable offence and is liable to imprisonment for five years.

(3) An accused shall not be convicted of an offence under this section where he proves

(1) that he used all reasonable means to ensure that the ship was in a seaworthy state, or

(2) that he acted or failed to act in that manner in a condition was under the circumstances, reasonable and justifiable

(3) the proceedings shall be instituted under this section without the consent in writing of the Attorney General, Canada.

Indictable
Consent of Attorney General, Canada

226. Section 285 (5).

...A person commits an assault when without the consent of another person or with the consent obtained by fraud

(a) he applies force intentionally to the person of the other, directly or indirectly, or

(b) he attempts or threatens, by an act or gesture, to apply force to the person of the other if he has or causes the other to believe upon reasonable grounds that he has present ability to effect his purpose.

"Assault"

227. Section 286.

...Every one who commits a common assault is guilty of

(a) an indictable offence and is liable to imprisonment for two years or

(b) an offence punishable on summary conviction.

(2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for two years.

Every one who commits a common assault is guilty of
Indictable
Offence
Punishable on summary conviction

228. Section 287.

...Every one who assaults a person with intent to commit an indictable offence is guilty of an indictable offence and is liable to imprisonment for five years.

(2) Every one who

(a) assaults a public officer or peace officer engaged in the execution of his duty, or a person acting in aid of such an officer,

(b) assaults a person with intent to resist or prevent the lawful arrest or detention of himself or another person,

Assault with intent
Other offence

229. Sections 288, 289 and 595.

...Every one who

(1) who is engaged in the lawful execution of a process or other duty or is acting in a lawful manner or otherwise,

(2) with intent to resist or prevent the lawful process or other duty or otherwise,

(3) is guilty of an indictable offence and is liable to imprisonment for two years.

Indictable offence
Liable to imprisonment for two years

endangers the life of any person, is guilty of an indictable offence and is liable to imprisonment for five years.

Defences.

(2) An accused shall not be convicted of an offence under this section where he proves

(a) that he used all reasonable means to ensure that the ship was in a seaworthy state, or 5

(b) that to send or take the ship in that unseaworthy condition was, under the circumstances, reasonable and justifiable.

Consent of Attorney General.

(3) No proceedings shall be instituted under this section without the consent in writing of the Attorney General of Canada. 10

ASSAULTS.

"Assault."

230. A person commits an assault when, without the consent of another person or with consent, where it is obtained by fraud, 15

(a) he applies force intentionally to the person of the other, directly or indirectly, or

(b) he attempts or threatens, by an act or gesture, to apply force to the person of the other, if he has or causes the other to believe upon reasonable grounds that he has present ability to effect his purpose. 20

Punishment for common assault.

231. (1) Every one who commits a common assault is guilty of

(a) an indictable offence and is liable to imprisonment for two years, or 25

(b) an offence punishable on summary conviction.

Causing bodily harm by assault or otherwise.

(2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for two years. 30

Assault with intent.

232. (1) Every one who assaults a person with intent to commit an indictable offence is guilty of an indictable offence and is liable to imprisonment for five years.

Other assaults.

(2) Every one who

(a) assaults a public officer or peace officer engaged in the execution of his duty, or a person acting in aid of such an officer; 35

(b) assaults a person with intent to resist or prevent the lawful arrest or detention of himself or another person; or 40

(c) assaults a person

(i) who is engaged in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, or

(ii) with intent to rescue anything taken under a lawful process, distress or seizure, 45

is guilty of an indictable offence and is liable to imprisonment for two years.

REPEALING AND AMENDING

230. (1) Every one who kidnaps a person with intent (a) to cause him to be confined or imprisoned against his will, (b) to cause him to be unlawfully sent or transported out of Canada against his will, or (c) to hold him for ransom or to serve against his will, is guilty of an indictable offence and is liable to imprisonment for life.

(2) Every one who, without lawful authority, confines, imprisons or forcibly seizes another person is guilty of an indictable offence and is liable to imprisonment for five years.

(3) In proceedings under this section the fact that the person in relation to whom the offence is alleged to have been committed did not resist is not a defence.

230. Section 290.

Every one who takes away or detains a female person against her will with intent (a) to marry her or to have illicit sexual intercourse with her, or (b) to cause her to marry or to have illicit sexual intercourse with a male person, is guilty of an indictable offence and is liable to imprisonment for ten years.

231. Every one who, without lawful authority, takes or causes to be taken an unmarried female person under the age of sixteen years out of the possession of and against the will of her parent or guardian or of any other person who has lawful care or charge of her is guilty of an indictable offence and is liable to imprisonment for five years.

231. Sections 274, 291 and 295.

(1) For the purpose of proceedings not material whether (a) the female person is taken with her own consent or at her own suggestion, or (b) the accused believes that the female person is sixteen years of age or more.

232. Section 296.

(1) Every one who, with intent to deprive a child or guardian or any other person who has lawful care or charge of a child under the age of sixteen years of the possession of that child or with intent to steal anything on or about the person of such a child, unlawfully (a) takes or causes away or detains the child, or

KIDNAPPING AND ABDUCTION.

- Kidnapping.** **233.** (1) Every one who kidnaps a person with intent
 (a) to cause him to be confined or imprisoned against
 his will,
 (b) to cause him to be unlawfully sent or transported out
 of Canada against his will, or 5
 (c) to hold him for ransom or to service against his will,
 is guilty of an indictable offence and is liable to imprisonment
 for life.
- Forcible
 confinement.** (2) Every one who, without lawful authority, confines,
 imprisons or forcibly seizes another person is guilty of an 10
 indictable offence and is liable to imprisonment for five
 years.
- Non-
 resistance.** (3) In proceedings under this section the fact that the
 person in relation to whom the offence is alleged to have been 15
 committed did not resist is not a defence unless the accused
 proves that the failure to resist was not caused by threats,
 duress, force or exhibition of force.
- Abduction of
 female.** **234.** Every one who takes away or detains a female
 person, against her will, with intent 20
 (a) to marry her or to have illicit sexual intercourse
 with her, or
 (b) to cause her to marry or to have illicit sexual inter-
 course with a male person,
 is guilty of an indictable offence and is liable to imprisonment 25
 for ten years.
- Abduction of
 female under
 sixteen.** **235.** (1) Every one who, without lawful authority,
 takes or causes to be taken an unmarried female person
 under the age of sixteen years out of the possession of and
 against the will of her parent or guardian or of any other 30
 person who has lawful care or charge of her is guilty of an
 indictable offence and is liable to imprisonment for five years.
 (2) For the purpose of proceedings under this section it is
 not material whether
- Consent
 immaterial.** (a) the female person is taken with her own consent or at 35
 her own suggestion, or
- Belief as to
 age
 immaterial.** (b) the accused believes that the female person is sixteen
 years of age or more.
- Abduction
 of child
 under
 fourteen.** **236.** (1) Every one who, with intent to deprive a parent
 or guardian or any other person who has lawful care or charge 40
 of a child under the age of fourteen years of the possession
 of that child, or with intent to steal anything on or about
 the person of such a child, unlawfully
 (a) takes or entices away or detains the child, or

233. Section 297.

(1) Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for two years.

234. Section 313.

(1) Every one who unlawfully supplies or procures a drug or other noxious thing or an instrument or thing knowing that it is intended to be used or employed to procure the miscarriage of a female person, whether or not she is pregnant is guilty of an indictable offence and is liable to imprisonment for two years.

235. Section 315.

(1) Every one who, having received a charge in a communication from a communication system, transmits the charge to any person other than the person to whom it is addressed is guilty of an offence punishable on summary conviction.

236. Section 316.

(1) Every one who, having received a charge in a communication from a communication system, transmits the charge to any person other than the person to whom it is addressed is guilty of an offence punishable on summary conviction.

(b) receives or harbours the child, is guilty of an indictable offence and is liable to imprisonment for ten years.

Bona fide
claim of
right.

(2) This section does not apply to a person who, claiming in good faith a right to possession of a child, obtains possession of the child. 5

ABORTION.

Procuring
miscarriage.

237. (1) Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life. 10

Woman
procuring her
own mis-
carriage.

(2) Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years. 15

"Means"
defined.

(3) In this section, "means" includes

- (a) the administration of a drug or other noxious thing,
- (b) the use of an instrument, and
- (c) manipulation of any kind. 20

Supplying
noxious
things.

238. Every one who unlawfully supplies or procures a drug or other noxious thing or an instrument or thing, knowing that it is intended to be used or employed to procure the miscarriage of a female person, whether or not she is pregnant, is guilty of an indictable offence and is liable to imprisonment for two years. 25

VENEREAL DISEASES.

Venereal
disease.

239. (1) Every one who, having venereal disease in a communicable form, communicates it to another person is guilty of an offence punishable on summary conviction.

Defence.

(2) No person shall be convicted of an offence under this section where he proves that he had reasonable grounds to believe and did believe that he did not have venereal disease in a communicable form at the time the offence is alleged to have been committed. 30

Corrobor-
ation.

(3) No person shall be convicted of an offence under this section upon the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused. 35

"Venereal
disease."

(4) For the purposes of this section, "venereal disease" means syphilis, gonorrhoea or soft chancre. 40

237. Sections 303 and 304.

238. Section 305.

239. Section 307.

OFFENCES AGAINST CONJUGAL RIGHTS.

- "Bigamy." **240.** (1) Every one commits bigamy who
- (a) in Canada,
- (i) being married, goes through a form of marriage with another person,
- (ii) knowing that another person is married, goes 5 through a form of marriage with that person, or
- (iii) on the same day or simultaneously, goes through a form of marriage with more than one person; or
- (b) being a Canadian citizen resident in Canada leaves Canada with intent to do anything mentioned in 10 subparagraphs (i) to (iii) of paragraph (a) and, pursuant thereto, does outside of Canada anything mentioned in those subparagraphs in circumstances mentioned therein.
- (2) No person commits bigamy by going through a 15 form of marriage if
- (a) that person in good faith and on reasonable grounds believes that his spouse is dead,
- (b) the spouse of that person has been continuously absent from him for seven years immediately preceding 20 the time when he goes through the form of marriage, unless he knew that his spouse was alive at any time during those seven years,
- (c) that person has been divorced from the bond of the first marriage, or 25
- (d) the former marriage has been declared void by a court of competent jurisdiction.
- (3) Where a person is alleged to have committed bigamy, it is not a defence that the parties would, if unmarried, have been incompetent to contract marriage under the law 30 of the place where the offence is alleged to have been committed.
- (4) Every marriage or form of marriage shall, for the purpose of this section, be deemed to be valid unless the accused establishes that it was invalid. 35
- (5) No act or omission on the part of an accused who is charged with bigamy invalidates a marriage or form of marriage that is otherwise valid.
- Punishment. **241.** (1) Every one who commits bigamy is guilty of an indictable offence and is liable to imprisonment for five 40 years.
- Certificate of marriage. (2) For the purposes of this section a certificate of marriage is *prima facie* evidence of the marriage or form of marriage to which it relates without proof of the signature or official character of the person by whom it purports 45 to be signed.

240. Section 308.

241. (1) Section 309 (1).

(2) New.

- 242.** (1) Every male person who
 (a) procures, or
 (b) knowingly aids in procuring,
 a feigned marriage between himself and a female person
 is guilty of an indictable offence and is liable to imprison- 5
 ment for five years.
- (2) No person shall be convicted of an offence under this
 section upon the evidence of only one witness unless the
 evidence of that witness is corroborated in a material
 particular by evidence that implicates the accused. 10
- 243.** (1) Every one who
 (a) practises or enters into or in any manner agrees or
 consents to practise or enter into
 (i) any form of polygamy, or
 (ii) any kind of conjugal union with more than one 15
 person at the same time,
 whether or not it is by law recognized as a binding
 form of marriage; or
 (b) celebrates, assists or is a party to a rite, ceremony,
 contract or consent that purports to sanction a relation- 20
 ship mentioned in subparagraph (i) or (ii) of paragraph
 (a),
 is guilty of an indictable offence and is liable to imprison-
 ment for five years.
- (2) Where an accused is charged with an offence under 25
 this section, no averment or proof of the method by which
 the alleged relationship was entered into, agreed to or con-
 sented to is necessary in the indictment or upon the trial of
 the accused, nor is it necessary upon the trial to prove that
 the persons who are alleged to have entered into the relation- 30
 ship had or intended to have sexual intercourse.
- Procuring feigned marriage.
- Corro-
 boration.
- Polygamy.
 Conjugal
 union.
- Celebrating
 rite.
- Evidence
 in case of
 polygamy.

UNLAWFUL SOLEMNIZATION OF MARRIAGE.

- 244.** Every one who
 (a) solemnizes or pretends to solemnize a marriage
 without lawful authority, the proof of which lies
 upon him, or 35
 (b) procures a person to solemnize a marriage knowing
 that he is not lawfully authorized to solemnize the
 marriage,
 is guilty of an indictable offence and is liable to imprisonment
 for two years. 40
- 245.** Every one who, being lawfully authorized to
 solemnize marriage, knowingly and wilfully solemnizes a
 marriage in violation of the laws of the province in which
 the marriage is solemnized is guilty of an indictable offence
 and is liable to imprisonment for two years. 45
- Pretending to
 solemnize
 marriage.
- Procuring
 unlawful
 marriage.
- Marriage
 contrary
 to law.

242. Sections 309 (2) and 1002 (d).

243. (1) Section 310.

DEFAMATORY LIBEL

(2) Section 948.

244. Section 311.

245. Section 312.

BLASPHEMOUS LIBEL.

- Offence. **246.** (1) Every one who publishes a blasphemous libel is guilty of an indictable offence and is liable to imprisonment for two years.
- Question of fact. (2) It is a question of fact whether or not any matter that is published is a blasphemous libel. 5
- Saving. (3) No person shall be convicted of an offence under this section for expressing in good faith and in decent language, or attempting to establish by argument used in good faith and conveyed in decent language, an opinion upon a religious subject. 10

DEFAMATORY LIBEL.

- "Newspaper." **247.** In sections 248 to 267, "newspaper" means any paper, magazine or periodical containing public news, intelligence or reports of events, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and any paper, magazine or periodical printed in order to be dispersed and made public, weekly or more often, or at intervals not exceeding thirty-one days, that contains advertisements, exclusively or principally. 15 20
- Definition. **248.** (1) A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published. 25
- Mode of expression. (2) A defamatory libel may be expressed directly or by insinuation or irony
 (a) in words legibly marked upon any substance, or
 (b) by any object signifying a defamatory libel otherwise than by words. 30
- "Publishing." **249.** A person publishes a libel when he
 (a) exhibits it in public,
 (b) causes it to be read or seen, or
 (c) shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by the person whom it defames or by any other person. 35
- Punishment of libel known to be false. **250.** Every one who publishes a defamatory libel that he knows is false is guilty of an indictable offence and is liable to imprisonment for two years or to a fine of five thousand dollars or to both. 40

246. Section 198.

247. Section 2 (23).

248. Section 317.

249. Section 318.

250. Section 333.

Punishment
for
defamatory
libel.

251. Every one who publishes a defamatory libel is guilty of an indictable offence and is liable to imprisonment for two years or to a fine of one thousand dollars or to both.

Extortion
by libel.

252. (1) Every one commits an offence who, with intent
(a) to extort money from any person, or
(b) to induce a person to confer upon or procure for another person an appointment or office of profit or trust,

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publishes or threatens to publish or offers to abstain from publishing or to prevent the publication of a defamatory libel.

Idem.

(2) Every one commits an offence who, as the result of the refusal of any person to permit money to be extorted or to confer or procure an appointment or office of profit or trust, publishes or threatens to publish a defamatory libel.

Punish-
ment.

(3) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years or to a fine of one thousand dollars or to both.

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Proprietor of
newspaper
presumed
responsible.

253. (1) The proprietor of a newspaper shall be deemed to publish defamatory matter that is inserted and published therein, unless he proves that the defamatory matter was inserted in the newspaper without his knowledge and without negligence on his part.

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General
authority
to manager
when
negligence.

(2) Where the proprietor of a newspaper gives to a person general authority to manage or conduct the newspaper as editor or otherwise, the insertion by that person of defamatory matter in the newspaper shall, for the purposes of subsection (1), be deemed not to be negligence on the part of the proprietor unless it is proved that

(a) he intended the general authority to include authority to insert defamatory matter in the newspaper, or
(b) he continued to confer general authority after he knew that it had been exercised by the insertion of defamatory matter in the newspaper.

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Selling
newspapers.

(3) No person shall be deemed to publish a defamatory libel by reason only that he sells a number or part of a newspaper that contains a defamatory libel, unless he knows that the number or part contains defamatory matter or that defamatory matter is habitually contained in the newspaper.

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Selling book
containing
defamatory
libel.

254. (1) No person shall be deemed to publish a defamatory libel by reason only that he sells a book, magazine, pamphlet or other thing, other than a newspaper that contains defamatory matter if, at the time of the sale, he does not know that it contains the defamatory matter.

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251. Section 334.

252. Section 332.

253. Section 329.

254. Section 330.

Sale by
servant.

Exemption
of master.

(2) Where a servant, in the course of his employment, sells a book, magazine, pamphlet or other thing, other than a newspaper, the employer shall be deemed not to publish any defamatory matter contained therein unless it is proved that the employer authorized the sale knowing that

- (a) defamatory matter was contained therein, or
- (b) defamatory matter was habitually contained therein, in the case of a periodical.

Publishing
proceedings
of courts of
justice.

255. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

- (a) in a proceeding held before or under the authority of a court exercising judicial authority, or
- (b) in an inquiry made under the authority of an Act or by order of Her Majesty, or under the authority of a public department or a department of the government of a province.

Parliamentary
papers.

256. No person shall be deemed to publish a defamatory libel by reason only that he

- (a) publishes to the Senate or House of Commons or to a legislature, defamatory matter contained in a petition to the Senate or House of Commons or to the legislature, as the case may be,
- (b) publishes by order or under the authority of the Senate or House of Commons or of a legislature, a paper containing defamatory matter, or
- (c) publishes, in good faith and without ill-will to the person defamed, an extract from or abstract of a petition or paper mentioned in paragraph (a) or (b).

Fair reports
of parliament-
ary or
judicial
proceedings.

257. (1) No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons or a legislature, or a committee thereof, or of the public proceedings before a court exercising judicial authority, or publishes, in good faith, any fair comment upon any such proceedings.

Divorce
proceedings
an exception.

(2) This section does not apply to a person who publishes a report of evidence taken or offered in any proceeding before the Senate or House of Commons or any committee thereof, upon a petition or bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding is held or is contrary to any rule, order or practice of that House.

255. No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith in a newspaper, a fair report of the proceedings of any public meeting if

libel
of
newspaper

- (a) the meeting is lawfully convened for a lawful purpose and is open to the public;
- (b) the report is fair and accurate;
- (c) the publication of the matter complained of is for the public benefit; and
- (d) he does not refuse to publish in a conspicuous place in the newspaper a reasonable correction by the person defamed.

255. Section 320.

256. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter in an accessible form, or publishes in good faith in a newspaper, a fair report of public meetings, the public discussion of which is for the public benefit

libel
newspaper

256. Section 321.

257. No person shall be deemed to publish a defamatory libel by reason only that he publishes in a newspaper, or in any other publication, or in any other communication made to the public in any manner, any comments or statements in relation to

libel
newspaper
other publication
communication

257. Section 322.

258. No person shall be deemed to publish a defamatory libel when he proves that the publication of the matter in question is for the public benefit at the time when it was published, and that the matter lawfully was

libel
newspaper

259. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter (a) on the invitation or challenge of the person to whom it is published, or (b) that it is necessary to publish in order to raise defamatory matter published in respect of himself or another person, if he believes that the defamatory matter is true and is not relevant to the matter in respect of which it is published, and does not in any respect exceed what is reasonably relevant in the circumstances

libel
newspaper

Fair report
of public
meeting.

258. No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, in a newspaper, a fair report of the proceedings of any public meeting if

- (a) the meeting is lawfully convened for a lawful purpose 5
and is open to the public,
- (b) the report is fair and accurate,
- (c) the publication of the matter complained of is for the public benefit, and
- (d) he does not refuse to publish in a conspicuous 10
place in the newspaper a reasonable explanation or contradiction by the person defamed in respect of the defamatory matter.

Public
benefit.

259. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter 15 that, on reasonable grounds, he believes is true, and that is relevant to any subject of public interest, the public discussion of which is for the public benefit.

Fair
comment.

260. No person shall be deemed to publish a defamatory libel by reason only that he publishes fair comments 20

On public
person.

- (a) upon the public conduct of a person who takes part in public affairs, or

On work of
art or
literature.

- (b) upon a published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication 25
made to the public on any subject, if the comments are confined to criticism thereof.

When truth
a defence.

261. No person shall be deemed to publish a defamatory libel where he proves that the publication of the defamatory matter in the manner in which it was published was for 30 the public benefit at the time when it was published and that the matter itself was true.

Publication
invited or
necessary.

262. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter 35

- (a) on the invitation or challenge of the person in respect of whom it is published, or

- (b) that it is necessary to publish in order to refute defamatory matter published in respect of him by another person,

if he believes that the defamatory matter is true and it is 40 relevant to the invitation, challenge or necessary refutation, as the case may be, and does not in any respect exceed what is reasonably sufficient in the circumstances.

258. Section 323.

259. Section 324.

260. Section 325.

261. Section 331.

262. Section 319.

Answer to
inquiries.

263. No person shall be deemed to publish a defamatory libel by reason only that he publishes, in answer to inquiries made to him, defamatory matter relating to a subject matter in respect of which the person by whom or on whose behalf the inquiries are made has an interest in knowing the truth or who, on reasonable grounds, the person who publishes the defamatory matter believes has such an interest, if

- (a) the matter is published, in good faith, for the purpose of giving information in answer to the inquiries,
- (b) the person who publishes the defamatory matter believes that it is true,
- (c) the defamatory matter is relevant to the inquiries, and
- (d) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

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Giving
information
to person
interested.

264. No person shall be deemed to publish a defamatory libel by reason only that he publishes to another person defamatory matter for the purpose of giving information to that person with respect to a subject matter in which the person to whom the information is given has, or is believed on reasonable grounds by the person who gives it to have, an interest in knowing the truth with respect to that subject matter if

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Conditions.

- (a) the conduct of the person who gives the information is reasonable in the circumstances,
- (b) the defamatory matter is relevant to the subject matter, and
- (c) the defamatory matter is true, or if it is not true, is made without ill-will towards the person who is defamed and is made in the belief, on reasonable grounds, that it is true.

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Publication
in good faith
for redress
of wrong.

265. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter in good faith for the purpose of seeking remedy or redress for a private or public wrong or grievance from a person who has, or who on reasonable grounds he believes has the right or is under an obligation to remedy or redress the wrong or grievance, if

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- (a) he believes that the defamatory matter is true,
- (b) the defamatory matter is relevant to the remedy or redress that is sought, and
- (c) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

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Proving
publication
by order of
legislature.

266. (1) An accused who is alleged to have published a defamatory libel may, at any stage of the proceedings, adduce evidence to prove that the matter that is alleged to be

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263. Section 327.

264. Section 328.

265. Section 326.

266. Sections 912, 913 and 947.

defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or a legislature.

Directing
verdict.

(2) Where at any stage in proceedings referred to in subsection (1) the court, judge, justice or magistrate is satisfied that matter alleged to be defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or a legislature, he shall direct a verdict of not guilty to be entered and shall discharge the accused.

Certificate
of order.

(3) For the purposes of this section a certificate under the hand of the Speaker or clerk of the Senate or House of Commons or a legislature to the effect that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Senate, House of Commons or legislature, as the case may be, is conclusive evidence thereof.

VERDICTS.

Verdicts
in cases
of defama-
tory libel.

267. Where, on the trial of an indictment for publishing a defamatory libel, a plea of not guilty is pleaded, the jury that is sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon the indictment, and shall not be required or directed by the judge to find the defendant guilty merely on proof of publication by the defendant of the alleged defamatory libel, and of the sense ascribed thereto in the indictment, but the judge may, in his discretion, give a direction or opinion to the jury on the matter in issue as in other criminal proceedings, and the jury may, on the issue, find a special verdict.

PART VII

OFFENCES AGAINST RIGHTS OF PROPERTY

DEFINITIONS

266. In this Part,

(a) "break" means

(i) to break any part, internal or external, or

(ii) to open any thing that is used or intended to be

used to close or to cover an internal or external

opening;

(b) "document" means any paper, parchment or other

material used for writing or printing, erased with

matter capable of being read, but does not include

trade-marks on articles of commerce or inscriptions on

stones or metal or other like material;

(c) "exchange bill" means a bank note, bond, note

or security that is issued or guaranteed by

any authority under the authority of a province;

267. Section 956.

(d) "exchange bill paper" means paper that is used to

manufacture exchange bills;

(e) "false document" means a document

(i) the whole or some material part of which purports

to be made by or on behalf of a person

(A) who did not make it or authorize it to be

made, or

(B) who did not in fact exist;

(ii) that is made by or on behalf of the person who

purports to make it but is false in some material

particular;

(iii) that is made in the name of an existing person,

by him or under his authority, with a fraudulent

intention that is shared by some person, other than the

person who makes it or under whose authority it is

made; and

(f) "revenue paper" means paper that is used to make

stamps, licences or permits or for any purpose con-

ected with the public revenue.

TENT

268. (1) Every one commits an offence who fraudulently and without colour of right takes or fraudulently and

PART VII.

OFFENCES AGAINST RIGHTS OF PROPERTY.

INTERPRETATION

- 268.** In this Part,
- "Break." (a) "break" means
 (i) to break any part, internal or external, or
 (ii) to open any thing that is used or intended to be
 used to close or to cover an internal or external 5
 opening;
- "Document." (b) "document" means any paper, parchment or other
 material used for writing or printing, marked with
 matter capable of being read, but does not include
 trade-marks on articles of commerce or inscriptions on 10
 stone or metal or other like material;
- "Exchequer
 bill." (c) "exchequer bill" means a bank note, bond, note,
 debenture or security that is issued or guaranteed by
 Her Majesty under the authority of the Parliament of
 Canada or the legislature of a province; 15
- "Exchequer
 bill paper." (d) "exchequer bill paper" means paper that is used to
 manufacture exchequer bills;
- "False
 document." (e) "false document" means a document
 (i) the whole or some material part of which purports
 to be made by or on behalf of a person 20
 (A) who did not make it or authorize it to be
 made, or
 (B) who did not in fact exist;
 (ii) that is made by or on behalf of the person who
 purports to make it but is false in some material 25
 particular;
 (iii) that is made in the name of an existing person,
 by him or under his authority, with a fraudulent
 intention that it should pass as being made by
 some person, real or fictitious, other than the per- 30
 son who makes it or under whose authority it is
 made; and
- (f) "revenue paper" means paper that is used to make
 stamps, licences or permits or for any purpose con-
 nected with the public revenue. 35

THEFT.

- "Theft." **269.** (1) Every one commits theft who fraudulently
 and without colour of right takes, or fraudulently and

without colour of right converts to his use or to the use of another person, anything whether animate or inanimate, with intent

(a) to deprive temporarily or absolutely the owner of it or a person who has a special property or interest in it, of the thing or of his property or interest in it, (b) to pledge it or deposit it as security

268. Section 335.

(c) to part with it under a condition or agreement that the person who parts with it may be unable to perform, or

(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

(2) A person commits theft when, with intent to steal anything he moves it or causes it to move or to be moved, or begins to cause it to become movable.

(3) A taking or conversion of anything may be fraudulent notwithstanding that it is effected without secrecy or attempt at concealment.

(4) For the purposes of this Act the question whether anything has been converted is taken for the purpose of conversion, or whether it is at the time it is converted, in the legal possession of the person who converts it is not material.

(5) For the purposes of this section a person who has a wild living creature in captivity shall be deemed to have a special property or interest in it while it is in captivity and after it has escaped from captivity.

269. (1) Where a person has in his possession or control any property which is not lawfully his, and he has sufficient means or knowledge to identify the property, he shall be deemed to have a special property or interest in them.

(2) An indictment is sufficient if it describes an offence by name or in some other way, without stating that it is situated in a particular territorial division.

271. Every one who is a bailee of anything that is lawfully taken by a peace officer or public officer in the execution of his duties, and who is obliged by law or agreement to produce and deliver it to that officer or to another peace officer at a certain time and place, or upon demand, shall, if he does not produce and deliver it in accordance with his obligation, be deemed to have committed an offence if he has failed to produce and deliver it to the officer or to the public officer at the time and place required.

269. Sections 345 and 347.

without colour of right converts to his use or to the use of another person, anything whether animate or inanimate, with intent,

(a) to deprive, temporarily or absolutely, the owner of it or a person who has a special property or interest in it, of the thing or of his property or interest in it, 5

(b) to pledge it or deposit it as security,

(c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform, or 10

(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

Time when theft completed.

(2) A person commits theft when, with intent to steal anything, he moves it or causes it to move or to be moved, 15 or begins to cause it to become movable.

Secrecy.

(3) A taking or conversion of anything may be fraudulent notwithstanding that it is effected without secrecy or attempt at concealment.

Purpose of taking.

(4) For the purposes of this Act the question whether 20 anything that is converted is taken for the purpose of conversion, or whether it is, at the time it is converted, in the lawful possession of the person who converts it is not material.

Living creature wild by nature.

(5) For the purposes of this section a person who has a 25 wild living creature in captivity shall be deemed to have a special property or interest in it while it is in captivity and after it has escaped from captivity.

Oysters.

270. (1) Where oysters and oyster brood are in oyster beds, layings or fisheries that are the property of any person 30 and are sufficiently marked out or known as the property of that person, he shall be deemed to have a special property or interest in them.

Oyster bed.

(2) An indictment is sufficient if it describes an oyster bed, laying or fishery by name or in some other way, 35 without stating that it is situated in a particular territorial division.

Theft by bailee of things under seizure.

271. Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged 40 by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or upon demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the 45 result of a wilful act or omission by him.

Agent
pledging
goods, when
not theft.

272. A factor or agent does not commit theft by pledging or giving a lien on goods or documents of title to goods that are entrusted to him for the purpose of sale or for any other purpose, if the pledge or lien is for an amount that does not exceed the sum of

- (a) the amount due to him from his principal at the time the goods or documents are pledged or the lien is given, and
- (b) the amount of any bill of exchange that he has accepted for or on account of his principal.

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Theft of
services.

273. Every one commits theft who fraudulently or maliciously

- (a) abstracts, consumes or uses electricity or gas or causes it to be wasted or diverted, or
- (b) uses a telephone or telegraph line or obtains telephone or telegraph service.

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Theft by or
from person
having special
property or
interest.

274. A person may be convicted of theft notwithstanding that anything that is alleged to have been stolen was stolen

- (a) by the owner of it from a person who has a special property or interest in it,
- (b) by a person who has a special property or interest in it from the owner of it,
- (c) by a lessee of it from his reversioner,
- (d) by one of several joint owners, tenants in common or partners of or in it from the other persons who have an interest in it, or
- (e) by the directors, officers or members of a company, body corporate, unincorporated body or of a society associated together for a lawful purpose from the company, body corporate, unincorporated body or society, as the case may be.

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Husband or
wife.

275. (1) Subject to subsection (2), no husband or wife, during cohabitation, commits theft of anything that is by law the property of the other.

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Theft by
spouse
while living
apart.

(2) A husband or wife commits theft who, intending to desert or on deserting the other or while living apart from the other, fraudulently takes or converts anything that is by law the property of the other in a manner that, if it were done by another person, would be theft.

40

(3) Every one commits theft who, during cohabitation of a husband and wife, knowingly,

- (a) assists either of them in dealing with anything that is by law the property of the other in a manner that would be theft if they were not married, or
- (b) receives from either of them anything that is by law the property of the other and has been obtained from the other by dealing with it in a manner that would be theft if they were not married.

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Theft by
person
assisting
spouse.

Receiving
property of
spouse.

272. Section 349 (1).

273. Section 351.

274. Section 352.

275. Section 354.

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Theft by person required to account.

276. (1) Every one commits theft who, having received anything from any person on terms that require him to account for or pay it or the proceeds of it or a part of the proceeds to that person or another person, fraudulently fails to account for or pay it or the proceeds of it or the part of the proceeds of it accordingly. 5

Effect of entry in account.

(2) Where subsection (1) otherwise applies, but one of the terms is that the thing received or the proceeds or part of the proceeds of it shall be an item in a debtor and creditor account between the person who receives the thing and the person to whom he is to account for or to pay it, and that the latter shall rely only on the liability of the other as his debtor in respect thereof, a proper entry in that account of the thing received or the proceeds or part of the proceeds of it, as the case may be, is a sufficient accounting therefor, and no fraudulent conversion of the thing or the proceeds or part of the proceeds of it thereby accounted for shall be deemed to have taken place. 10 15

Theft by person holding power of attorney.

277. Every one commits theft who, being entrusted, whether solely or jointly with another person, with a power of attorney for the sale, mortgage, pledge or other disposition of real or personal property, fraudulently sells, mortgages, pledges or otherwise disposes of the property or any part of it, or fraudulently converts the proceeds of a sale, mortgage, pledge or other disposition of the property, or any part of the proceeds, to some purpose other than that for which he was entrusted by the power of attorney. 25

Misappropriation of money held under direction.

278. (1) Every one commits theft who, having received, either solely or jointly with another person, money or valuable security or a power of attorney for the sale of real or personal property, with a direction that the money or a part of it, or the proceeds or a part of the proceeds of the security or the property shall be applied to a purpose or paid to a person specified in the direction, fraudulently and contrary to the direction applies to any other purpose or pays to any other person the money or proceeds or any part of it. 30 35

Effect of entry in account.

(2) This section does not apply where a person who receives anything mentioned in subsection (1) and the person from whom he receives it deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, unless the direction is in writing. 40

Taking ore for scientific purpose.

279. No person commits theft by reason only that he takes, for the purpose of exploration or scientific investigation, a specimen of ore or mineral from land that is not enclosed and is not occupied or worked as a mine, quarry or digging. 45

276. Section 355.

277. Section 356.

278. Section 357.

279. Section 378 (2).

Punishment
for theft.

280. Except where otherwise prescribed by law, every one who commits theft is guilty of an indictable offence and is liable

- (a) to imprisonment for ten years, where the property alleged to have been stolen is a testamentary instrument or the alleged value of what is alleged to have been stolen exceeds fifty dollars, or 5
- (b) to imprisonment for two years, where the alleged value of what is alleged to have been stolen does not exceed fifty dollars.

OFFENCES RESEMBLING THEFT.

Taking motor
vehicle
without
consent.

281. Every one who, without the consent of the owner, takes a motor vehicle with intent to drive or use it or cause it to be driven or used is guilty of an offence punishable on summary conviction. 10

Criminal
breach of
trust.

282. Every one who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in violation of his trust, that thing or any part of it to a use that is not authorized by the trust is guilty of an indictable offence and is liable to imprisonment for fourteen years. 15

Public
servant
refusing to
deliver
property.

283. Every one who, being or having been employed in the service of Her Majesty in right of Canada or in right of a province, or in the service of a municipality, and entrusted by virtue of that employment with the receipt, custody, management or control of anything, refuses or fails to deliver it to a person who is authorized to demand it and does demand it, is guilty of an indictable offence and is liable to imprisonment for fourteen years. 20 25

Fraudulently
taking
cattle.

284. (1) Every one who, without the consent of the owner, (a) fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells, cattle that are found astray; or 30

Defacing
brand on
cattle.

- (b) fraudulently, in whole or in part,
(i) obliterates, alters or defaces, a brand or mark on cattle, or
(ii) makes a false or counterfeit brand or mark on cattle, 35

Evidence of
property in
cattle.

is guilty of an indictable offence and is liable to imprisonment for five years.

(2) In any proceedings under this Act, evidence that cattle are marked with a brand or mark that is recorded or registered in accordance with any Act is *prima facie* evidence that the cattle are owned by the registered owner of that brand or mark. 40

280. New.

281. Section 285 (3).

282. Section 390.

283. Section 391.

284. (1) Section 392.

(2) and (3). Section 989.

Presumption
from
possession.

(3) Where an accused is charged with theft of cattle or with an offence under subsection (1), the burden of proving that the cattle came lawfully into the possession of the accused or his employee or into the possession of another person on behalf of the accused is on the accused, if the accused is not the registered owner of the brand or mark with which the cattle are marked, unless it appears that possession of the cattle by an employee of the accused or by another person on behalf of the accused was without the knowledge and authority, sanction or approval of the accused. 5 10

Taking
possession
etc., of drift
timber.

285. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, without the consent of the owner,

(a) fraudulently takes, holds, keeps in his possession, 15
conceals, receives, appropriates, purchases or sells,

(b) removes, alters, obliterates or defaces a mark or
number on, or

(c) refuses to deliver up to the owner or to the person
in charge thereof on behalf of the owner or to a person 20
authorized by the owner to receive it,

any lumber or lumbering equipment that is found adrift, cast ashore or lying upon or embedded in the bed or bottom, or on the bank or beach of a river, stream or lake in Canada, or in the harbours or any of the coastal waters of Canada. 25

Dealer in
second hand
goods.

(2) Every one who, being a dealer in second-hand goods of any kind, trades or traffics in or has in his possession for sale or traffic any lumbering equipment that is marked with the mark, brand, registered timber mark, name or initials of a person, without the written consent of that person, is 30
guilty of an offence punishable on summary conviction.

Search for
timber
unlawfully
detained.

(3) A peace officer who suspects, on reasonable grounds, that any lumber owned by any person and bearing the registered timber mark of that person is kept or detained in or on any place without the knowledge or consent of that 35
person, may enter into or upon that place to ascertain whether or not it is detained there without the knowledge or consent of that person.

Evidence of
property in
timber.

(4) Where any lumber or lumbering equipment is marked with a timber mark or a boom chain brand registered under 40
any Act, the mark or brand is *prima facie* evidence, in proceedings under subsection (1), that it is the property of the registered owner of the mark or brand.

Presumption
from
possession.

(5) Where an accused or his servants or agents are in possession of lumber or lumbering equipment marked with 45
the mark, brand, registered timber mark, name or initials of another person, the burden of proving that it came lawfully into his possession or into possession of his servants or agents is, in proceedings under subsection (1), on the accused. 50

(b) in this section, "postal waters of Canada" includes all of Queen's Printer's property, all the State of Georgia and the (Canadian waters of the State of New York.

(c) "number" means number, mark, sign, symbol, dot, dash or letter of any description and

(d) "impeding equipment" includes a boom chain, chain, line and shackles.

285. Every one who, for a fraudulent purpose, destroys, conceals or obliterates

(a) a document of title to goods or lands,

(b) a valuable security or testamentary instrument or

(c) a judicial or official document,

is guilty of an indictable offence and is liable to imprisonment for ten years.

285. (1) Section 394.

287. Every one who, for a fraudulent purpose, takes, obtains, removes or conceals anything a guilty of an indictable offence and is liable to imprisonment for two years.

Robbery and Extortion.

288. Every one commits robbery who

(a) steals and for the purpose of extorting whatever is stolen or to prevent or overcome the force of the law, steals from any person or

(b) steals from any person and at the time he steals or immediately before or immediately thereafter wounds, beats, strikes or uses any personal violence to that person.

(2) Section 431 (4).

(c) assaults any person with intent to rob or

(d) steals from any person while armed with an offensive weapon or imitation thereof.

(3) Section 638.

289. Every one who commits robbery is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

(4) and (5). Section 990.

290. Every one who opens a mail conveyance with intent to rob or search it is guilty of an indictable offence and is liable to imprisonment for life.

291. (1) Every one who, without reasonable justification or excuse and with intent to extort or gain anything by threat, extortion, harassment or violence induces or attempts to induce any person, whether or not he is the

- "Coastal waters." (6) In this section,
 (a) "coastal waters of Canada" includes all of Queen Charlotte Sound, all the Strait of Georgia and the Canadian waters of the Strait of Juan de Fuca,
- "Lumber." (b) "lumber" means timber, mast, spar, shingle bolt, sawlog or lumber of any description, and 5
- "Lumbering equipment." (c) "lumbering equipment" includes a boom chain, chain, line and shackle. 15
- Destroying documents of title. **286.** Every one who, for a fraudulent purpose, destroys, cancels, conceals or obliterates 10
 (a) a document of title to goods or lands,
 (b) a valuable security or testamentary instrument, or
 (c) a judicial or official document,
 is guilty of an indictable offence and is liable to imprisonment for ten years. 15
- Fraudulent concealment. **287.** Every one who, for a fraudulent purpose, takes, obtains, removes or conceals anything is guilty of an indictable offence and is liable to imprisonment for two years.

ROBBERY AND EXTORTION.

- "Robbery." **288.** Every one commits robbery who
 (a) steals, and for the purpose of extorting whatever is 20
 stolen or to prevent or overcome resistance to the stealing, uses violence or threats of violence to a person or property,
 (b) steals from any person and, at the time he steals or immediately before or immediately thereafter, wounds, 25
 beats, strikes or uses any personal violence to that person,
 (c) assaults any person with intent to steal from him, or
 (d) steals from any person while armed with an offensive weapon or imitation thereof. 30
- Punishment for robbery. **289.** Every one who commits robbery is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.
- Stopping mail with intent. **290.** Every one who stops a mail conveyance with intent to rob or search it is guilty of an indictable offence 35
 and is liable to imprisonment for life.
- Extortion. **291.** (1) Every one who, without reasonable justification or excuse and with intent to extort or gain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the 40

(6) Section 394.

286. Section 396.

287. Section 397.

288. Sections 445, 446 and 448.

289. Section 447.

290. Section 449.

291. Sections 450 to 454.

person threatened, accused or menaced or to whom violence is shown, to do anything or to cause anything to be done, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Saving.

(2) A threat to institute civil proceedings is not a threat for the purposes of this section. 5

BREAKING AND ENTERING.

- 292.** (1) Every one who
- Breaking and entering with intent. (a) breaks and enters a place with intent to commit an indictable offence therein;
- Breaking and entering and committing. (b) breaks and enters a place and commits an indictable offence therein; or 10
- Breaking out. (c) breaks out of a place after
- (i) committing an indictable offence therein, or
- (ii) entering the place with intent to commit an indictable offence therein, 15
- is guilty of an indictable offence and is liable
- Punishment. (d) to imprisonment for life, if the offence is committed in relation to a dwelling house, or
- Idem. (e) to imprisonment for fourteen years, if the offence is committed in relation to a place other than a dwelling house. 20
- Presumptions. (2) For the purposes of proceedings under this section, evidence that an accused
- (a) broke and entered a place is *prima facie* evidence that he broke and entered with intent to commit an indictable offence therein; or 25
- (b) broke out of a place is *prima facie* evidence that he broke out after
- (i) committing an indictable offence therein, or
- (ii) entering with intent to commit an indictable offence therein. 30
- Committing offence when armed. (3) Every one who is convicted of an offence under this section who had upon his person, at the time he committed the offence or was arrested therefor, an offensive weapon or imitation thereof, is liable to be whipped in addition to any other punishment that may be imposed in respect of the offence for which he is convicted. 35
- "Place." (4) For the purposes of this section, "place" means
- (a) a dwelling house,
- (b) a building or structure or any part thereof, other than a dwelling house, 40
- (c) a railway vehicle, vessel, aircraft or trailer, or
- (d) a pen or enclosure in which fur-bearing animals are kept in captivity for breeding or commercial purposes. 45

290. Every one who without lawful excuse... proof of which has upon him, enters or is in a dwelling house with intent to commit an indictable offense therein is guilty of an indictable offense and is liable to imprisonment for ten years.

(2) For the purpose of proceedings under this section evidence that an accused, without lawful excuse, entered or was in a dwelling house is prima facie evidence that he entered or was in the dwelling house with intent to commit an indictable offense therein.

292. Sections 455 to 461.

292. For the purpose of sections 455 and 456, (a) a person enters as soon as any part of his body or any part of an instrument that he uses is within any thing that is being entered; and

(b) a person shall be deemed to have broken and entered if (i) he obtains entrance by a threat or artifice or by condition with a person within, or (ii) he enters without lawful justification or excuse, the proof of which lies upon him, by a permanent or temporary opening.

293. Every one who without lawful excuse, the proof of which lies upon him, (a) has in his possession any instrument for house-breaking, with intent to use it for that purpose, or (b) has his face marked or coloured or is otherwise disguised, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

294. Offence is essential.

294. Every one commits an offence who has anything in his possession to which that it was obtained unlawfully, (a) by the commission in Canada of an offence punishable by indictment, or (b) by an act or omission anywhere that if it had occurred in Canada would have constituted an offence punishable by indictment.

295. Every one who commits an offence under section 292 is guilty of an indictable offence and is liable (a) to imprisonment for ten years, where the highest value of what is alleged to be a concern his possession exceeds fifty dollars, or (b) to imprisonment for two years, where the alleged value of what is alleged to have come into his possession does not exceed fifty dollars.

Being unlawfully in dwelling house. **293.** (1) Every one who without lawful excuse, the proof of which lies upon him, enters or is in a dwelling house with intent to commit an indictable offence therein is guilty of an indictable offence and is liable to imprisonment for ten years. 5

Presumption. (2) For the purposes of proceedings under this section, evidence that an accused, without lawful excuse, entered or was in a dwelling house is *prima facie* evidence that he entered or was in the dwelling house with intent to commit an indictable offence therein. 10

"Entrance." **294.** For the purposes of sections 292 and 293,
 (a) a person enters as soon as any part of his body or any part of an instrument that he uses is within any thing that is being entered; and
 (b) a person shall be deemed to have broken and entered if 15
 (i) he obtained entrance by a threat or artifice or by collusion with a person within, or
 (ii) he entered without lawful justification or excuse, the proof of which lies upon him, by a permanent or temporary opening. 20

Possession of housebreaking instruments. Disguise. **295.** Every one who without lawful excuse, the proof of which lies upon him,
 (a) has in his possession any instrument for house-breaking, vault-breaking or safe-breaking, or
 (b) has his face masked or coloured or is otherwise 25
 disguised,
 is guilty of an indictable offence and is liable to imprisonment for fourteen years.

HAVING IN POSSESSION.

Having in possession property obtained by crime. **296.** Every one commits an offence who has anything in his possession knowing that it was obtained 30
 (a) by the commission in Canada of an offence punishable by indictment, or
 (b) by an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment. 35

Punishment. **297.** Every one who commits an offence under section 296 is guilty of an indictable offence and is liable
 (a) to imprisonment for ten years, where the alleged value of what is alleged to have come into his possession exceeds fifty dollars, or 40
 (b) to imprisonment for two years, where the alleged value of what is alleged to have come into his possession does not exceed fifty dollars.

293. Section 462.

294. Section 340.

295. Section 464.

296. Section 399.

297. Section 399.

Theft
from
mail.

298. (1) Every one who
(a) steals

- (i) anything sent by post, after it is deposited at a post office and before it is delivered,
- (ii) a bag, sack or other container or covering in which mail is conveyed, whether it does or does not contain mail, or
- (iii) a key suited to a lock adopted for use by the Canada Post Office,

(b) has in his possession anything in respect of which he knows that an offence has been committed under paragraph (a),

is guilty of an indictable offence and is liable to imprisonment for ten years and, where the offence is committed under paragraph (a), to imprisonment for not less than six months.

Allegation
of value not
necessary.

(2) In proceedings for an offence under this section it is not necessary to allege in the indictment or to prove on the trial that anything in respect of which the offence was committed had any value.

20

Bringing into
Canada
property
obtained by
crime.

299. Every one who brings into or has in Canada anything that he has obtained outside of Canada by an act that, if it had been committed in Canada, would have been the offence of theft or an offence under section 296, is guilty of an indictable offence and is liable to imprisonment for ten years.

Having in
possession
when
complete.

300. For the purposes of section 296 and paragraph (b) of subsection (1) of section 298, the offence of having in possession is complete when a person has, alone or jointly with another person, possession of or control over anything mentioned in those sections or when he aids in concealing or disposing of it, as the case may be.

Evidence.

301. (1) Where an accused is charged with an offence under section 296 or paragraph (b) of subsection (1) of section 298, evidence is admissible at any stage of the proceedings to show that property other than the property that is the subject matter of the proceedings

(a) was found in the possession of the accused, and

298. Sections 364, 365, 400 and 869.

299. Section 398.

300. Section 402.

301. Section 993.

(b) was obtained within twelve months before the proceedings were commenced by the commission in Canada of an offence punishable by indictment or by an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment, 5

and that evidence may be considered for the purpose of proving that the accused knew that the property forming the subject matter of the proceedings was obtained by the commission in Canada of an offence punishable by indictment or by an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment. 10

Notice to
accused.

(2) Subsection (1) does not apply unless

(a) at least three days' notice in writing is given to the accused that in the proceedings it is intended to prove that property other than the property that is the subject matter of the proceedings was found in his possession, and 15

(b) the notice sets out the nature or description of the property and describes the person from whom it is alleged to have been obtained. 20

Evidence of
previous
conviction.

302. (1) Where an accused is charged with an offence under section 296 or paragraph (b) of subsection (1) of section 298 and evidence is adduced that the subject matter of the proceedings was found in his possession, evidence that the accused was, within five years before the proceedings were commenced, convicted of an offence involving theft or an offence under section 296 is admissible at any stage of the proceedings and may be taken into consideration for the purpose of proving that the accused knew that the property that forms the subject matter of the proceedings was unlawfully obtained. 25 30

Notice to
accused.

(2) Subsection (1) does not apply unless at least three days' notice in writing is given to the accused that in the proceedings it is intended to prove the previous conviction. 35

FALSE PRETENCES.

"False
pretence."

303. (1) A false pretence is a representation of a matter of fact either present or past, made by words or otherwise, that is known by the person who makes it to be false and that is made with a fraudulent intent to induce the person to whom it is made to act upon it. 40

Exaggeration.

(2) Exaggerated commendation or depreciation of the quality of anything is not a false pretence unless it is carried to such an extent that it amounts to a fraudulent misrepresentation of fact. 45

Question of
fact.

(3) For the purposes of subsection (2) it is a question of fact whether commendation or depreciation amounts to a fraudulent misrepresentation of fact.

- 304.** (1) Every one commits an offence who
- Obtaining by
false pretence. (a) by a false pretence, whether directly or through the
medium of a contract obtained by a false pretence,
obtains anything in respect of which the offence of
theft may be committed or causes it to be delivered 5
to another person;
- Obtaining
credit by false
pretence. (b) obtains credit by a false pretence or by fraud;
- False
statement in
writing. (c) knowingly makes or causes to be made, directly or
indirectly, a false statement in writing with intent
that it should be relied upon, with respect to the finan- 10
cial condition or means or ability to pay of himself or
any person, firm or corporation that he is interested in or
that he acts for, for the purpose of procuring, in any
form whatsoever, whether for his benefit or the benefit
of that person, firm or corporation, 15
(i) the delivery of personal property,
(ii) the payment of money,
(iii) the making of a loan,
(iv) the extension of credit,
(v) the discount of an account receivable, or 20
(vi) the making, accepting, discounting or endorsing
of a bill of exchange, cheque, draft, or promissory
note; or
- Idem. (d) knowing that a false statement in writing has been
made with respect to the financial condition or means 25
or ability to pay of himself or another person, firm or
corporation that he is interested in or that he acts for,
procures upon the faith of that statement, whether for
his benefit or for the benefit of that person, firm or
corporation, anything mentioned in subparagraphs (i) 30
to (vi) of paragraph (c).
- Punishment. (2) Every one who commits an offence under paragraph
(a) of subsection (1) is guilty of an indictable offence and
is liable
(a) to imprisonment for ten years, where the property 35
alleged to have been obtained is a testamentary instru-
ment or the alleged value of what is alleged to have been
obtained exceeds fifty dollars, or
(b) to imprisonment for two years, where the alleged
value of what is alleged to have been obtained does not 40
exceed fifty dollars.
- Punishment. (3) Every one who commits an offence under paragraph
(b), (c) or (d) of subsection (1) is guilty of an indictable
offence and is liable to imprisonment for ten years.
- Presumption
from cheque
issued with-
out funds. (4) Where, in proceedings under paragraph (a) of 45
subsection (1), it is shown that anything was obtained by
the accused by means of a cheque that, when presented for
payment within a reasonable time, was dishonoured on the
ground that no funds or insufficient funds were on deposit
to the credit of the accused in the bank on which the cheque 50
was drawn, it shall be presumed to have been obtained
by a false pretence, unless the court is satisfied by evidence

304. Sections 405 and 407 (2).

Every person who, with intent to defraud or to obtain an undue advantage, publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue or deceptive or misleading or is intentionally so worded as to be deceptive or misleading or is untrue or deceptive or misleading in any particular, is guilty of an offence under this section and is liable to imprisonment for five years.

(1) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue or deceptive or misleading or is intentionally so worded as to be deceptive or misleading or is untrue or deceptive or misleading in any particular, is guilty of an offence under this section and is liable to imprisonment for five years.

(2) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue or deceptive or misleading or is intentionally so worded as to be deceptive or misleading or is untrue or deceptive or misleading in any particular, is guilty of an offence under this section and is liable to imprisonment for five years.

(3) Subsections (1) and (2) do not apply to a person who publishes an advertisement that he accepts in good faith for publication in the ordinary course of his business.

(4) For the purposes of subsection (2), a test that is given by the National Research Council of Canada or by any other public department is an advertisement and proper test for an advertisement shall be made in an advertisement in which a test has been made by the National Research Council or other public department unless the advertisement has otherwise been approved and permission to publish it has been given in writing by the president of the National Research Council or by the deputy head of the public department, as the case may be.

(5) Nothing in subsection (4) shall be deemed to exclude from the purposes of this section any other advertisement or

Section 304

Section 304

Section 304

Section 304

Section 304

Section 304

that when the accused issued the cheque he had reasonable grounds to believe and did believe that it would be honoured if presented for payment within a reasonable time after it was issued.

Obtaining execution of valuable security by fraud.

305. Every one who, with intent to defraud or injure another person, by a false pretence causes or induces any person

(a) to execute, make, accept, endorse or destroy the whole or any part of a valuable security, or

(b) to write, impress or affix a name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security,

is guilty of an indictable offence and is liable to imprisonment for five years.

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Publication of false advertisements.

306. (1) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue, deceptive or misleading or is intentionally so worded or arranged that it is deceptive or misleading, is guilty of an indictable offence and is liable to imprisonment for five years, if the advertisement is published

(a) to promote, directly or indirectly, the sale or disposal of property or any interest therein, or

(b) to promote a business or commercial interest.

Publication of statement without proper test.

(2) Every one who publishes or causes to be published in an advertisement a statement or guarantee of the performance, efficacy or length of life of anything that is not based upon an adequate and proper test of that thing, the proof of which lies upon the accused, is, if the advertisement is published to promote, directly or indirectly, the sale or disposal of that thing, guilty of an offence punishable on summary conviction.

Saving.

(3) Subsections (1) and (2) do not apply to a person who publishes an advertisement that he accepts in good faith for publication in the ordinary course of his business.

What is proper test.

(4) For the purposes of subsection (2), a test that is made by the National Research Council of Canada or by any other public department is an adequate and proper test, but no reference shall be made in an advertisement to indicate that a test has been made by the National Research Council or other public department unless the advertisement has, before publication, been approved and permission to publish it has been given in writing by the president of the National Research Council or by the deputy head of the public department, as the case may be.

Idem.

(5) Nothing in subsection (4) shall be deemed to exclude, for the purposes of this section, any other adequate or proper test.

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305. Section 406 (1).

306. Section 406 (2) and (3).

Fraudulently
obtaining
food and
lodging.

307. (1) Every one who fraudulently obtains food, lodging or other accommodation at an hotel or inn or at a lodging, boarding or eating house is guilty of an offence punishable on summary conviction.

Presumption.

(2) In proceedings under this section, evidence that an accused obtained food, lodging or other accommodation at an hotel or inn or at a lodging, boarding or eating house, and did not pay for it and

(a) made a false or fictitious show or pretence of having baggage, 10

(b) had any false or pretended baggage,

(c) surreptitiously removed or attempted to remove his baggage or any material part of it,

(d) absconded or surreptitiously left the premises,

(e) knowingly made a false statement to obtain credit or 15 time for payment, or

(f) offered a worthless cheque, draft or security in payment for his food, lodging or other accommodation,

is *prima facie* evidence of fraud.

WITCHCRAFT.

Pretending to
practise
witchcraft,
etc.

308. Every one who 20

(a) pretends to exercise or to use any kind of witchcraft, sorcery, enchantment or conjuration,

(b) undertakes, for a consideration, to tell fortunes, or

(c) pretends from his skill in or knowledge of an occult or crafty science to discover where or in what manner 25 anything that is supposed to have been stolen or lost may be found,

is guilty of an offence punishable on summary conviction.

FORGERY AND OFFENCES RESEMBLING FORGERY.

"Forgery."

309. (1) Every one commits forgery who makes a false document, knowing it to be false, with intent 30

(a) that it should in any way be used or acted upon as genuine, to the prejudice of any one whether within Canada or not, or

(b) that some person should be induced by the belief that it is genuine to do or to refrain from doing anything, 35 whether within Canada or not.

Making false
document.

(2) Making a false document includes

(a) altering a genuine document in any material part,

(b) making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing 40 that is material, or

(c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

When forgery
complete.

(3) Forgery is complete as soon as a document is made with the knowledge and intent referred to in subsection (1), 45 notwithstanding that the person who makes it does not

307. Section 407 (3).

Every one who... is liable to imprisonment for... if the document was genuine...

Every one who... is liable to imprisonment for... if the document was genuine...

Every one who... is liable to imprisonment for... if the document was genuine...

308. Section 443.

Every one who... is liable to imprisonment for... if the document was genuine...

Every one who... is liable to imprisonment for... if the document was genuine...

309. Section 466.

Every one who... is liable to imprisonment for... if the document was genuine...

Every one who... is liable to imprisonment for... if the document was genuine...

Every one who... is liable to imprisonment for... if the document was genuine...

Every one who... is liable to imprisonment for... if the document was genuine...

intend that any particular person should use or act upon it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

(4) Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted upon as genuine. 5

Forgery complete though document incomplete.

Punishment for forgery.

310. (1) Every one who commits forgery is guilty of an indictable offence and is liable to imprisonment for fourteen years. 10

Corroboration.

(2) No person shall be convicted of an offence under this section upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Uttering forged document.

311. (1) Every one who, knowing that a document is forged, 15

(a) uses, deals with, or acts upon it, or

(b) causes or attempts to cause any person to use, deal with, or act upon it,

as if the document were genuine, is guilty of an indictable offence and is liable to imprisonment for fourteen years. 20

Wherever forged.

(2) For the purposes of proceedings under this section, the place where a document was forged is not material.

Exchequer bill paper.

312. Every one who, without lawful authority or excuse, the proof of which lies upon him, 25

Making, etc.

(a) makes, uses or knowingly has in his possession

(i) any exchequer bill paper, revenue paper, or paper that is used to make bank notes, or

(ii) any paper that is intended to resemble paper mentioned in subparagraph (i); 30

Instruments.

(b) makes, offers or disposes of or knowingly has in his possession any plate, die, machinery, instrument or other writing or material that is adapted and intended to be used to commit forgery; or

Counterfeiting public seals.

(c) makes, reproduces or uses a public seal of Canada or of a province, or the seal of a public body or authority in Canada, or of a court of law, 35
is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Printing counterfeit proclamation.

313. Every one who knowingly 40

(a) prints a proclamation, order, regulation or appointment, or notice thereof, and causes it falsely to purport to have been printed by the Queen's Printer for Canada, or the Queen's Printer for a province, or

Tendering in evidence.

(b) tenders in evidence a copy of a proclamation, order, regulation or appointment that falsely purports to 45

have been printed by the Queen's Printer for Canada or the Queen's Printer for a province is guilty of an indictable offence and is liable to imprisonment for five years.

310. Sections 468 and 1002. Every one who, with intent to defraud, causes or procures a telegram, cablegram or radio message to be sent or delivered as being sent by the authority of another person, knowing that it is not so sent, is guilty of an indictable offence and is liable to imprisonment for five years.

310. Sections 468 and 1002.

311. Section 467. Every one who, with intent to defraud, causes or procures a telegram, cablegram or radio message to be sent by the authority of another person, knowing that it is not so sent, is guilty of an indictable offence and is liable to imprisonment for five years.

311. Section 467.

312. Sections 471, 472 and 473. Every one who commits an offence under paragraph (a) of subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years. Every one who commits an offence under paragraph (b) of subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years. Every one who commits an offence under paragraph (c) of subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years.

312. Sections 471, 472 and 473.

313. Section 474. Every one who, with intent to defraud, causes or procures a document to be made, executed, issued, delivered or otherwise put in circulation, knowing that it is not so made, executed, issued, delivered or otherwise put in circulation, is guilty of an indictable offence and is liable to imprisonment for five years.

313. Section 474.

have been printed by the Queen's Printer for Canada or the Queen's Printer for a province, is guilty of an indictable offence and is liable to imprisonment for five years.

Telegram,
etc., in false
name.

314. Every one who, with intent to defraud, causes 5
or procures a telegram, cablegram or radio message to be
sent or delivered as being sent by the authority of another
person, knowing that it is not sent by his authority and
with intent that the message should be acted on as being
sent by his authority, is guilty of an indictable offence 10
and is liable to imprisonment for five years.

False
messages.

315. Every one who, with intent to injure or alarm
any person sends or causes or procures to be sent by
telegram, letter, radio, cable or otherwise a message that
contains matter that he knows is false is guilty of an 15
indictable offence and is liable to imprisonment for two years.

Threatening
letters.

316. (1) Every one commits an offence who sends,
delivers, utters or directly or indirectly causes any person
to receive

(a) a letter or writing that he knows contains a threat 20
to cause the death of any person; or

(b) a letter or writing that he knows contains a threat
(i) to burn, destroy or damage real or personal
property, or
(ii) to kill, maim, wound, poison or injure an animal 25
or bird that is the property of any person.

Punishment.

(2) Every one who commits an offence under paragraph
(a) of subsection (1) is guilty of an indictable offence and is
liable to imprisonment for ten years.

(3) Every one who commits an offence under paragraph 30
(b) of subsection (1) is guilty of

(a) an indictable offence and is liable to imprisonment
for two years, or

(b) an offence punishable on summary conviction.

Drawing
document
without
authority.

317. Every one who 35
(a) with intent to defraud and without lawful authority
makes, executes, draws, signs, accepts or endorses a
document in the name or on the account of another
person by procuration or otherwise, or

Uttering.

(b) makes use of or utters a document knowing that it 40
has been made, executed, signed, accepted or endorsed
with intent to defraud and without lawful authority,
in the name or on the account of another person, by
procuration or otherwise,

is guilty of an indictable offence and is liable to imprison- 45
ment for fourteen years.

314. Section 475.

315. Section 476.

316. Sections 265, 516, 537 (1) (c) and 538.

317. Section 477.

Obtaining,
etc., by
instrument
based on
forged
document.

318. Every one who demands, receives, or obtains anything, or causes or procures anything to be delivered or paid to any person under, upon, or by virtue of any instrument issued under the authority of law, knowing that it is based on a forged document, is guilty of an indictable offence and is liable to imprisonment for fourteen years. 5

Counterfeit-
ing stamp.

319. (1) Every one who
(a) fraudulently uses, mutilates, affixes, removes or counterfeits a stamp or part thereof; 10

Using.

Possessing.

(b) knowingly and without lawful excuse, the proof of which lies upon him, has in his possession
(i) a counterfeit stamp or a stamp that has been fraudulently mutilated, or

(ii) anything bearing a stamp of which a part has been fraudulently erased, removed or concealed; or 15

Instruments
for counter-
feiting
stamps.

(c) without lawful excuse, the proof of which lies upon him, makes or knowingly has in his possession a die or instrument that is capable of making the impression of a stamp or part thereof, 20

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Counter-
feiting mark.
Selling.

(2) Every one who, without lawful authority,
(a) makes a mark,
(b) sells, or exposes for sale, or has in his possession a counterfeit mark, or 25

Affixing false
mark.

(c) affixes a mark to anything that is required by law to be marked, branded, sealed or wrapped other than the thing to which the mark was originally affixed or was intended to be affixed, or 30

Affixing
counterfeit
mark.

(d) affixes a counterfeit mark to anything that is required by law to be marked, branded, sealed or wrapped,
is guilty of an indictable offence and is liable to imprisonment for fourteen years.

"Mark."

(3) In this section, 35
(a) "mark" means a mark, brand, seal, wrapper or design used by or on behalf of

(i) the Government of Canada or of a province,

(ii) the government of a state other than Canada,
or 40

(iii) a department, board, commission or agent established by a government mentioned in subparagraph (i) or (ii) in connection with the service or business of that government; and

"Stamp."

(b) "stamp" means an impressed or adhesive stamp used for the purpose of revenue by the Government of Canada or of a province or by the government of a state other than Canada.

Injuring
documents.

320. (1) Every one who unlawfully

(a) destroys, defaces or injures a register, or any part of a register of births, baptisms, marriages, deaths or burials that is required or authorized by law to be kept in Canada, or a copy or any part of a copy of such a register that is required by law to be transmitted to a registrar or other officer, 5

(b) inserts or causes to be inserted in a register or copy referred to in paragraph (a) an entry, that he knows is false, of any matter relating to a birth, baptism, marriage, death or burial, or erases any material part from such a register or copy, 10

(c) destroys, damages or obliterates an election document or causes an election document to be destroyed, damaged or obliterated, or 15

(d) makes or causes to be made an erasure, alteration or interlineation in or upon an election document, is guilty of an indictable offence and is liable to imprisonment for five years.

"Election
document."

(2) In this section, "election document" means any document or writing issued under the authority of an Act of the Parliament of Canada or of a legislature with respect to an election held pursuant to the authority of any such Act. 20

False copy
from register.

321. Every one who

(a) being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, knowingly makes or issues a false certified copy, extract or certificate, 25

Fraudulent
copy by
person not
authorized.

(b) not being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, fraudulently makes or issues a copy, extract or certificate that purports to be certified as authorized or required by law, or 30 35

Giving false
particulars.

(c) being authorized or required by law to make a certificate or declaration concerning any particular required for the purpose of making entries in a register, record or document, knowingly and falsely makes the certificate or declaration, 40

is guilty of an indictable offence and is liable to imprisonment for five years.

320. Sections 480 to 483 and 528.

PART VII

FRAUDULENT TRANSACTIONS RELATING TO CONTRACTS AND TRADE

INTERESTATION

320. In this Part,

(a) "goods" means anything that is the subject of trade or commerce; and

(b) "trading stamp" includes any form of cash receipt, receipt, coupon, premium ticket or other device designed or intended to be given to the purchaser of goods by the vendor thereof or on his behalf, and to represent a discount on the price of the goods or a premium to the purchaser thereof.

(c) that may be referred to

(A) by any person other than the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods;

(B) by the vendor, the person from whom the vendor purchased the goods or the manufacturer of the goods;

321. Sections 480 to 483.

(C) by the vendor elsewhere than in the premises where the goods are purchased; or

(D) that does not show upon its face the place where it is delivered and the marketable value thereof;

(E) that may not be redeemed upon demand at any time

but an offer endorsed by the manufacturer upon a wrapper or container in which goods are sold, of a premium or reward for the return of that wrapper or

container to the manufacturer is not a trading stamp.

FRAUD

322. (1) Every one who by deceitful conduct obtains or attempts to obtain any property, money or valuable security, is guilty of an indictable offence and is liable to imprisonment for ten years.

PART VIII.

FRAUDULENT TRANSACTIONS RELATING TO
CONTRACTS AND TRADE.

INTERPRETATION.

- 322.** In this Part,
- "Goods."
"Trading stamps."
- (a) "goods" means anything that is the subject of trade or commerce; and
- (b) "trading stamps" includes any form of cash receipt, receipt, coupon, premium ticket or other device, 5
designed or intended to be given to the purchaser of goods by the vendor thereof or on his behalf, and to represent a discount on the price of the goods or a premium to the purchaser thereof
- (i) that may be redeemed 10
- (A) by any person other than the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods,
- (B) by the vendor, the person from whom the vendor purchased the goods, or the manu- 15
facturer of the goods in cash or in goods that are not his property in whole or in part, or
- (C) by the vendor elsewhere than in the premises where the goods are purchased; or
- (ii) that does not show upon its face the place where 20
it is delivered and the merchantable value thereof;
or
- (iii) that may not be redeemed upon demand at any time,
but an offer, endorsed by the manufacturer upon a 25
wrapper or container in which goods are sold, of a premium or reward for the return of that wrapper or container to the manufacturer is not a trading stamp.

FRAUD.

- 323.** (1) Every one who, by deceit, falsehood or other 30
fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security, is guilty of an indictable offence and is liable to imprisonment for ten years.

(3) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, obtains or publishes or causes to be published or otherwise to be made public any information that is offered for sale to the public, is guilty of an indictable offence and is liable to imprisonment for ten years.

Article
of the
Act

322. Section 335.

322. Every one who makes use of the word "lottery" for the purpose of transmitting or delivering or intended to deliver or to cause to be delivered or to be delivered any money or property or for the purpose of obtaining money under false pretences, is guilty of an indictable offence and is liable to imprisonment for two years.

Section
of the
Act

323. Every one who, through the issue of a stock, exchange, bond, note or other instrument, with intent to create a false or misleading appearance of active public trading in a security or with intent to create a false or misleading appearance with respect to the market price of a security,

Section
of the
Act

(a) effects a transaction in the security that involves a change in the beneficial ownership thereof,
(b) enters an order for the purchase of the security, knowing that an order of substantially the same size and at substantially the same time and at substantially the same price for the sale of the security has been or will be entered by or for the same or different persons,
(c) enters an order for the sale of the security, knowing that an order of substantially the same size and at substantially the same time and at substantially the same price for the purchase of the security has been or will be entered by or for the same or different persons,
is guilty of an indictable offence and is liable to imprisonment for five years.

Section
of the
Act

323. Section 444.

323. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, with intent to make gain or profit by the use or sale of the word "lottery" or "incorporated" or "unincorporated" or "underwriting" whether in or out of Canada, or in connection with the sale or purchase,

Affecting
public
market.

(2) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public, is guilty of an indictable offence and is liable to imprisonment for ten years. 5

Using
mails to
defraud.

324. Every one who makes use of the mails for the purpose of transmitting or delivering letters or circulars concerning schemes devised or intended to deceive or defraud the public, or for the purpose of obtaining money under false pretences, is guilty of an indictable offence and is liable to imprisonment for two years. 10

Fraudulent
manipulation
of stock
exchange
trans-
actions.

325. Every one who, through the facility of a stock exchange, curb market or other market, with intent to create a false or misleading appearance of active public trading in a security or with intent to create a false or misleading appearance with respect to the market price of a security, 15

(a) effects a transaction in the security that involves no change in the beneficial ownership thereof, 20

(b) enters an order for the purchase of the security, knowing that an order of substantially the same size at substantially the same time and at substantially the same price for the sale of the security has been or will be entered by or for the same or different persons, 25
or

(c) enters an order for the sale of the security, knowing that an order of substantially the same size at substantially the same time and at substantially the same price for the purchase of the security has been or will be entered by or for the same or different persons, 30
is guilty of an indictable offence and is liable to imprisonment for five years.

Gaming in
stocks or
merchandise.

326. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, with intent to make gain or profit by the rise or fall in price of the stock of an incorporated or unincorporated company or undertaking, whether in or out of Canada, or of any goods, wares, or merchandise, 40

(1) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the purchase or sale of shares of stock or goods, wares or merchandise, without the bona fide intention of acquiring the shares, goods, wares or merchandise or of selling them, as the case may be, or

324. Section 209 (c).

(2) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of shares of stock or goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or effected, and without the bona fide intention of making or receiving delivery thereof, as the case may be, but this section does not apply where a broker, on behalf of a purchaser, receives delivery, notwithstanding that the broker retains or pledges what is sold or purchased.

325. Section 444A.

(3) Where, in proceedings under this section, it is established that the accused made or signed a contract or agreement for the sale or purchase of shares of stock or goods, wares or merchandise, or made, added or inserted in the margin or signing thereof, the burden of proof of a bona fide intention to acquire or to sell the shares, goods, wares or merchandise or to deliver or to receive delivery thereof, as the case may be, lies upon the accused.

Every one is guilty of an indictable offence and is liable to imprisonment for five years who being an individual or a member or employee of a partnership or a director, officer or employee of a corporation, where he or the partnership, or corporation is employed as a broker by any customer to buy and carry upon margin any shares of an incorporated or unincorporated company or under- taking, whether in or out of Canada, the assets of which are to be sold shares of the company or undertaking for any account in which

326. Sections 231 and 987.

(1) he or the firm or a partner thereof, or (2) the corporation or a director thereof, has a direct or indirect interest in the amount of shares in the hands of the broker or under his control in the ordinary course of business below the amount of such shares that the broker should be carrying for all customers.

Making contract without intention to acquire or sell.

(a) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the purchase or sale of shares of stock or goods, wares or merchandise, without the *bona fide* intention of acquiring the shares, goods, wares or merchandise or of selling them, as the case may be; or 5

Contract without delivery or intention to receive.

(b) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of shares of stock or goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or received, and without the *bona fide* intention of making or receiving delivery thereof, as the case may be, 10

Saving.

but this section does not apply where a broker, on behalf of a purchaser, receives delivery, notwithstanding that the broker retains or pledges what is delivered as security for the advance of the purchase money or any part thereof. 15

Onus.

(2) Where, in proceedings under this section, it is established that the accused made or signed a contract or agreement for the sale or purchase of shares of stock or goods, wares or merchandise, or acted, aided or abetted in the making or signing thereof, the burden of proof of a *bona fide* intention to acquire or to sell the shares, goods, wares or merchandise or to deliver or to receive delivery thereof, as the case may be, lies upon the accused. 20 25

Broker reducing stock by selling for his own account.

327. Every one is guilty of an indictable offence and is liable to imprisonment for five years who, being an individual, or a member or employee of a partnership, or a director, officer or employee of a corporation, where he or the partnership, or corporation is employed as a broker by any customer to buy and carry upon margin any shares of an incorporated or unincorporated company or undertaking, whether in or out of Canada, thereafter sells or causes to be sold shares of the company or undertaking for any account in which 30 35

(a) he or his firm or a partner thereof, or

(b) the corporation or a director thereof,

has a direct or indirect interest, if the effect of the sale is, otherwise than unintentionally, to reduce the amount of such shares in the hands of the broker or under his control in the ordinary course of business below the amount of such shares that the broker should be carrying for all customers. 40

228. Every one who, being a vendor or mortgagor of property or of a share in such a vendor or mortgagor, is served with a written demand for an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, and who (a) with intent to defraud and for the purpose of inducing the purchaser or mortgagee to accept the title offered or produced to him, conceals from him any settlement, deed, will or other instrument material to the title, or any encumbrance on the title, or (b) falsifies any pedigree upon which the title depends, is guilty of an indictable offence and is liable to imprisonment for two years.

Indictable offence
 Imprisonment for two years

229. Every one who, as principal or agent in a transaction relating to real property, or in a transaction relating to real property that is or is proposed to be registered, knowingly and with intent to defraud, (a) makes a material false statement or representation, (b) suppresses or conceals from a judge or registrar or any person employed by or assisting the registrar, any material document, fact, matter or information, or (c) is party to anything mentioned in paragraph (a) or (b), is guilty of an indictable offence and is liable to imprisonment for two years.

Indictable offence
 Imprisonment for two years

327. Section 231A.

230. Every one who, knowing of an unregistered prior sale or of an existing unregistered great mortgage, hypothecation or encumbrance of or upon real property, fraudulently tells the property or any part thereof is guilty of an indictable offence and is liable to imprisonment for two years.

Indictable offence
 Imprisonment for two years

231. Every one who willfully (a) with intent to mislead, injure or defraud any person whether or not that person is known to him, gives to a person anything in writing that purports to be a receipt for or an acknowledgment of property that has been delivered to or received by him, before the property referred to in the purported receipt or acknowledgment has been delivered to or received by him, or

Indictable offence
 Imprisonment for two years

Fraudulent concealment.

328. Every one who, being a vendor or mortgagor of property or of a chose in action or being a solicitor for or agent of a vendor or mortgagor of property or a chose in action, is served with a written demand for an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, and who 5

Of document of title.

(a) with intent to defraud and for the purpose of inducing the purchaser or mortgagee to accept the title offered or produced to him, conceals from him any settlement, deed, will or other instrument material to the title, 10 or any encumbrance on the title, or

Falsifying pedigree.

(b) falsifies any pedigree upon which the title depends, is guilty of an indictable offence and is liable to imprisonment for two years.

Fraudulent registration of title.

329. Every one who, as principal or agent, in a proceeding to register title to real property, or in a transaction relating to real property that is or is proposed to be registered, knowingly and with intent to deceive, 15

(a) makes a material false statement or representation, (b) suppresses or conceals from a judge or registrar or any person employed by or assisting the registrar, any material document, fact, matter or information, or (c) is privy to anything mentioned in paragraph (a) or (b), 20

is guilty of an indictable offence and is liable to imprisonment for five years. 25

Fraudulent sale of real property.

330. Every one who, knowing of an unregistered prior sale or of an existing unregistered grant, mortgage, hypothec, privilege or encumbrance of or upon real property, fraudulently sells the property or any part thereof is guilty of an indictable offence and is liable to imprisonment for two years. 30

Receipt intended to mislead.

331. Every one who wilfully (a) with intent to mislead, injure or defraud any person, whether or not that person is known to him, gives to a person anything in writing that purports to be a receipt for or an acknowledgment of property that has been delivered to or received by him, before the property referred to in the purported receipt or acknowledgment has been delivered to or received by him, or 35 40

328. Section 419.

(b) receipt, transfer or use of a purloined receipt or acknowledgment to which paragraph (a) applies is guilty of an indictable offence and is liable to imprisonment for two years.

Every receipt

329. Section 420.

329. (1) Every one who (a) having shipped or delivered to the keeper of a warehouse or to a factor, agent or carrier, anything upon which the consignor thereof has advanced money or has given valuable security, the latter, with intent to deceive, defraud or injure the consignor, or does so in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignor, or (b) knowingly and wilfully aids or abets in the making of a disposition of anything to which paragraph (a) applies for the purpose of deceiving, defrauding or injuring the consignor, is guilty of an indictable offence and is liable to imprisonment for two years.

Transfer of receipt or acknowledgment

330. Section 421.

330. Every one is guilty of an indictable offence and is liable to imprisonment for two years who (a) wilfully makes a false statement in a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the Bank Act or (b) wilfully (i) after having to another person (ii) after a person employed (iii) after obtaining and endorsing or assigning to another person, knowledge, gives to another person, or (c) after obtaining and endorsing or assigning to another person, a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the Bank Act, without the consent in writing of the holder or endorsee or the proprietor and delivery of the receipt, certificate or acknowledgment, aliases or parts with, or does not deliver to the holder or owner the property mentioned in the receipt, certificate or acknowledgment.

Every one

331. Section 425.

331. Every one is guilty of an indictable offence and is liable to imprisonment for two years who (a) wilfully makes a false statement in a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the Bank Act or (b) wilfully (i) after having to another person (ii) after a person employed (iii) after obtaining and endorsing or assigning to another person, knowledge, gives to another person, or (c) after obtaining and endorsing or assigning to another person, a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the Bank Act, without the consent in writing of the holder or endorsee or the proprietor and delivery of the receipt, certificate or acknowledgment, aliases or parts with, or does not deliver to the holder or owner the property mentioned in the receipt, certificate or acknowledgment.

Every one is guilty of an indictable offence and is liable to imprisonment for two years who

Using receipt.

(b) accepts, transmits or uses a purported receipt or acknowledgment to which paragraph (a) applies, is guilty of an indictable offence and is liable to imprisonment for two years.

Fraudulent disposal of goods on which money advanced.

332. (1) Every one who

5

(a) having shipped or delivered to the keeper of a warehouse or to a factor, agent or carrier, anything upon which the consignee thereof has advanced money or has given valuable security, thereafter, with intent to deceive, defraud or injure the consignee, disposes of it in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignee, or

Aiding such disposal.

(b) knowingly and wilfully aids or assists any person to make a disposition of anything to which paragraph (a) applies for the purpose of deceiving, defrauding or injuring the consignee, is guilty of an indictable offence and is liable to imprisonment for two years.

Saving.

(2) No person is guilty of an offence under this section where, before disposing of anything in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignee, he pays or tenders to the consignee the full amount of money or valuable security that the consignee has advanced.

Fraudulent receipts under *Bank Act*.

333. Every one is guilty of an indictable offence and is liable to imprisonment for two years who

(a) wilfully makes a false statement in a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Bank Act*; or

30

(b) wilfully,

(i) after giving to another person,

(ii) after a person employed by him has, to his knowledge, given to another person, or

(iii) after obtaining and endorsing or assigning to another person,

a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Bank Act*, without the consent in writing of the holder or endorsee or the production and delivery of the receipt, certificate or acknowledgment, alienates or parts with, or does not deliver to the holder or owner the property mentioned in the receipt, certificate or acknowledgment.

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332. Where an offence is committed under section 331, 332 or 333 by a person who acts in the name of a corporation, firm or partnership, no person other than the person who does the act by means of which the offence is committed or who is directly privy to the doing of that act is guilty of the offence.

332. Section 426.

332. Every one who (a) with intent to defraud his creditors (i) makes or causes to be made a gift, conveyance, assignment, sale, transfer or delivery of his property, or (ii) removes, conceals or disposes of any of his property; or (b) with intent that any one should defraud his creditors receives any property by means of or in relation to which an offence has been committed under paragraph (a), is guilty of an indictable offence and is liable to imprisonment for two years.

333. (1) Every one who (a) fails to collect or (b) collects less than the proper amount payable in respect thereof, or (c) accepts any valuable consideration for failure to collect or to collect less than the proper amount payable in respect thereof, is guilty of an indictable offence and is liable to imprisonment for two years.

333. Section 427.

333. Every one who gives or offers to a person whose duty it is to collect a tax, toll, ticket or admission fee, any valuable consideration (a) for failing to collect it, or (b) for collecting an amount less than the amount payable in respect thereof, is guilty of an indictable offence and is liable to imprisonment for two years.

334. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who (a) being the holder of a lease or licence issued (i) under an Act relating to the mining of precious metals, or

Saving.

334. Where an offence is committed under section 331, 332 or 333 by a person who acts in the name of a corporation, firm or partnership, no person other than the person who does the act by means of which the offence is committed or who is secretly privy to the doing of that act 5 is guilty of the offence.

Disposal of property to defraud creditors.

335. Every one who,
 (a) with intent to defraud his creditors,
 (i) makes or causes to be made a gift, conveyance, assignment, sale, transfer or delivery of his prop- 10 erty, or
 (ii) removes, conceals or disposes of any of his property; or

Receiving.

(b) with intent that any one should defraud his creditors, receives any property by means of or in relation to 15 which an offence has been committed under paragraph (a),
 is guilty of an indictable offence and is liable to imprisonment for two years.

Fraud in relation to fares, etc.

336. (1) Every one whose duty it is to collect a fare, 20 toll, ticket or admission who wilfully

(a) fails to collect it,
 (b) collects less than the proper amount payable in respect thereof, or
 (c) accepts any valuable consideration for failing to 25 collect it or for collecting less than the proper amount payable in respect thereof,

is guilty of an indictable offence and is liable to imprisonment for two years.

Idem.

(2) Every one who gives or offers to a person whose duty 30 it is to collect a fare, toll, ticket or admission fee, any valuable consideration

(a) for failing to collect it, or
 (b) for collecting an amount less than the amount payable in respect thereof, 35

is guilty of an indictable offence and is liable to imprisonment for two years.

Fraud by holder of mining lease.

337. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who 40

(a) being the holder of a lease or licence issued
 (i) under an Act relating to the mining of precious metals, or

334. Section 428.

335. Section 417 (a) and (b).

336. Section 412 (1) and (2).

337. Section 424 (1) and (6).

(ii) by the owner of land that is supposed to contain precious metals, by a fraudulent device or contrivance defrauds or attempts to defraud any person of any precious metals or money payable or reserved by the lease or licence, or fraudulently conceals or makes a false statement with respect to the amount of precious metals procured by him; 5

Unlawful sale
of substance
containing
precious
metals.

(b) sells or purchases any rock, mineral, or other substance that contains precious metals or unsmelted, untreated, unmanufactured, or partly smelted, partly treated or partly manufactured precious metals, unless he establishes that he is the owner or agent of the owner or is acting under lawful authority; or 10

Unlawful
possession.

(c) has in his possession or knowingly has upon his premises 15

(i) any rock or mineral of a value of twenty-five cents per pound or more,

(ii) any mica of a value of seven cents per pound or more, or 20

(iii) any precious metals,

that there is reasonable ground to believe have been stolen or have been dealt with contrary to this section, unless he establishes that he is lawfully in possession thereof. 25

Seizure and
forfeiture.

(2) Where a person is convicted of an offence under this section, the court may order anything by means of or in relation to which the offence was committed, upon such conviction, to be forfeited to Her Majesty in right of the province in which the proceedings take place. 30

Search for
precious
metals.

338. (1) Where an information in writing is laid under oath before a justice by any person having an interest in a mining claim, that any precious metals or rock, mineral or other substance containing precious metals is unlawfully deposited in any place or held by any person contrary to law, the justice may issue a warrant to search any of the places or persons mentioned in the information. 35

Power
to seize.

(2) Where, upon search, anything mentioned in subsection (1) is found, it shall be seized and carried before the justice who shall order 40

(a) that it be detained for the purposes of an inquiry or trial, or

(b) if it is not detained for the purposes of an inquiry or trial,

(b) that it be referred to the owner or
 (ii) that it be referred to the attorney in charge of
 the proceeding in which the proceedings take place
 if the extent cannot be ascertained.

(3) An appeal may be taken under paragraph
 (2) of subsection (1) in the manner in which an appeal may
 be taken in summary conviction proceedings under Part XXIV and
 the provisions of that Part relating to appeals apply to
 appeals under this subsection.

Appeal

338. (1) Every one who
 (a) adds anything to or removes anything from an
 original or prospective mine, mining claim or oil well
 with a fraudulent intent to affect the result of an assay,
 test or valuation that has been made or is to be made
 with respect to the mine, mining claim or oil well,

Offence

(b) adds anything to or removes anything from or tamper
 with a sample or material that has been taken or is
 being so taken to be taken from an existing or
 prospective mine, mining claim or oil well for the
 purpose of being assayed, tested or otherwise valued,
 with a fraudulent intent to affect the result of the assay,
 test or valuation.

Offence

A guilty of an indictable offence and is liable to imprisonment
 for five years.

(2) For the purposes of proceeding under subsection (1),
 evidence that

Proceeding

something has been added to or removed from any
 thing to which subsection (1) applies or

338. Section 637.

that anything has been added to or removed from any
 thing to which subsection (1) applies or
 is proved false or untrue or a fraudulent intent to affect the
 result of an assay, test or valuation.

339. (1) Every one who
 (a) adds anything to or removes anything from an
 original or prospective mine, mining claim or oil well
 with a fraudulent intent to affect the result of an assay,
 test or valuation that has been made or is to be made
 with respect to the mine, mining claim or oil well,

Offence

(b) adds anything to or removes anything from or tamper
 with a sample or material that has been taken or is
 being so taken to be taken from an existing or
 prospective mine, mining claim or oil well for the
 purpose of being assayed, tested or otherwise valued,
 with a fraudulent intent to affect the result of the assay,
 test or valuation.

- (i) that it be restored to the owner, or
- (ii) that it be forfeited to Her Majesty in right of the province in which the proceedings take place if the owner cannot be ascertained.

Appeal. (3) An appeal lies from an order made under paragraph 5
(b) of subsection (2) in the manner in which an appeal lies in summary conviction proceedings under Part XXIV and the provisions of that Part relating to appeals apply to appeals under this subsection.

Salting mine. **339.** (1) Every one who 10
(a) adds anything to or removes anything from an existing or prospective mine, mining claim or oil well with a fraudulent intent to affect the result of an assay, test or valuation that has been made or is to be made with respect to the mine, mining claim or oil well, 15
or

Salting sample. (b) adds anything to, removes anything from or tampers with a sample or material that has been taken or is being or is about to be taken from an existing or prospective mine, mining claim or oil well for the 20 purpose of being assayed, tested or otherwise valued, with a fraudulent intent to affect the result of the assay, test or valuation,
is guilty of an indictable offence and is liable to imprisonment for five years. 25

Presumption. (2) For the purposes of proceedings under subsection (1), evidence that
(a) something has been added to or removed from anything to which subsection (1) applies, or
(b) anything to which subsection (1) applies has been 30 tampered with,
is *prima facie* evidence of a fraudulent intent to affect the result of an assay, test or valuation.

FALSIFICATION OF BOOKS AND DOCUMENTS.

By destruction, etc. **340.** (1) Every one who, with intent to defraud,
(a) destroys, mutilates, alters, falsifies, or makes a false 35 entry in, or
(b) omits a material particular from, or alters a material particular in,

a book, paper, writing, valuable security or document is guilty of an indictable offence and is liable to imprisonment for five years.

To defraud
creditors.

(2) Every one who, with intent to defraud his creditors, is privy to the commission of an offence under subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years. 5

False
employment
record.
Time
clock.

341. Every one who, with intent to deceive,
(a) falsifies an employment record, or
(b) punches a time clock,
is guilty of an offence punishable on summary conviction. 10

False return
by public
officer.

342. Every one who, being entrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes a false statement or return of
(a) any sum of money collected by him or entrusted to his care, or
(b) any balance of money in his hands or under his control,
is guilty of an indictable offence and is liable to imprisonment for five years. 15 20

False
prospectus,
etc.

343. (1) Every one who makes, circulates or publishes a prospectus, statement or account, whether written or oral, that he knows is false in a material particular, with intent
(a) to induce persons, whether ascertained or not, to become shareholders or partners in a company, 25
(b) to deceive or defraud the members, shareholders or creditors, whether ascertained or not, of a company,
(c) to induce any person to entrust or advance anything to a company, or
(d) to enter into any security for the benefit of a company, 30
is guilty of an indictable offence and is liable to imprisonment for five years.

"Company."

(2) In this section, "company" means a syndicate, body corporate or company, whether existing or proposed to be created. 35

Obtaining
carriage by
false billing.

344. (1) Every one who, by means of a false or misleading representation or by any other means, knowingly obtains or attempts to obtain the carriage of anything by

any person into a country, province, district or other place, whether or not within Canada, where the importation or transportation of it is, in the circumstances of the case, unlawful is guilty of an offence punishable on summary conviction.

(3) Where a person is convicted of an offence under subsection (1), anything by means of or in relation to which the offence was committed may be forfeited in addition to any forfeiture to which the court may direct. Her Majesty and shall be disposed of as the court may direct.

341. Section 415A (b) and (c).

341. (1) Every one who, being a trader or a business, (a) is indebted in an amount exceeding one thousand dollars, (b) is unable to pay his creditors in full, and (c) has not kept books of account that, in the ordinary course of the trade or business in which he is engaged, are necessary to exhibit or explain his transactions is guilty of an indictable offence and is liable to imprisonment for two years.

342. Section 416.

(2) No person shall be convicted of an offence under this section (a) where to the satisfaction of the court or judge he (i) accounts for his losses, and (ii) shows that his failure to keep books was not intended to defraud his creditors; or (b) where his failure to keep books occurred at a time more than five years prior to the day on which he was unable to pay his creditors in full.

343. Section 414.

343. Every one who fraudulently obtains any property living or dead (a) with intent to gain undue advantage for himself or another person, (b) with intent to obtain any property or an interest in any property, or (c) with intent to cause the death of a person, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

344. Section 412 (3).

any person into a country, province, district or other place, whether or not within Canada, where the importation or transportation of it is, in the circumstances of the case, unlawful is guilty of an offence punishable on summary conviction. 5

Forfeiture.

(2) Where a person is convicted of an offence under subsection (1), anything by means of or in relation to which the offence was committed, upon such conviction, in addition to any punishment that is imposed, is forfeited to Her Majesty and shall be disposed of as the court may direct. 10

Trader failing to keep accounts.

345. (1) Every one who, being a trader or in business, (a) is indebted in an amount exceeding one thousand dollars, (b) is unable to pay his creditors in full, and (c) has not kept books of account that, in the ordinary course of the trade or business in which he is engaged, are necessary to exhibit or explain his transactions, is guilty of an indictable offence and is liable to imprisonment for two years. 15

Saving.

(2) No person shall be convicted of an offence under this section 20

(a) where, to the satisfaction of the court or judge, he (i) accounts for his losses, and (ii) shows that his failure to keep books was not intended to defraud his creditors; or 25
(b) where his failure to keep books occurred at a time more than five years prior to the day on which he was unable to pay his creditors in full.

PERSONATION.

Personation with intent.

346. Every one who fraudulently personates any person, living or dead, 30
(a) with intent to gain undue advantage for himself or another person,
(b) with intent to obtain any property or an interest in any property, or
(c) with intent to cause disadvantage to the person 35
whom he personates or another person,
is guilty of an indictable offence and is liable to imprisonment for fourteen years.

345. Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

Section 345
Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

345. Section 417 (c).

346. Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

Section 346
Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

347. Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

Section 347
Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

346. Sections 408 and 410.

348. Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

Section 348
Every one who, without lawfulness or authority, publishes or disseminates in the name of another person before a court or a judge or other person authorized to receive the evidence, a consent to judgment or a judgment, such or other statement, is guilty of an indictable offence and is liable to imprisonment for five years.

Personation
at
examination.

347. Every one who falsely, with intent to gain advantage for himself or some other person, personates a candidate at a competitive or qualifying examination held under the authority of law or in connection with a university, college or school or who knowingly avails himself of the results of such personation is guilty of an offence punishable on summary conviction. 5

Acknowledg-
ing
instrument in
false name.

348. Every one who, without lawful authority or excuse, the proof of which lies upon him, acknowledges in the name of another person before a court or a judge or other person authorized to receive the acknowledgment, a recognizance of bail, a confession of judgment, a consent to judgment or a judgment, deed or other instrument, is guilty of an indictable offence and is liable to imprisonment for five years. 10

FORGERY OF TRADE MARKS AND TRADE DESCRIPTIONS.

Simulating
trade mark.

349. For the purposes of this Part, every one forges a trade mark who 15

(a) without the consent of the proprietor of the trade mark, makes or reproduces in any manner that trade mark or a mark so nearly resembling it as to be calculated to deceive, or 20

Falsifying
trade mark.

(b) falsifies, in any manner, a genuine trade mark.

Forging
trade mark.

350. Every one commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not, forges a trade mark.

Passing
off.

351. Every one commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not, 25

(a) passes off other wares or services as and for those ordered or required, or

(b) makes use, in association with wares or services, of any description that is false in a material respect as to 30

(i) the kind, quality, quantity or composition,

(ii) the geographical origin, or

(iii) the mode of the manufacture, production or performance of such wares or services. 35

347. Section 409.

347. (1) Every one commits an offence who has in his possession or disposition or in the possession of another person or other instrument, designed or intended to be used in furtherance of the commission of an offence under this section, a trade mark.

(2) A person shall be convicted of an offence under this section where he proves that he acted in good faith in the ordinary course of his business or employment.

348. Section 411.

348. Every one commits an offence who

(a) falsifies, conceals or removes a trade mark or the name of another person from anything without the consent of that other person; or

(b) being a manufacturer, dealer, trader or holder of any bottle or cask, or person that bears the trade mark or name of another person, without the consent of that other person, with a beverage, milk, by-product of milk or other liquid commodity for the purpose of sale or

349. Section 486.

349. Every one commits an offence who sells, exposes or has in his possession for sale, or advertises for sale, goods that have been used, reproduced or remade and that bear the trade mark or the name of another person, without making full disclosure that the goods have been reproduced, rebuilt or remade for sale and that they are not then in the condition in which they were originally made or produced.

350. Section 488 (1).

350. (1) Every one who commits an offence under

351. New.

(a) an indictable offence that is liable to imprisonment for two years or

(b) an offence punishable on summary conviction,

(2) Acting by means of or in relation to which a person commits an offence under section 350, 351, 352 or 354 at which the Court otherwise orders referred upon the conviction of that person for that offence.

354. Every one who falsely represents that goods are made by a person holding a royal warrant or for the service of Her Majesty, a member of the Royal Family or a public department is guilty of an offence punishable on summary conviction.

Instruments
for forging
trade mark.

352. (1) Every one commits an offence who makes, has in his possession or disposes of a die, block, machine or other instrument, designed or intended to be used in forging a trade mark.

Saving.

(2) No person shall be convicted of an offence under this section where he proves that he acted in good faith in the ordinary course of his business or employment. 5

Defacing
trade
mark.

353. Every one commits an offence who, with intent to deceive or defraud,

(a) defaces, conceals or removes a trade mark or the name of another person from anything without the consent of that other person, or

Using
bottles
bearing
trade mark
of another.

(b) being a manufacturer, dealer, trader or bottler fills any bottle or siphon that bears the trade mark or name of another person, without the consent of that other person, with a beverage, milk, by-product of milk or other liquid commodity for the purpose of sale or traffic. 15

Used goods
sold without
disclosure.

354. Every one commits an offence who sells, exposes or has in his possession for sale, or advertises for sale, goods that have been used, reconditioned or remade and that bear the trade mark or the trade name of another person, without making full disclosure that the goods have been reconditioned, rebuilt or remade for sale and that they are not then in the condition in which they were originally made or produced. 20 25

Punishment.

355. (1) Every one who commits an offence under section 350, 351, 352, 353 or 354 is guilty of

(a) an indictable offence and is liable to imprisonment for two years, or

(b) an offence punishable on summary conviction. 30

Forfeiture.

(2) Anything by means of or in relation to which a person commits an offence under section 350, 351, 352, 353 or 354 is, unless the Court otherwise orders, forfeited upon the conviction of that person for that offence. 35

Falsely
claiming
Royal
Warrant.

356. Every one who falsely represents that goods are made by a person holding a royal warrant, or for the service of Her Majesty, a member of the Royal Family or a public department is guilty of an offence punishable on summary conviction. 40

352. Section 494.

353. Section 490.

354. Section 490A.

355. Sections 491, 635 and 1039.

356. Section 492.

Presumption
from port
of shipment.

357. Where, in proceedings under this Part, the alleged offence relates to imported goods, evidence that the goods were shipped to Canada from a place outside of Canada is *prima facie* evidence that the goods were made or produced in the country from which they were shipped.

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WRECK.

Secreting
wreck.

358. Every one who

(a) secretes wreck, or defaces or obliterates the marks on wreck, or uses any means to disguise or conceal the fact that anything is wreck, or in any manner conceals the character of wreck, from a person who is 10 entitled to inquire into the wreck,

Receiving
wreck.

(b) receives wreck, knowing that it is wreck, from a person other than the owner thereof or a receiver of wreck, and does not within forty-eight hours there- after inform the receiver of wreck thereof, 15

Offering
wreck for
sale.

(c) offers wreck for sale or otherwise deals with it, knowing that it is wreck, and not having a lawful authority to sell or deal with it,

Keeping
wreck.

(d) keeps wreck in his possession knowing that it is wreck, without lawful authority to keep it, for any time 20 longer than the time reasonably necessary to deliver it to the receiver of wreck, or

Boarding
wrecked
vessel.

(e) boards, against the will of the master, a vessel that is wrecked, stranded or in distress unless he is a receiver of wreck or a person acting under orders of a receiver 25 of wreck,

is guilty of

(f) an indictable offence and is liable to imprisonment for two years, or

(g) an offence punishable on summary conviction. 30

PUBLIC STORES.

Distinguish-
ing mark on
public stores.

359. The Governor-in-Council may, by notice to be published in the *Canada Gazette*, prescribe distinguishing marks that are appropriated for use on public stores to denote the property of Her Majesty therein, whether the stores belong to Her Majesty in right of Canada or to Her 35 Majesty in any other right.

357. Section 992.

358. Section 430.

359. Section 432.

Applying or removing marks without authority.

360. (1) Every one who,
(a) without lawful authority, the proof of which lies upon him, applies a distinguishing mark to anything, or

(b) with intent to conceal the property of Her Majesty in public stores, removes, destroys or obliterates, in whole or in part, a distinguishing mark,
is guilty of an indictable offence and is liable to imprisonment for two years. 5

Unlawful transactions in public stores.

(2) Every one who, without lawful authority, the proof of which lies upon him, receives, possesses, keeps, sells or delivers public stores that he knows bear a distinguishing mark is guilty of

(a) an indictable offence and is liable to imprisonment for two years, or 15

(b) an offence punishable on summary conviction.

"Distinguishing mark."

(3) For the purposes of this section, "distinguishing mark" means a distinguishing mark that is appropriated for use on public stores pursuant to section 359.

Selling defective stores to Her Majesty.

361. (1) Every one who knowingly sells or delivers defective stores to Her Majesty or commits fraud in connection with the sale, lease or delivery of stores to Her Majesty or the manufacture of stores for Her Majesty is guilty of an indictable offence and is liable to imprisonment for fourteen years. 25

Offences by officers and employees of corporations.

(2) Every one who, being a director, officer, agent or employee of a corporation that commits, by fraud, an offence under subsection (1),

(a) knowingly takes part in the fraud, or

(b) knows or has reason to suspect that the fraud is being committed or has been or is about to be committed and does not inform the responsible government, or a department thereof, of Her Majesty,

is guilty of an indictable offence and is liable to imprisonment for fourteen years. 35

Unlawful use of military uniforms or certificates.

362. Every one who without lawful authority, the proof of which lies upon him,

(a) wears a uniform of the Canadian Forces or any other naval, army or air force or a uniform that is so similar to the uniform of any of those forces that it is likely to be mistaken therefor, 40

(b) wears a distinctive mark relating to wounds received or service performed in war, or a military medal, ribbon, badge, chevron or any decoration or order that is

360. Section 433.

361. Section 434.

362. Section 435.

awarded for war services, or any imitation thereof, or any mark or device or thing that is likely to be mistaken for any such mark, medal, ribbon, badge, chevron, decoration or order,

(c) has in his possession a certificate of discharge, certificate of release, statement of service or identity card from the Canadian Forces or any other naval, army or air force that has not been issued to and does not belong to him, or

(d) has in his possession a commission or warrant or a certificate of discharge, certificate of release, statement of service or identity card issued to an officer or person in or who has been in the Canadian Forces or any other naval, army or air force, that contains any alteration that is not verified by the initials of the officer who issued it, or by the initials of some officer thereto lawfully authorized,

is guilty of an offence punishable on summary conviction.

Military stores.

363. (1) Every one who buys, receives or detains from a member of the Canadian Forces or a deserter or absentee without leave from those forces any military stores that are owned by Her Majesty or for which the member, deserter or absentee without leave is accountable to Her Majesty is guilty of

(a) an indictable offence and is liable to imprisonment for five years, or

(b) an offence punishable on summary conviction.

Exception.

(2) No person shall be convicted of an offence under this section where he establishes that he did not know and had no reason to suspect that the military stores in respect of which the offence was committed were owned by Her Majesty or were military stores for which the member, deserter or absentee without leave was accountable to Her Majesty.

Evidence of enlistment.

364. (1) In proceedings under sections 360 to 363, evidence that a person was at any time performing duties in the Canadian Forces is *prima facie* evidence that his enrolment in the Canadian Forces prior to that time was regular.

Presumption when accused a dealer in stores.

(2) An accused who is charged with an offence under subsection (2) of section 360 shall be presumed to have known that the stores in respect of which the offence is alleged to have been committed bore a distinguishing mark within the

...at the time the release is alleged to have been committed it was at that time in the service or employment of his dignity or was a dealer in stocks, bonds or in other securities.

Branch of Contract, Intentional and Negligent
Against Trade Unions

363. Every one who willfully breaks a contract, knowing or having reasonable cause to believe that the probable consequences of doing so, whether alone or in combination with others will be

- (a) to endanger human life;
- (b) to cause serious bodily injury;
- (c) to expose valuable property, real or personal, to destruction or serious injury;
- (d) to deprive the occupants of a ship or place or part thereof, wholly or to a great extent, of the means of escape, or
- (e) to delay or prevent the loading of a locomotive, engine, tender, freight or passenger train or car, or a railway.

363. Section 436.

(1) An indictable offence and is liable to imprisonment for five years, or

(2) An offence punishable on summary conviction.

364. Every one who wrongfully and without lawful authority, for the purpose of compelling another person to do or to refrain from doing anything that he has a lawful right to do or to refrain from doing

- (a) uses violence or threats of violence to that person or to his wife or child, or injures his property;
- (b) intimidates or attempts to intimidate or
- (c) induces or attempts to induce that person by false or deceptive means or other means, or
- (d) induces or attempts to induce that person by threats, or
- (e) induces or attempts to induce that person by threats, or
- (f) induces or attempts to induce that person by threats, or
- (g) induces or attempts to induce that person by threats, or
- (h) induces or attempts to induce that person by threats, or
- (i) induces or attempts to induce that person by threats, or
- (j) induces or attempts to induce that person by threats, or
- (k) induces or attempts to induce that person by threats, or
- (l) induces or attempts to induce that person by threats, or
- (m) induces or attempts to induce that person by threats, or
- (n) induces or attempts to induce that person by threats, or
- (o) induces or attempts to induce that person by threats, or
- (p) induces or attempts to induce that person by threats, or
- (q) induces or attempts to induce that person by threats, or
- (r) induces or attempts to induce that person by threats, or
- (s) induces or attempts to induce that person by threats, or
- (t) induces or attempts to induce that person by threats, or
- (u) induces or attempts to induce that person by threats, or
- (v) induces or attempts to induce that person by threats, or
- (w) induces or attempts to induce that person by threats, or
- (x) induces or attempts to induce that person by threats, or
- (y) induces or attempts to induce that person by threats, or
- (z) induces or attempts to induce that person by threats, or

364. Section 991.

(1) Every one who wrongfully and without lawful authority, for the purpose of compelling another person to do or to refrain from doing anything that he has a lawful right to do or to refrain from doing

meaning of that subsection at the time the offence is alleged to have been committed if he was, at that time, in the service or employment of Her Majesty or was a dealer in marine stores or in old metals.

BREACH OF CONTRACT, INTIMIDATION AND DISCRIMINATION
AGAINST TRADE UNIONISTS.

- 365.** Every one who wilfully breaks a contract, knowing or having reasonable cause to believe that the probable consequences of doing so, whether alone or in combination with others, will be
- (a) to endanger human life,
 - (b) to cause serious bodily injury,
 - (c) to expose valuable property, real or personal, to destruction or serious injury,
 - (d) to deprive the inhabitants of a city or place, or part thereof, wholly or to a great extent, of their supply of light, power, gas or water, or
 - (e) to delay or prevent the running of a locomotive engine, tender, freight or passenger train or car, on a railway,
- is guilty of
- (f) an indictable offence and is liable to imprisonment for five years, or
 - (g) an offence punishable on summary conviction.
- 366.** (1) Every one who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing,
- (a) uses violence or threats of violence to that person or to his wife or children, or injures his property,
 - (b) intimidates or attempts to intimidate that person or a relative of that person by threats that, in Canada or elsewhere, violence or other injury will be done to or punishment inflicted upon him or a relative of his, or that the property of any of them will be damaged,
 - (c) persistently follows that person about from place to place,
 - (d) hides any tools, clothes or other property owned or used by that person, or deprives him of them or hinders him in the use of them,

Criminal breach of contract.

Where life endangered.

Causing bodily injury.

Endangering property.

Depriving of services.

Preventing running of trains.

Intimidation.

By violence.

By threats.

By following.

By hiding property.

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- By disorderly conduct. (e) with one or more other persons follows that person, in a disorderly manner, on a highway,
- By watching or besetting. (f) besets or watches the dwelling house or place where that person resides, works, carries on business or happens to be, or 5
- By obstructing highway. (g) blocks or obstructs a highway,
- Exception. is guilty of an offence punishable on summary conviction. (2) A person who attends at or near or approaches a dwelling house or place, for the purpose only of obtaining or communicating information, does not watch or beset 10 within the meaning of this section. 10

367. Every one who, being an employer or the agent of an employer, wrongfully and without lawful authority

- Employer refusing to employ member of trade union. (a) refuses to employ or dismisses from his employment any person for the reason only that the person is a 15 member of a lawful trade union or of a lawful association or combination of workmen or employees formed for the purpose of advancing, in a lawful manner, their interests and organized for their protection in the regulation of wages and conditions of work, 20
- Employer intimidating workman. (b) seeks by intimidation, threat of loss of position or employment, or by causing actual loss of position or employment, or by threatening or imposing any pecuniary penalty, to compel workmen or employees to abstain from belonging to a trade union, association 25 or combination to which they have a lawful right to belong, or
- Employers conspiring. (c) conspires, combines, agrees or arranges with any other employer or his agent to do anything mentioned in paragraph (a) or (b), 30
- is guilty of an offence punishable on summary conviction. 30

SECRET COMMISSIONS.

368. (1) Every one commits an offence who

- Bribery of agent. (a) corruptly (i) gives, offers or agrees to give or offer to an agent, 35 or
- Agent accepting bribe. (ii) being an agent, demands, accepts or offers or agrees to accept from any person, a reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act relating to the affairs or 40 business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or

- (b) with intent to deceive a principal gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, account, or other writing
- False account to deceive principal. (i) in which the principal has an interest, 5
(ii) that contains any statement that is false or erroneous or defective in any material particular, and
(iii) that is intended to mislead the principal.
- Privity to offence. (2) Every one commits an offence who is knowingly privy to the commission of an offence under subsection (1). 10
- Punishment. (3) A person who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.
- (4) In this section, 15
- "Agent." (a) "agent" includes an employee, and
"Principal." (b) "principal" includes an employer.

TRADING STAMPS.

- Issuing trading stamps. **369.** (1) Every one who, by himself or his employee or agent, directly or indirectly issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business is guilty of an offence punishable on summary conviction. 20
- Giving to purchaser of goods. (2) Every one who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a person who purchases goods from him is guilty of an offence punishable on summary conviction. 25

PART IX

WHILE ANTI-FORFEITURE ACTS IN RESPECT OF CERTAIN PROPERTY

INVESTIGATION

500. In this Part, "property" means real or personal property.

501. (1) Where any person is alleged to have committed an offence under this Part, it shall be the duty of the Director to cause an investigation to be made into the circumstances of the case and to report to the Director as to whether the offence has been committed and, if so, by whom.

502. Where an investigation is conducted under this Part, the Director may cause a search to be made of the records of the Department of the Attorney General.

369. Section 505.

505. Where an investigation is conducted under this Part, the Director may cause a search to be made of the records of the Department of the Attorney General.

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PART IX.

WILFUL AND FORBIDDEN ACTS IN RESPECT
OF CERTAIN PROPERTY.

INTERPRETATION.

- "Property." **370.** In this Part, "property" means real or personal corporeal property.
- "Wilfully." **371.** (1) Every one who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event. 5
- Colour of right. (2) No person shall be convicted of an offence under 10 sections 372 to 387 where he proves that he acted with legal justification or excuse and with colour of right.
- Partial interest. (3) Where it is an offence to destroy or to damage anything, (a) the fact that a person has a partial interest in what 15 is destroyed or damaged does not prevent him from being guilty of the offence if he caused the destruction or damage, and
- Total interest. (b) the fact that a person has a total interest in what is destroyed or damaged does not prevent him from being 20 guilty of the offence if he caused the destruction or damage with intent to defraud.

MISCHIEF.

- Destruction or damage. Rendering property dangerous, etc. Obstructing use of property. Obstructing person in use of property. Punishment. **372.** (1) Every one commits mischief who wilfully (a) destroys or damages property, (b) renders property dangerous, useless, inoperative or 25 ineffective, (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property, or (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property. 30
- (2) Every one who commits mischief that causes actual danger to life is guilty of an indictable offence and is liable to imprisonment for life.
- Idem. (3) Every one who commits mischief in relation to public property is guilty of an indictable offence and is liable to 35 imprisonment for fourteen years.

370. New.

371. Sections 509 and 541.

372. Sections 96, 97, 238(h), 510, 516B, 517 to 522, 525, and 533 to 535.

- Idem. (4) Every one who commits mischief in relation to private property is guilty of an indictable offence and is liable to imprisonment for five years.
- Offence. (5) Every one who wilfully does an act or wilfully omits to do an act that it is his duty to do is, if that act or omission is likely to constitute mischief causing actual danger to life, or to constitute mischief in relation to public property or private property, guilty of an indictable offence and is liable to imprisonment for five years. 5
- Damage not more than fifty dollars. **373.** (1) Every one who wilfully destroys or damages property is, where actual danger to life is not involved, guilty of an offence punishable on summary conviction if the alleged amount of destruction or damage does not exceed fifty dollars. 10
- Compensation. (2) Where an accused is convicted of an offence under subsection (1) the summary conviction court may, in addition to any punishment that is imposed, order the accused to pay to a person aggrieved an amount not exceeding fifty dollars that appears to the summary conviction court to be reasonable compensation for the destruction or damage. 15 20
- Imprisonment in default. (3) The summary conviction court may order that where an amount that is adjudged to be paid as compensation under subsection (2) is not paid forthwith or within the period that the summary conviction court appoints at the time of the conviction, the accused shall be imprisoned for a term not exceeding two months. 25
- Idem. (4) The summary conviction court may order that terms of imprisonment that are imposed under this section shall take effect one after the other. 30

ARSON AND OTHER FIRES.

- Arson. **374.** (1) Every one who wilfully sets fire to
- (a) a building or structure, whether completed or not,
 - (b) a stack of vegetable produce or of mineral or vegetable fuel,
 - (c) a mine, 35
 - (d) a well of combustible substance,
 - (e) a vessel or aircraft, whether completed or not,
 - (f) timber or materials placed in a shipyard for building, repairing or fitting out a ship,
 - (g) military or public stores or munitions of war, 40
 - (h) a crop, whether standing or cut down, or
 - (i) any wood, forest, or natural growth, or any lumber, timber, log, float, boom, dam or slide,
- is guilty of an indictable offence and is liable to imprisonment for fourteen years. 45

Every one who... and for a...
to...
for the...

Section 539

Every one who...
to...
and a...

Section 539

373. Section 539.

Every one who...
to...
is...

Section 539

Every one who...
to...
is...

Section 539

Every one who...
to...
is...

Section 539

(4) Section 740 (1) in part.

Every one who...
to...
is...

Section 539

374. Sections 511 and 513.

Every one who...
to...
is...

Section 539

Every one who...
to...
is...

Section 539

Fraudulently
burning
personal
property.

(2) Every one who wilfully and for a fraudulent purpose sets fire to personal property not mentioned in subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years.

Setting fire
to other
substance.

375. Every one who wilfully sets fire to anything that is likely to cause anything mentioned in subsection (1) of section 374 to catch fire is guilty of an indictable offence and is liable to imprisonment for five years. 5

Presumption
against
holder of
insurance.

376. Where a person is charged with an offence under section 374 or 375, evidence that he is the holder of or is named as the beneficiary under a policy of fire insurance relating to the property in respect of which the offence is alleged to have been committed is, where intent to defraud is material, *prima facie* evidence of intent to defraud. 10

Setting a
fire by
negligence.

377. (1) Every one who causes a fire (a) wilfully, or (b) by violating a law in force in the place where the fire occurs, 15

is, if the fire results in loss of life or destruction of or damage to property, guilty of an indictable offence and is liable to imprisonment for five years. 20

Presumption
against
person in
control of
premises.

(2) For the purposes of this section, the person who owns, occupies or controls property in which a fire that results in loss of life or destruction of or damage to property originates or occurs shall be deemed wilfully to have caused the fire if he has failed to comply with any law that is intended to prevent fires or that requires the property to be equipped with apparatus for the purpose of extinguishing fires or for the purpose of enabling persons to escape in the event of fire, and if it is established that the fire, or the loss of life, or the whole or any substantial portion of the destruction of or damage to the property would not have occurred if he had complied with the law. 25 30

OTHER INTERFERENCE WITH PROPERTY.

False alarm
of fire.

378. Every one who wilfully, without reasonable cause, by outcry, ringing bells, using a fire alarm, telephone or telegraph, or in any other manner, makes or circulates or causes to be made or circulated an alarm of fire is guilty of an offence punishable on summary conviction. 35

375. Sections 512 and 514.

376. Section 541.

377. Section 515 (1) and (2).

378. Section 516A.

Interfering
with saving
of wrecked
vessel.

379. (1) Every one who wilfully prevents or impedes, or who wilfully endeavours to prevent or impede,
(a) the saving of a vessel that is wrecked, stranded, abandoned or in distress, or
(b) a person who attempts to save a vessel that is wrecked, stranded, abandoned or in distress, is guilty of an indictable offence and is liable to imprisonment for five years. 5

Interfering
with saving
of wreck.

(2) Every one who wilfully prevents or impedes or wilfully endeavours to prevent or impede the saving of wreck is guilty of an offence punishable on summary conviction. 10

Interfering
with marine
signal, etc.

380. (1) Every one who makes fast a vessel or boat to a signal, buoy or other sea mark that is used for purposes of navigation is guilty of an offence punishable on summary conviction. 15

(2) Every one who wilfully alters, removes or conceals a signal, buoy or other sea mark that is used for purposes of navigation is guilty of an indictable offence and is liable to imprisonment for ten years.

Removing
natural bar
without
permission.

381. Every one who wilfully and without the written permission of the Minister of Transport, the burden of proof of which lies on the accused, removes any stone, wood, earth or other material that forms a natural bar necessary to the existence of a public harbour, or that forms a natural protection to such a bar, is guilty of an indictable offence and is liable to imprisonment for two years. 20 25

Occupant
injuring
building.

382. Every one who, wilfully and to the prejudice of a mortgagee or owner, pulls down, demolishes or removes, all or any part of a dwelling house or other building which he is in possession or occupation, or severs from the freehold any fixture fixed therein or thereto is guilty of an indictable offence and is liable to imprisonment for five years. 30

Interfering
with
boundary
lines.

383. Every one who wilfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction. 35

Interfering
with
international
boundary
marks, etc.

384. (1) Every one who wilfully pulls down, defaces, alters or removes
(a) a boundary mark lawfully placed to mark an international, provincial, county or municipal boundary, or 40

379. Section 524.

380. Section 526.

381. Section 527.

382. Section 529.

383. Section 530.

384. Sections 531 and 532.

- (b) a boundary mark lawfully placed by a land surveyor to mark a limit, boundary or angle of a concession, range, lot or parcel of land, is guilty of an indictable offence and is liable to imprisonment for five years. 5
- Saving. (2) A land surveyor does not commit an offence under subsection (1) where, in his operations as a land surveyor, he takes up, when necessary, a boundary mark mentioned in paragraph (b) of subsection (1) and carefully replaces it as it was before he took it up. 10

CATTLE AND OTHER ANIMALS.

- Killing or injuring cattle. Placing poison. **385.** Every one who wilfully (a) kills, maims, wounds, poisons or injures cattle, or (b) places poison in such a position that it may easily be consumed by cattle, or is guilty of an indictable offence and is liable to imprisonment for five years. 15

- Killing or injuring other animals. Placing poison. **386.** Every one who wilfully (a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose, or 20 (b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose, is guilty of an offence punishable on summary conviction.

CRUELTY TO ANIMALS.

- Causing unnecessary suffering. Causing injury by negligence. Abandoning. **387.** (1) Every one commits an offence who 25 (a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or bird, (b) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed, 30 (c) being the owner or the person having the custody or control of a domestic animal or bird or an animal or bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it, 35 (d) in any manner encourages, aids or assists at the fighting or baiting of animals or birds, (e) wilfully, without reasonable excuse, administers a poisonous or injurious drug or substance to a domestic animal or bird or an animal or bird wild by nature that 40
- Baiting. Poisoning.

is kept in captivity or being the owner of such an animal
which, without permit, a possession or injurious drug
or substance to be administered to it.

(A) prohibits anyone conducting business in a
manner but or taken part in a meeting, exhibition,
exhibition, practice, display, or event at or
in the course of which captive birds are located by
hand, any contrivance or any other means for the
purpose of being shot when they are hunted, or
(B) being the owner, occupier, or person in charge of any
premises, permits the premises or any part thereof to
be used for a purpose mentioned in paragraph (A).

(2) Every one who commits an offence under subsection
(1) is guilty of an offence punishable on summary conviction.

385. Section 536.

(1) Every one who holds
keeps a cock-pit or premises that he owns or occupies,
or allows a cock-pit to be built, made, maintained or kept
on such premises is guilty of an offence punishable on
summary conviction.

(2) A person who finds cocks in a cock-pit or on

386. Sections 393 and 537 (1) (a) and (b).

(1) Except as provided in this section, no railway
company or owner or master of a vessel shall convey cattle
in a railway car or vessel in which they are conveyed in
Canada or between Canada and the United States for more
than thirty-six hours without allowing the cattle for rest,
water and bedding for a period of at least five consecutive
hours.

(2) No offence is committed under subsection (1) unless
compliance with that subsection is prevented or hindered
by necessary delay or detention or by other circumstances.

387. Section 542.

(1) Every railway company or owner or master of a vessel
shall not use in a railway car or vessel unless the cattle
the age of three weeks except calves of less than three
or five days.

(2) For the purpose of subsection (1) the period of
movement of cattle includes the time during which the
cattle have been confined without rest, food or water on a
connecting railway or vessel from which the cattle are
received, whether in the United States or in Canada.

(3) This section does not apply in respect of cattle that
are carried in a car or vessel in which they have proper
space and opportunity for rest and in which they are
provided with proper food and water.

- is kept in captivity or being the owner of such an animal or bird, wilfully permits a poisonous or injurious drug or substance to be administered to it, or
- Field trials. (f) promotes, arranges, conducts, assists in, receives money for, or takes part in a meeting, competition, exhibition, pastime, practice, display, or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated, or (g) being the owner, occupier, or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (f). 5
- Punishment. (2) Every one who commits an offence under subsection (1) is guilty of an offence punishable on summary conviction. 10
- Keeping cock-pit. **388.** (1) Every one who builds, makes, maintains or keeps a cock-pit on premises that he owns or occupies, or allows a cock-pit to be built, made, maintained or kept on such premises is guilty of an offence punishable on summary conviction. 15
- Confiscation. (2) A peace officer who finds cocks in a cock-pit or on premises where a cock-pit is located shall seize them and take them before a justice who shall order them to be destroyed. 20
- Transportation of cattle by rail or water. **389.** (1) Except as provided in this section, no railway company or owner or master of a vessel shall confine cattle in a railway car or vessel in which they are conveyed in Canada or between Canada and the United States for more than thirty-six hours without unloading the cattle for rest, water and feeding for a period of at least five consecutive hours. 25
- Saving. (2) No offence is committed under subsection (1) where compliance with that subsection is prevented by storm or by necessary delay or detention or by other unavoidable cause. 30
- Transportation of calves. (3) No railway company or owner or master of a vessel shall convey in a railway car or vessel calves that are under the age of three weeks except calves at foot of milch cows or pure-bred calves. 35
- Time how reckoned. (4) For the purposes of subsection (1) the period of confinement of cattle includes the time during which the cattle have been confined without rest, food or water on a connecting railway or vessel from which the cattle are received, whether in the United States or in Canada. 40
- Saving. (5) This section does not apply in respect of cattle that are carried in a car or vessel in which they have proper space and opportunity for rest and in which they are provided with proper food and water. 45

(2) The owner of cattle to which this section applies or the person who has custody of them shall properly feed and water them during the periods of rest required by this section, but if he does not do so, the railway company or the owner or master of the vessel that carries them shall properly feed and water them at the expense of the owner or of the person who has custody of them, and the railway company or owner or master of the vessel, as the case may be, has a lien in respect thereof upon the cattle and is not liable for any detention of the cattle.

(3) When cattle are embarked from cars for rest and water as required by this section, the railway company that has at that time charge of the cars in which the cattle have been carried shall exempt during a period of rest from the floors of the cars and their doors with clean saw-

388. Section 543.

(1) The railway company shall not permit any other vehicle that carries cattle or other domestic animals or birds on the railway to be overcrowded so that unnecessary suffering is caused to the cattle or other domestic animals or birds therein.

(2) No railway company shall permit a ball of manure to be carried on its railway in the same railway car with other cattle unless the ball is securely tied by the

389. Section 544.

(1) Every one who knowingly or wilfully fails to comply with this section is guilty of an offence punishable on summary conviction.

(2) A peace officer who believes on reasonable and probable grounds that a person has failed to comply with this section may enter the vehicle or go on board the vessel.

(3) Every one who refuses to admit a peace officer acting under subsection (2) to a vehicle or vessel or to any premises where the vehicle or vessel is located is guilty of an offence punishable on summary conviction.

Lien for
food.³

(6) The owner of cattle to which this section applies or the person who has custody of them shall properly feed and water them during the periods of rest required by this section, but if he does not do so, the railway company or the owner or master of the vessel that carries them shall properly feed and water them at the expense of the owner or of the person who has custody of them, and the railway company or owner or master of the vessel, as the case may be, has a lien in respect thereof upon the cattle and is not liable for any detention of the cattle. 5

Sanitary
precautions.

(7) When cattle are unloaded from cars for rest, food and water as required by this section, the railway company that has, at that time, charge of the cars in which the cattle have been carried, shall, except during a period of frost, clean the floors of the cars and litter them with clean sawdust or sand before they are again loaded with livestock. 10

Over-
crowding.

(8) No railway company shall permit a railway car or other vehicle that carries cattle or other domestic animals or birds on the railway to be overcrowded so that unnecessary suffering is caused to the cattle or other domestic animals or birds therein. 20

Conveying
bulls.

(9) No railway company shall permit a bull of mature age to be carried on its railway in the same railway car with other cattle unless the bull is securely tied by the head. 25

Punishment.

(10) Every one who knowingly and wilfully violates or wilfully fails to comply with this section is guilty of an offence punishable on summary conviction.

Search.

390. (1) A peace officer who believes on reasonable and probable grounds that a person has failed to comply with section 389 in respect of a vehicle or vessel may at any time enter the vehicle or go on board the vessel. 30

Obstruction.

(2) Every one who refuses to admit a peace officer acting under subsection (1) to a vehicle or vessel or to any premises where the vehicle or vessel is located is guilty of 35 an offence punishable on summary conviction.

PART X.

OFFENCES RELATING TO CURRENCY.

INTERPRETATION.

- 391.** In this Part,
- “Copper coin.” (a) “copper coin” means a coin other than a gold or silver coin;
- “Counterfeit money.” (b) “counterfeit money” includes
- (i) a false coin or false paper money that resembles or is apparently intended to resemble or pass for a current coin or current paper money, 5
 - (ii) a forged bank note or forged blank bank note, whether complete or incomplete,
 - (iii) a genuine coin or genuine paper money that is prepared or altered to resemble or pass for a current coin or current paper money of a higher denomination, 10
 - (iv) a current coin from which the milling is removed by filing or cutting the edges and on which new milling is made to restore its appearance, 15
 - (v) a coin cased with gold or silver, as the case may be, that is intended to resemble or pass for a current gold or silver coin, and
 - (vi) a coin or a piece of metal or mixed metals washed or coloured by any means with a wash or material capable of producing the appearance of gold or silver and that is intended to resemble or pass for a current gold or silver coin; 20
- “Counterfeit token of value.” (c) “counterfeit token of value” means a counterfeit excise stamp, postage stamp or other evidence of value, by whatever technical, trivial or deceptive designation it may be described, and includes genuine coin or paper money that has no value as money; 25
- “Current.” (d) “current” means lawfully current in Canada or elsewhere by virtue of a law, proclamation or regulation in force in Canada or elsewhere as the case may be; and 30
- “Utter.” (e) “utter” includes sell, pay, tender and put off.

MAKING.

Making.

392. Every one who makes or begins to make counterfeit money is guilty of an indictable offence and is liable to imprisonment for fourteen years. 35

POSSESSION.

393. Every one who, without lawful justification or excuse, the proof of which lies upon him,
 Buying. (a) buys, receives or offers to buy or receive,
 Having. (b) has in his custody or possession, or
 Importing. (c) introduces into Canada, 5
 counterfeit money is guilty of an indictable offence and is liable to imprisonment for fourteen years.

394. Every one who, without lawful justification or excuse, the proof of which lies upon him, has in his custody or possession 10
 Having clippings, etc. (a) gold or silver filings or clippings,
 (b) gold or silver bullion, or
 (c) gold or silver in dust, solution or otherwise,
 produced or obtained by impairing, diminishing or lightening a current gold or silver coin, knowing that it has been so 15
 produced or obtained, is guilty of an indictable offence and is liable to imprisonment for five years.

UTTERING.

395. Every one who, without lawful justification or excuse, the proof of which lies upon him,
 Uttering counterfeit money. (a) utters or offers to utter counterfeit money or uses 20
 Exporting. (b) exports, sends or takes counterfeit money out of
 Canada,
 is guilty of an indictable offence and is liable to imprisonment for fourteen years. 25

396. Every one who, with intent to defraud, knowingly utters
 Uttering coin not current. (a) a coin that is not current, or
 Uttering false coin. (b) a piece of metal or mixed metals that resembles in size, figure and colour a current gold or silver coin and 30
 is of less value than the current coin for which it is uttered,
 is guilty of an indictable offence and is liable to imprisonment for two years.

397. Everyone who fraudulently inserts or uses in a 35
 Fraudulent use of slugs, etc. machine that vends merchandise or services or collects fares or tolls, anything that is intended to pass for the coin or the token of value that the machine is designed to receive in exchange for the merchandise, service, fare or toll, as the case may be, is guilty of an offence punishable on summary 40
 conviction.

DEFACING OR IMPAIRING.

398. Every one who
 Clipping coin. (a) impairs, diminishes or lightens a current gold or
 silver coin with intent that it should pass for a current
 gold or silver coin, or
 Uttering clipped coin. (b) utters a coin, knowing that it has been impaired, 5
 diminished or lightened contrary to paragraph (a),
 is guilty of an indictable offence and is liable to imprisonment
 for fourteen years.

399. Every one who
 Defacing current coin. (a) defaces a current gold, silver or copper coin, or 10
 Uttering defaced coin. (b) utters a current gold, silver or copper coin that has
 been defaced,
 is guilty of an offence punishable on summary conviction.

400. Every one who designs, engraves, prints or in
 Printing circulars, etc., in likeness of notes. any manner makes, executes, issues, distributes, circulates 15
 or uses a business or professional card, notice, placard,
 circular, handbill or advertisement in the likeness or
 appearance of
 (a) a current bank note or current paper money, or
 (b) any obligation or security of a government or a 20
 bank,
 is guilty of an offence punishable on summary conviction.

INSTRUMENTS OR MATERIALS.

401. Every one who, without lawful justification or
 Making, having or dealing in instruments for counterfeiting. excuse, the proof of which lies upon him, 25
 (a) makes or repairs,
 (b) begins or proceeds to make or repair,
 (c) buys or sells, or
 (d) has in his custody or possession,
 a machine, engine, tool, instrument, material or thing that
 he knows has been used or that he knows is adapted and 30
 intended for use in making counterfeit money or counterfeit
 tokens of value is guilty of an indictable offence and is
 liable to imprisonment for fourteen years.

402. Every one who, without lawful justification or
 Conveying instruments for coining out of mint. excuse, the proof of which lies upon him, knowingly conveys 35
 out of any of Her Majesty's mints in Canada,
 (a) a machine, engine, tool, instrument, material or
 thing used or employed in connection with the manu-
 facture of coins,

(b) a useful part of anything mentioned in paragraph
 (a), or
 (c) coin, bullion, metal or a mixture of metals,
 is guilty of an indictable offence and is liable to imprisonment
 for fourteen years.

5

ADVERTISING AND TRAFFICKING IN COUNTERFEIT
 MONEY OR COUNTERFEIT TOKENS OF VALUE.

Advertising
 offer to deal
 in
 counterfeit
 money, etc.

403. (1) Every one who

(a) by an advertisement or any other writing offers
 to sell, procure or dispose of counterfeit money or
 counterfeit tokens of value or to give information
 with respect to the manner in which or the means by 10
 which counterfeit money or counterfeit tokens of value
 may be sold, procured or disposed of, or

Dealing in
 counterfeit
 tokens of
 value.

(b) purchases, obtains, negotiates or otherwise deals
 with counterfeit tokens of value, or offers to negotiate
 with a view to purchasing or obtaining them, 15

is guilty of an indictable offence and is liable to imprisonment
 for five years.

Fraudulent
 use of money
 genuine but
 valueless.

(2) No person shall be convicted of an offence under
 subsection (1) in respect of genuine coin or genuine paper
 money that has no value as money unless, at the time when 20
 the offence is alleged to have been committed, he knew that
 the coin or paper money had no value as money and he had
 a fraudulent intent in his dealings with or with respect
 to the coin or paper money.

SPECIAL PROVISIONS AS TO PROOF.

Counterfeit
 when
 complete.

404. Every offence relating to counterfeit money 25
 or counterfeit tokens of value shall be deemed to be complete
 notwithstanding that the money or tokens of value in
 respect of which the proceedings are taken are not finished
 or perfected or do not copy exactly the money or tokens
 of value that they are apparently intended to resemble 30
 or for which they are apparently intended to pass.

FORFEITURE.

Ownership.

405. (1) Counterfeit money, counterfeit tokens of value
 and anything that is used or is intended to be used to
 make counterfeit money or counterfeit tokens of value
 belong to Her Majesty.

35

Seizure.

- (2) A peace officer may seize and detain
 - (a) counterfeit money,
 - (b) counterfeit tokens of value, and
 - (c) machines, engines, tools, instruments, materials or things that have been used or that have been adapted and are intended for use in making counterfeit money or counterfeit tokens of value,

and anything seized shall be sent to the Minister of Finance to be disposed of or dealt with as he may direct, but anything that is required as evidence in any proceedings shall not be sent to the Minister until it is no longer required in those proceedings.

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PART XI

ATTEMPTS—CONSPIRACIES—ADVERSE

406. Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

407. Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

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408. Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

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410. Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

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411. Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

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412. Every one who attempts to commit or is an accessory to the commission of an indictable offence is liable to imprisonment for fourteen years.

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PART XI.

ATTEMPTS—CONSPIRACIES—ACCESSORIES.

Attempts,
accessories.

406. Except where otherwise expressly provided by law, the following provisions apply in respect of persons who attempt to commit or are accessories after the fact to the commission of offences, namely,

Where offence
punishable
with death or
life
imprison-
ment.

(a) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to be sentenced to death or to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years; 5

Where
offence
punishable
with fourteen
years or less.

(b) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to imprisonment for fourteen years or less, is guilty of an indictable offence and is liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable; and 10

Where offence
punishable on
summary
conviction.

(c) every one who attempts to commit or is an accessory after the fact to the commission of an offence punishable on summary conviction is guilty of an offence punishable on summary conviction. 15

Counselling,
etc., offence
which is not
committed.

407. Except where otherwise expressly provided by law, the following provisions apply in respect of persons who counsel, procure or incite other persons to commit offences namely, 20

(a) every one who counsels, procures or incites another person to commit an indictable offence is, if the offence is not committed, guilty of an indictable offence and is liable to the same punishment to which a person who attempts to commit that offence is liable; and 25

(b) every one who counsels, procures or incites another person to commit an offence punishable on summary conviction is, if the offence is not committed, guilty of an offence punishable on summary conviction. 30

408. (1) Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy, namely, 35

Conspiracy
to murder.

(a) every one who conspires with any one to commit murder or to cause another person to be murdered, whether in Canada or not, is guilty of an indictable offence and is liable to imprisonment for fourteen years;

Conspiracy
to bring
false
accusation.

(b) every one who conspires with any one to prosecute a person for an alleged offence, knowing that he did not commit that offence, is guilty of an indictable offence and is liable 40

406. Sections 570, 571, 572 (in part), 574 and 575.

407. Sections 69 and 572 (in part).

408. (a) Section 266 (a).

(b) Section 178.

- (i) to imprisonment for ten years, if the alleged offence is one for which, upon conviction, that person would be liable to be sentenced to death or to imprisonment for life or for fourteen years, or
- (ii) to imprisonment for five years, if the alleged offence is one for which, upon conviction, that person would be liable to imprisonment for less than fourteen years; 5
- Conspiracy to defile. (c) every one who conspires with any one to induce, by 10
false pretences, false representations or other fraudulent means, a woman to commit adultery or fornication, is guilty of an indictable offence and is liable to imprisonment for two years; and
- Conspiracy to commit other offences. (d) every one who conspires with any one to commit an 15
indictable offence not provided for in paragraph (a), (b) or (c) is guilty of an indictable offence and is liable to the same punishment as that to which an accused who is guilty of that offence would, upon conviction, be liable. 20
- Common law conspiracy. (2) Every one who conspires with any one
(a) to effect an unlawful purpose, or
(b) to effect a lawful purpose by unlawful means, is guilty of an indictable offence and is liable to imprisonment for two years. 25
- Conspiracy in restraint of trade. **409.** (1) A conspiracy in restraint of trade is an agreement between two or more persons to do or to procure to be done any unlawful act in restraint of trade.
- Trade union, exception. (2) The purposes of a trade union are not, by reason only that they are in restraint of trade, unlawful within 30
the meaning of subsection (1).
- Saving. **410.** (1) Except where otherwise expressly provided by law, no person shall be convicted of conspiracy in restraint of trade by reason only that he
(a) refuses to work with a workman or for an employer, 35
or
(b) does any act or causes any act to be done for the purposes of a trade combination.
- "Trade combination." (2) In this section, "trade combination" means any 40
combination between masters or workmen or other persons for the purpose of regulating or altering the relations between masters or workmen, or the conduct of a master or workman in or in respect of his business, employment or contract of employment or service.
- Conspiracy. **411.** (1) Every one who conspires, combines, agrees 45
or arranges with another person
(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article,
- To limit commercial facilities.

(c) Section 218.

(d) Section 573.

(2) New.

409. Sections 496 and 497.

410. (1) Section 590.

(2) Section 2 (41).

411. Section 498.

- To restrain commerce. (b) to restrain or injure trade or commerce in relation to any article,
- To lessen production. (c) to prevent, limit or lessen, unduly, the manufacture or production of an article, or to enhance unreasonably the price thereof, or 5
- To lessen competition. (d) to prevent or lessen, unduly, competition in the production, manufacture, purchase, barter, sale, transportation or supply of an article, or in the price of insurance upon persons or property, 5
- is guilty of an indictable offence and is liable to imprisonment 10 for two years.
- "Article." (2) For the purposes of this section, "article" means an article or commodity that may be a subject of trade or commerce.
- Saving. (3) This section does not apply to combinations of 15 workmen or employees for their own reasonable protection as workmen or employees.
- 412.** (1) Every one engaged in trade, commerce or industry who
- Discrimination in trade. (a) is a party or privy to, or assists in, any sale that 20 discriminates to his knowledge, directly or indirectly, against competitors of the purchaser, in that any discount, rebate, allowance, price concession or other advantage, is granted to the purchaser over and above 25 any discount, rebate, allowance, price concession or other advantage, available at the time of such sale to such competitors in respect of a sale of goods of like quality and quantity;
- Lower prices in particular area. (b) engages in a policy of selling goods in any area of Canada at prices lower than those exacted by such 30 seller elsewhere in Canada, having or designed to have the effect of substantially lessening competition or eliminating a competitor in such part of Canada; or
- Lessening prices. (c) engages in a policy of selling goods at prices unreasonably low, having or designed to have the effect of 35 substantially lessening competition or eliminating a competitor,
- is guilty of an indictable offence and is liable to imprisonment for two years.
- Defence. (2) It is not an offence under paragraph (a) of subsection (1) to be a party or privy to, or assist in any sale 40 mentioned therein unless the discount, rebate, allowance, price concession or other advantage was granted as part of a practice of discriminating as described in that paragraph.
- Co-operative society not affected. (3) The provisions of paragraph (a) of subsection (1) 45 shall not prevent a co-operative society returning to producers or consumers, or a co-operative wholesale society returning to its constituent retail members, the whole or any part of the net surplus made in its trading operations in proportion to purchases made from or sales to the 50 society.

PART XII

JURISDICTION

General

411. (1) Every superior court of criminal jurisdiction has jurisdiction to try any indictable offence.
 (2) Every court of criminal jurisdiction has jurisdiction to try an indictable offence other than

(a) an offence under any of the following sections, namely,

- (i) section 47,
- (ii) section 51,
- (iii) section 52,
- (iv) section 53,
- (v) section 54,
- (vi) section 56,
- (vii) section 206,
- (viii) section 207,
- (ix) section 210,
- (x) paragraph (a) of subsection (1) of section 316,
- (xi) paragraph (a) of section 408,
- (xii) section 411.

412. Section 498A.

(b) the offence of being an accessory after the fact to a serious offence, or
 (c) an offence under section 100 by the holder of a judicial office.

413. Subject to this Act, every superior court of criminal jurisdiction and every court of criminal jurisdiction that has power to try an indictable offence is competent to try an accused for that offence.

(1) If the accused is found to be accused or is in custody within the territorial jurisdiction of the court, or
 (2) if the accused has been committed for trial to, or has been ordered to be tried at, a court in that territory,
 (3) any other court the jurisdiction of which has by law or otherwise been transferred to that court.

414. Except where otherwise expressly provided by this Act, every offence which is charged against an individual shall be tried by a court composed of a judge and jury.

PART XII.
JURISDICTION.

GENERAL.

Superior court of criminal jurisdiction.	413. (1) Every superior court of criminal jurisdiction has jurisdiction to try any indictable offence.	
Court of criminal jurisdiction.	(2) Every court of criminal jurisdiction has jurisdiction to try an indictable offence other than	
	(a) an offence under any of the following sections, 5 namely,	
Treason.	(i) section 47,	
Intimidating Parliament or legislature.	(ii) section 51,	
Alarming or harming Her Majesty.	(iii) section 52,	
Inciting to mutiny.	(iv) section 53,	10
Piracy.	(v) section 75,	
Piratical acts.	(vi) section 76,	
Murder.	(vii) section 206,	
Manslaughter.	(viii) section 207,	
Attempted murder.	(ix) section 210,	15
Threat to murder.	(x) paragraph (a) of subsection (1) of section 316,	
Conspiracy to murder.	(xi) paragraph (a) of section 408,	
Combination restraining trade.	(xii) section 411,	
Accessories.	(b) the offence of being an accessory after the fact to treason or murder, or	20
Corrupting justice.	(c) an offence under section 100 by the holder of a judicial office.	
Jurisdiction over person.	414. Subject to this Act, every superior court of criminal jurisdiction and every court of criminal jurisdiction that has power to try an indictable offence is com- 25 petent to try an accused for that offence	
	(a) if the accused is found, is arrested or is in custody within the territorial jurisdiction of the court; or	
	(b) if the accused has been committed for trial to, or has been ordered to be tried by	30
	(i) that court, or	
	(ii) any other court, the jurisdiction of which has by lawful authority been transferred to that court.	
Trial by jury compulsory.	415. Except where otherwise expressly provided by 35 law, every accused who is charged with an indictable offence shall be tried by a court composed of a judge and jury.	

413. (1) Section 580 (1).

(2) Sections 582 and 583.

414. Section 577.

415. New.

Option for trial without jury in trade conspiracy cases.

416. (1) Where an indictment is found against an accused, other than a corporation, for an offence under section 411, the accused may elect to be tried without a jury and where he so elects he shall be tried by the judge presiding at the court at which the indictment is found, 5 or the judge presiding at any subsequent sittings of that court, or at any court where the indictment comes on for trial.

Part XVI applies.

(2) Where an accused makes an election under subsection (1), the proceedings subsequent to the election shall 10 be in accordance with Part XVI in so far as that Part is capable of being applied.

Trial without jury in Alberta.

417. Notwithstanding anything in this Act, an accused who is charged with an indictable offence in the Province of Alberta may, with his consent, be tried by a judge of the 15 superior court of criminal jurisdiction of Alberta without a jury.

Adjournment when no jury summoned.

418. Where the competent authority has determined that a panel of jurors is not to be summoned for a term or sittings of the court for the trial of criminal cases 20 in any territorial division, the clerk of the court may, on the day of the opening of the term or sittings, if a judge is not present to preside over the court, adjourn the court and the business of the court to a subsequent day.

SPECIAL JURISDICTION.

On water between jurisdictions.

419. For the purposes of this Act, 25
(a) where an offence is committed in or upon any water or upon a bridge, between two or more territorial divisions, the offence shall be deemed to have been committed in any of the territorial divisions;

Near boundary between jurisdictions.

(b) where an offence is committed on the boundary of 30 two or more territorial divisions or within five hundred yards of any such boundary, or the offence was commenced within one territorial division and completed within another, the offence shall be deemed to have been committed in any of the territorial divisions; 35

During course of journey in ship or vehicle.

(c) where an offence is committed in or upon a vehicle employed in a journey, or on board a vessel employed on a navigable river, canal or inland water, the offence shall be deemed to have been committed in any territorial division through which the vehicle or vessel 40 passed in the course of the journey or voyage on which the offence was committed, and where the center or other part of the road, or navigable river, canal or inland water on which the vehicle or vessel passed in the course of the journey or voyage is the boundary of two or more 45 territorial divisions, the offence shall be deemed to have been committed in any of the territorial divisions;

416. Section 581.

417. Section 581A.

418. Section 580 (2).

419. Sections 545A and 584.

- Aircraft. (d) where an offence is committed in an aircraft in the course of a flight of that aircraft, it shall be deemed to have been committed
- (i) in the territorial division in which the flight commenced, 5
 - (ii) in any territorial division over which the aircraft passed in the course of the flight, or
 - (iii) in the territorial division in which the flight ended; and
- Door-to-door mail delivery. (e) where an offence is committed in respect of a mail 10 in the course of the door-to-door delivery of the mail, the offence shall be deemed to have been committed in any territorial division through which the mail was carried on that delivery.
- Offences in territorial waters. **420.** (1) Where an offence is committed by a person, 15 whether or not he is a Canadian citizen, on a part of the sea adjacent to the coast of Canada and within three nautical miles of ordinary low water mark, whether or not it was committed on board or by means of a Canadian ship, the offence is within the competence of and shall be tried 20 by the court having jurisdiction in respect of similar offences in the territorial division nearest to the place where the offence was committed, and shall be tried in the same manner as if the offence had been committed within that territorial division. 25
- Consent. (2) No proceedings for an offence to which subsection (1) applies shall, where the accused is not a Canadian citizen, be instituted without the consent of the Attorney General of Canada.
- Offence committed entirely in one province not triable in another. **421.** (1) Subject to subsections (2) and (3), nothing 30 in this Act authorizes a court in a province to try an offence committed entirely in another province.
- Exception. (2) Every proprietor, publisher, editor or other person charged with the publication of a defamatory libel in a newspaper or with conspiracy to publish a defamatory libel 35 in a newspaper shall be dealt with, indicted, tried and punished in the province where he resides or in which the newspaper is printed.
- Exception. (3) Where an accused is in custody and signifies in writing his intention to plead guilty to an offence with which he is 40 charged that is alleged to have been committed in Canada outside the province in which he is in custody, he may, if the offence is not an offence mentioned in subsection (2) of section 413, and the Attorney General of the province where the offence is alleged to have been committed con- 45 sents, be brought before a court or person that would have had jurisdiction to try that offence if it had been committed in the province where the accused is in custody, and where he pleads guilty to that offence, the court or person shall 50 convict the accused and impose the punishment warranted

by law, but where he does not plead guilty, he shall be returned to custody and shall be dealt with according to law.

“Newspaper”.

(4) In this section, “newspaper” has the same meaning that it has in section 247.

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Offence in unorganized territory.

422. (1) Where an offence is committed in an unorganized tract of country in any province or on a lake, river or other water therein, not included in a territorial division or in a provisional judicial district, proceedings in respect thereof may be commenced and an accused may be charged, tried and punished in respect thereof within any territorial division or provisional judicial district of the province in the same manner as if the offence had been committed within that territorial division or provisional judicial district.

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New territorial division.

(2) Where a provisional judicial district or a new territorial division is constituted in an unorganized tract referred to in subsection (1), the jurisdiction conferred by that subsection continues until appropriate provision is made by law for the administration of criminal justice within the provisional judicial district or new territorial division.

Offence not in a province.

423. Where an offence is committed in a part of Canada not in a province, proceedings in respect thereof may be commenced and the accused may be charged, tried and punished within any territorial division in any province in the same manner as if that offence had been committed in that territorial division.

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RULES OF COURT.

Power to make rules.

424. (1) Every superior court of criminal jurisdiction and every court of appeal, respectively, may, at any time with the concurrence of a majority of the judges thereof present at a meeting held for the purpose, make rules of court not inconsistent with this Act or any other Act of the Parliament of Canada, and any rules so made shall apply to any prosecution, proceeding, action or appeal, as the case may be, within the jurisdiction of that court, instituted in relation to any matter of a criminal nature or arising from or incidental to any such prosecution, proceeding, action or appeal.

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Regulating duties of officers.

(2) Rules under subsection (1) may be made
(a) generally to regulate the duties of the officers of the court and any other matter considered expedient to attain the ends of justice and carry into effect the provisions of the law;

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Regulating sittings.

(b) to regulate the sittings of the court or any division thereof, or of any judge of the court sitting in chambers, except in so far as they are regulated by law;

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(4) Section 2 (23).

422. Section 585.

423. Sections 586 and 587.

424. Sections 576, 1017 (1), 1020 (5) and 1021 (1), (2), (3), (11) and (13) to (18).

Regulating
practice.

(c) to regulate in criminal matters the pleading, practice and procedure in the court including proceedings with respect to *mandamus*, *certiorari*, *habeas corpus*, prohibition, bail and costs, and the proceedings on an application to a summary conviction court to state a case for the opinion of the court with respect to a conviction, order, determination or other proceeding; and 5

Relating to
appeals.

(d) to carry out the provisions of this Act relating to appeals from conviction, acquittal or sentence on indictment, and without restricting the generality of this paragraph, 10

(i) for furnishing necessary forms and instructions in relation to notices of appeal or applications for leave to appeal to officials or other persons requiring or demanding them, 15

(ii) for ensuring the accuracy of notes taken at a trial and the verification of any copy or transcript,

(iii) for keeping writings, exhibits or other things connected with the proceedings on the trial, 20

(iv) for securing the safe custody of property during the period in which the operation of an order with respect to that property is suspended under subsection (1) of section 595, and

(v) for providing that the Attorney General and counsel who acted for the Attorney General at the trial be supplied with certified copies of writings, exhibits and things connected with the proceedings that are required for the purposes of their duties. 30

Rules to
continue.

(3) Where in any province rules of court relating to criminal matters are in force when this Act comes into force, they shall continue in force except in so far as they may be amended or repealed from time to time by the court authorized by this section to make rules. 35

Publication.

(4) Rules of court that are made under the authority of this section shall be published in the *Canada Gazette*.

Regulations
to secure
uniformity.

(5) Notwithstanding anything in this section, the Governor in Council may make such provision as he considers proper to secure uniformity in the rules of court in criminal matters, and all uniform rules made under the authority of this subsection shall prevail and have effect as if enacted by this Act. 40

PART XIII.

SPECIAL PROCEDURE AND POWERS.

GENERAL POWERS OF CERTAIN OFFICIALS.

Officials with powers of two justices.

425. Every judge or magistrate authorized by the law of the province in which he is appointed to do anything that is required to be done by two or more justices may do alone anything that this Act or any other Act of the Parliament of Canada authorizes two or more justices to do.

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Preserving order in court.

426. Every judge or magistrate has the same power and authority to preserve order in a court over which he presides as may be exercised by the superior court of criminal jurisdiction of the province during the sittings thereof.

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Trial of juveniles to be without publicity.

427. Where an accused is or appears to be under the age of sixteen years, his trial shall take place without publicity, whether he is charged alone or jointly with another person.

Exclusion of public in certain cases.

428. The trial of an accused that is a corporation or who is or appears to be sixteen years of age or more shall be held in open court, but where the court, judge, justice or magistrate, as the case may be, is of opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude all or any members of the public from the court room, he may so order.

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Information for search warrant.

429. (1) A justice who is satisfied by information upon oath in Form 1, that there is reasonable ground to believe that there is in a building, receptacle or place,

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(a) anything upon or in respect of which any offence against this Act or any other Act of the Parliament of Canada has been or is suspected to have been committed,

(b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of an offence against this Act or any other Act of the Parliament of Canada, or

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(c) anything that there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which a person may be arrested without warrant,

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may at any time issue a warrant under his hand authorizing

a person named therein or a peace officer to search the building, receptacle or place for any such thing, and to seize and carry it before the justice who issued the warrant or some other justice for the same territorial division to be dealt with by him according to law. 5

Endorsement
of search
warrant.

(2) Where the building, receptacle, or place in which anything mentioned in subsection (1) is believed to be is in some other territorial division, the justice may issue his warrant in like form modified according to the circumstances, and the warrant may be executed in the other territorial 10 division after it has been endorsed, in Form 25, by a justice having jurisdiction in that territorial division.

Form.

(3) A search warrant issued under this section may be in Form 5.

Effect of
endorsement.

(4) An endorsement that is made upon a warrant pursuant 15 to subsection (2) is sufficient authority to the peace officers to whom it was originally directed and to all peace officers within the jurisdiction of the justice by whom it is endorsed to execute the warrant and to take the things to which it relates before the justice who issued the warrant or some 20 other justice for the same territorial division.

Execution
of search
warrant.

430. A warrant issued under section 429 shall be executed by day, unless the justice, by the warrant, authorizes execution of it by night.

Seizure of
things not
specified.

431. Every person who executes a warrant issued 25 under section 429 may seize, in addition to the things mentioned in the warrant, anything that on reasonable grounds he believes has been obtained by or has been used in the commission of an offence, and carry it before the justice who issued the warrant or some other justice for the 30 same territorial division, to be dealt with in accordance with section 432.

Detention
of things
seized.

432. (1) Where anything that has been seized under section 431 or under a warrant issued pursuant to section 429 is brought before a justice, he shall, unless the prosecutor 35 otherwise agrees, detain it or order that it be detained, taking reasonable care to ensure that it is preserved until the conclusion of any investigation or until it is required to be produced for the purposes of a preliminary inquiry or trial.

When
accused
committed
for trial.

(2) When an accused has been committed for trial the 40 justice shall forward anything to which subsection (1) applies to the clerk of the court to which the accused has been committed for trial to be detained by him and disposed of as the court directs.

Disposal of
things seized
in other cases.

(3) Where a justice is satisfied that anything that has 45 been seized under section 431 or under a warrant issued pursuant to section 429 will not be required for any purpose mentioned in subsection (1) or (2), he may

(a) If possession of it by the person from whom it was seized is unlawful, order it to be returned unless he is authorized or required by law to dispose of it in some other way, or

(b) order that it be returned to the person from whom it was seized.

(c) Nothing shall be disposed of under subsection (b) pending any proceeding in which the right of seizure is questioned, or within thirty days after an order is made under that subsection.

Lawson
Loring
Loring, etc.

430. (1) Every person who exhibits or transports under section 429 any explosive substance that he knows is intended to be used for an unlawful purpose, and shall, as soon as possible, remove to a place of safety any such substance by virtue of this section and deliver it to the police or to a judge of a superior court to deliver it to some other person or an order is made pursuant to subsection (2).

Belmont
Loring

(2) Where an accused is convicted of an offence in respect of anything seized by virtue of subsection (1), it is lawful for and shall be dealt with as the court that hears the case may direct.

Frederick

430. Section 630.

Lawson
Loring

431. New.

432. (1) and (2). Section 631.

(3) New.

(a) if possession of it by the person from whom it was seized is unlawful, order it to be forfeited unless he is authorized or required by law to dispose of it in some other way, or

(b) order that it be returned to the person from whom it was seized. 5

Detention pending appeal, etc.

(4) Nothing shall be disposed of under subsection (3) pending any proceeding in which the right of seizure is questioned, or within thirty days after an order is made under that subsection. 10

Seizure of explosives.

433. (1) Every person who executes a warrant issued under section 429 may seize any explosive substance that he suspects is intended to be used for an unlawful purpose, and shall, as soon as possible, remove to a place of safety anything that he seizes by virtue of this section and detain it until he is ordered by a judge of a superior court to deliver it to some other person or an order is made pursuant to subsection (2). 15

Forfeiture.

(2) Where an accused is convicted of an offence in respect of anything seized by virtue of subsection (1), it is forfeited and shall be dealt with as the court that makes the conviction may direct. 20

Application of proceeds.

(3) Where anything to which this section applies is sold, the proceeds of the sale shall be paid to the Attorney General. 25

PART XIV.

COMPULSING APPEARANCE OF ACCUSED BEFORE A JUSTICE

(4) New.

ARREST WARRANT

432. Any one may arrest without warrant a person whom he finds committing an indictable offence.

433. Section 633.

433. A person who has committed or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence or a person whom he finds committing a criminal offence.

434. Any one may arrest without warrant a person who, on reasonable and probable grounds, he believes (a) has committed a criminal offence, and

(b) is (i) escaping from, and (ii) freshly pursued by persons who have lawful authority to arrest that person.

435. Any one who is (a) the owner of property, or (b) a person authorized by the owner of property may arrest without warrant a person whom he finds committing a criminal offence or in relation to that property.

436. (1) Any one who arrests a person without warrant shall deliver that person to a police officer. (2) A police officer may detain a person who has been arrested without warrant and shall, as soon as possible, bring that person before a justice to be dealt with according to law. (3) Any one who arrests a person upon a warrant shall, as soon as possible, bring that person before the justice who issued the warrant or before some other justice for the same territorial division.

PART XIV.

COMPELLING APPEARANCE OF ACCUSED
BEFORE A JUSTICE.

ARREST WITHOUT WARRANT.

By any
person.

434. Any one may arrest without warrant a person whom he finds committing an indictable offence.

By peace
officer.

435. A peace officer may arrest without warrant
(a) a person who has committed or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence, or
(b) a person whom he finds committing a criminal offence.

By any
person on
fresh pursuit.

436. Any one may arrest without warrant a person who, on reasonable and probable grounds, he believes 10
(a) has committed a criminal offence, and
(b) is
(i) escaping from, and
(ii) freshly pursued by,
persons who have lawful authority to arrest that person. 15

By owner of
property.

437. Any one who is
(a) the owner of property, or
(b) a person authorized by the owner of property,
may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property. 20

Delivery to
peace officer
of person
arrested
without
warrant.
Detention
by peace
officer.
Taking
before justice.

438. (1) Any one who arrests a person without warrant shall deliver that person to a peace officer.
(2) A peace officer may detain a person who has been arrested without warrant and shall, as soon as possible, bring that person before a justice to be dealt with according to law. 25
(3) Any one who arrests a person upon a warrant shall, as soon as possible, bring that person before the justice who issued the warrant or before some other justice for the same territorial division. 30

434. Section 646.

435. Sections 647, 648 and 652 (in part).

436. Section 649.

437. Section 650.

438. Section 652 (in part) and new in part.

INFORMATION, SUMMONS AND WARRANT.

In what cases
justice may
receive
information.

439. (1) Any one who, upon reasonable and probable grounds, believes that a person has committed an indictable offence may lay an information in writing and under oath before a justice, and the justice shall receive the information where it is alleged that

(a) the person has committed, anywhere, an indictable offence that may be tried in the province in which the justice resides, and that the person

(i) is or is believed to be, or

(ii) resides or is believed to reside,

within the territorial jurisdiction of the justice;

(b) the person, wherever he may be, has committed an indictable offence within the territorial jurisdiction of the justice;

(c) the person has anywhere unlawfully received property that was unlawfully obtained within the territorial jurisdiction of the justice; or

(d) the person has in his possession stolen property within the territorial jurisdiction of the justice.

Form.

(2) An information that is laid under this section may be in Form 2.

Justice to
hear
informant or
witnesses.

440. (1) A justice who receives an information shall

(a) hear and consider, *ex parte*,

(i) the allegations of the informant, and

(ii) the evidence of witnesses, where he considers it desirable or necessary to do so; and

Summons or
warrant.

(b) issue, where he considers that a case for so doing is made out, a summons or warrant, as the case may be, to compel the accused to attend before him.

Process
compulsory.

(2) No justice shall refuse to issue a summons or warrant by reason only that the alleged offence is one for which a person may be arrested without warrant.

Procedure
when
witnesses
attend.

(3) A justice who hears the evidence of a witness pursuant to subsection (1) shall

(a) take the evidence upon oath, and

(b) cause the evidence to be taken in accordance with section 453 in so far as that section is capable of being applied.

No process
in blank.

(4) No justice shall sign a summons or warrant in blank.

Summons.

441. (1) A summons shall

(a) be directed to the accused,

(b) set out briefly the offence in respect of which the accused is charged, and

(c) require the accused to appear at a time and place to be stated therein.

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439. Sections 653 and 654.

(3) A summons may be in Form 6.

(2) A summons shall be served by a peace officer who shall deliver it personally to the person named therein, or if that person cannot conveniently be found, then to some person of legal age who appears to be at least sixteen years of age.

(1) Subject to subsection (2), where an accused is a corporation the summons shall be delivered to the managing secretary or other executive officer of the corporation or of a branch thereof.

(2) Where an accused is a municipal corporation, the summons may be served by delivering it to the mayor, secretary-treasurer or clerk of the corporation.

(3) Service of a summons may be proved by the oral evidence given under oath, of the peace officer who served it or by law affidavit made before a justice.

440. Section 655 (1), (2) and (4).

440. (1) A warrant shall

(a) name or describe the accused, the offence in respect of which the accused is charged, and

(b) state that the accused be arrested and brought before the justice who issued the warrant or before some other justice within the territorial jurisdiction of the justice to whom he is to be brought.

(2) A warrant remains in force until it is executed, and need not be made returnable at any particular time.

(3) A warrant may be in Form 7.

440. (4) A warrant that is authorized by this section shall be signed by a justice and may be issued

(a) to a peace officer or name

(b) to a peace officer by name and all other peace officers within the territorial jurisdiction of the justice, or

(c) generally to all peace officers within the territorial jurisdiction of the justice.

(4) Sections 658 (3) and 659 (2).

441. (1) to (3). Section 658.

441. (1) A justice may issue a warrant to arrest the accused if he is satisfied that a warrant should be issued.

(2) Where

(a) service of a summons is proved and the accused does not appear, or

- Form. (2) A summons may be in Form 6.
- Service on individual. (3) A summons shall be served by a peace officer who shall deliver it personally to the person to whom it is directed, or, if that person cannot conveniently be found, shall leave it for him at his last or usual place of abode with some inmate thereof who appears to be at least sixteen years of age. 5
- Service on corporation. (4) Subject to subsection (5), where an accused is a corporation the summons shall be served by delivering it to the manager, secretary or other executive officer of the corporation, or of a branch thereof. 10
- Service on municipality. (5) Where an accused is a municipal corporation, the summons may be served by delivering it to the mayor, secretary-treasurer or clerk of the corporation.
- Proof of service. (6) Service of a summons may be proved by the oral evidence, given under oath, of the peace officer who served it or by his affidavit made before a justice. 15

Contents of warrant to arrest.

- 442.** (1) A warrant shall
- (a) name or describe the accused,
- (b) set out briefly the offence in respect of which the accused is charged, and 20
- (c) order that the accused be arrested and brought before the justice who issued the warrant or before some other justice having jurisdiction in the same territorial division, to answer to the charge and to be further dealt with according to law. 25

No return day.

- (2) A warrant remains in force until it is executed, and need not be made returnable at any particular time.

Form.

- (3) A warrant may be in Form 7.

Formalities of warrant.

- 443.** A warrant that is authorized by this Part shall be signed by a justice and may be directed, 30
- (a) to a peace officer by name,
- (b) to a peace officer by name and all other peace officers within the territorial jurisdiction of the justice, or
- (c) generally to all peace officers within the territorial jurisdiction of the justice. 35

Summons not to prevent warrant.

- 444.** (1) A justice may issue a warrant in Form 7 for the arrest of an accused notwithstanding that a summons has already been issued to require the appearance of the accused. 40

Warrant in default of appearance.

- (2) Where
- (a) service of a summons is proved and the accused does not appear, or

(4) and (5). Section 782 (1).

442. Sections 659 (1), 660 (2) and (3) and 664.

443. Section 660 (1).

444. (1) Section 660 (4).

(2) Section 660 (5).

(b) it appears that a summons cannot be served because the accused is evading service, a justice may issue a warrant in Form 8.

Execution of warrant.	445. (1) A warrant may be executed by arresting the accused	5
Where.	(a) wherever he is found within the territorial jurisdiction of the justice by whom the warrant was issued, or (b) wherever he is found in Canada, in the case of fresh pursuit.	
By whom.	(2) A warrant may be executed by a person who is (a) the peace officer named in the warrant, or (b) one of the peace officers to whom it is directed, whether or not the place in which the warrant is to be executed is within the territory for which the person is a peace officer.	10 15

PROCEDURE TO PROCURE ATTENDANCE OF A PRISONER.

	446. (1) Where a person who is confined in a prison is required	
For preliminary inquiry.	(a) to attend at a preliminary inquiry into a charge against him,	
For trial.	(b) to stand his trial upon a charge that may be tried by indictment or on summary conviction, or	20
As a witness.	(c) to attend to give evidence in a proceeding to which this Act applies,	
Judge's order.	a judge of a superior court of criminal jurisdiction or of a county or district court may order in writing that the prisoner be brought before the court, judge, justice, or magistrate before whom his attendance is required, from day to day as may be necessary, if	25
	(d) the applicant for the order sets out the facts of the case in an affidavit and produces the warrant, if any, and	30
	(e) the judge is satisfied that the ends of justice require that an order be made.	
Magistrate's order.	(2) A magistrate has the same powers for the purposes of subsection (1) as a judge has under that subsection, where the person whose attendance is required is confined in a prison within the province in which the magistrate has jurisdiction.	35
Conveyance of prisoner.	(3) An order that is made under subsection (1) or (2) shall be addressed to the person who has custody of the prisoner, and on receipt thereof that person shall	40

445. Section 661.

446. Sections 662 (4) to (6), 883, 941 and 977.

ENDORSEMENT OF WARRANT

4-47. (1) Where a warrant for the arrest of a person cannot be executed in accordance with section 445 a justice within whose jurisdiction the accused is or is believed to be shall upon application authorize the execution of the warrant within his jurisdiction by making an endorsement which may be in Form 35, upon the warrant.

(2) An endorsement that is made upon a warrant pursuant to subsection (1) is sufficient authority to the peace officers to whom it was originally issued, and to all peace officers within the territorial jurisdiction of the justice by whom it is endorsed, to execute the warrant and to take the accused before the justice who issued the warrant or before some other justice for the same territorial division.

Justice's Warrant

4-48. (1) Where a person is alleged by a verdict upon a coroner's inquest, to have committed murder or manslaughter but to have not been charged with the offense, the justice may issue a warrant under subsection (2) if he is satisfied by the evidence taken before him that the person committed the offense.

(2) Where a coroner makes a division under subsection (1) he shall warrant to the justice the evidence taken before him in the matter.

- (a) deliver the prisoner to any person who is named in the order to receive him, or
- (b) bring the prisoner before the court, judge, justice or magistrate, as the case may be, upon payment of his reasonable charges in respect thereof. 5
- Detention of prisoner required as witness. (4) Where the prisoner is required as a witness, the judge or magistrate shall direct, in the order, the manner in which the prisoner shall be kept in custody and returned to the prison from which he is brought.
- Detention of prisoner in other cases. (5) Where the appearance of the prisoner is required 10 for the purposes of paragraph (a) or (b) of subsection (1), the judge or magistrate shall give appropriate directions in the order with respect to the manner in which the prisoner is
- (a) to be kept in custody, if he is committed for trial; or 15
- (b) to be returned, if he is discharged upon a preliminary inquiry or if he is acquitted of the charge against him.
- Application of sections respecting sentence. (6) Sections 621 and 634 apply where a prisoner to whom this section applies is convicted and sentenced to imprisonment by the court, judge, justice or magistrate. 20

ENDORSEMENT OF WARRANT.

- Endorsing warrant. 447. (1) Where a warrant for the arrest of an accused cannot be executed in accordance with section 445, a justice within whose jurisdiction the accused is or is believed to be shall, upon application, authorize the execution of the warrant within his jurisdiction by making an endorsement, 25 which may be in Form 25, upon the warrant.
- Effect of endorsement. (2) An endorsement that is made upon a warrant pursuant to subsection (1) is sufficient authority to the peace officers to whom it was originally directed, and to all peace officers within the territorial jurisdiction of the justice by whom it is 30 endorsed, to execute the warrant and to take the accused before the justice who issued the warrant or before some other justice for the same territorial division.

CORONER'S WARRANT.

- Coroner's warrant. 448. (1) Where a person is alleged, by a verdict upon a coroner's inquisition, to have committed murder or man- 35 slaughter but he has not been charged with the offence, the coroner shall
- (a) direct, by warrant under his hand, that the person be taken into custody and be conveyed, as soon as possible, before a justice, or 40
- Recognizance. (b) direct the person to enter into a recognizance before him with or without sureties, to appear before a justice.
- Transmitting depositions. (2) Where a coroner makes a direction under subsection (1) he shall transmit to the justice the evidence taken before him in the matter. 45

PART 27.

PROCEDURE ON PRELIMINARY INQUIRY.

447.

447. Section 662 (1) to (3).

448. Section 667.

PART XV.

PROCEDURE ON PRELIMINARY INQUIRY.

JURISDICTION.

Inquiry
by justice.

449. Where an accused who is charged with an indictable offence is before a justice

(a) after being arrested without a warrant,

(b) pursuant to section 448,

(c) voluntarily or upon summons, or

(d) while in custody for that or any other offence,

the justice shall, in accordance with this Part, inquire into the charge against that person.

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Remand by
justice to
magistrate in
certain cases.

450. (1) Where an accused is before a justice other than a magistrate as defined in Part XVI charged with an offence over which a magistrate, under that Part, has absolute jurisdiction, the justice shall remand the accused to appear before a magistrate having absolute jurisdiction over that offence in the territorial division in which the offence is alleged to have been committed.

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Election
before justice
in certain
cases.

(2) Subject to subsection (1), where an accused is before a justice charged with an offence other than an offence that is mentioned in subsection (2) of section 413 the justice shall, if

(a) he is a justice other than a magistrate as defined in Part XVI, and

(b) he orders the accused to appear for trial or commits the accused for trial,

inform the accused of the offence in respect of which the order or committal is made and put the accused to his election in the following words:

You have the option to elect to be tried by a judge without a jury or by a court composed of a judge and jury. How do you elect to be tried?

Procedure
when accused
elects trial
without jury.

(3) Where an accused is put to his election under subsection (2) the justice shall

(a) endorse on the information a statement showing the nature of the election or that the accused stood mute, and

(b) state in the warrant of committal, if any, that the accused

(i) elected to be tried by a judge without a jury,

(ii) elected to be tried by a court composed of a judge and jury, or

(iii) stood mute.

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441. A justice seeing under this Part that (a) order that an accused at any time before he has been committed for trial, be admitted to bail (b) upon the accused entering into a recognizance in Form 28 before him or any other justice and

449. Section 668.

(c) upon the accused entering into a recognizance in Form 28 before him or any other justice and depositing an amount that he or that justice (iii) upon the accused entering into his own recognizance in Form 28 before him or any other justice in such amount as he or that justice

450. Section 796 and new.

(1) subject to the inquiry from time to time and during the term of hearing, where it appears to be desirable to do so by reason of the absence of a witness, the inability of a witness who is ill to attend at the place where the justice usually sits or for any other sufficient reason, but no such adjournment shall be for more than eight days after the accused (i) is at large on bail and he and his sureties and the adjournment consent to the proposed adjournment, or (b) is committed for custody under sub-paragraph (2) of paragraph (2);

(2) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding thirty days when in his opinion, supported by the evidence of at least one duly qualified medical practitioner, there is reason to believe that (a) the accused is mentally ill or (b) the balance of the mind of the accused is disturbed where the accused is a female

person charged with an offence arising out of the death of her newly-born child, or (3) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days (4) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days (5) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days

(6) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days (7) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days (8) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days (9) in order in writing to such extent as the justice thinks fit for observation for a period not exceeding three clear days

POWERS OF JUSTICE.

- Bail.** **451.** A justice acting under this Part may
- (a) order that an accused, at any time before he has been committed for trial, be admitted to bail
 - (i) upon the accused entering into a recognizance in Form 28 before him or any other justice, with sufficient sureties in such amount as he or that justice directs, 5
 - (ii) upon the accused entering into a recognizance in Form 28 before him or any other justice and depositing an amount that he or that justice directs, or 10
 - (iii) upon the accused entering into his own recognizance in Form 28 before him or any other justice in such amount as he or that justice directs; 15
 - Adjournment.** (b) adjourn the inquiry from time to time and change the place of hearing, where it appears to be desirable to do so by reason of the absence of a witness, the inability of a witness who is ill to attend at the place where the justice usually sits, or for any other sufficient reason, but no such adjournment shall be for more than eight clear days unless the accused
 - (i) is at large on bail and he and his sureties and the informant consent to the proposed adjournment, or
 - (ii) is remanded for observation under subparagraph (i) of paragraph (c); 25
 - Remand by order.** (c) remand an accused,
 - (i) by order in writing, to such custody as the justice directs for observation for a period not exceeding thirty days where, in his opinion, supported by the evidence of at least one duly qualified medical practitioner, there is reason to believe that
 - (A) the accused is mentally ill, or
 - (B) the balance of the mind of the accused is disturbed, where the accused is a female person charged with an offence arising out of the death of her newly-born child, or 35
 - (ii) orally, to the custody of a peace officer or other person, where the remand is for a period not exceeding three clear days; 40
 - Remand by warrant.** (d) remand an accused to custody in a prison, by warrant in Form 14;
 - Idem.** (e) resume an inquiry before the expiration of a period for which it has been adjourned;
 - Resuming inquiry** (f) order in writing, in Form 26, that the accused be brought before him, or any other justice for the same territorial division, at any time before the expiration of the time for which the accused has been remanded; 45

451. Sections 679, 680 and 681.

6	(a) ... a witness in Form 2 or 3 of this rule may be ... (b) ... who does not appear at the time and place to ... (c) ... if an adjournment has been adjourned;	Evidence in cases of
10	(d) ... grant or refuse permission to the prosecutor or his ... (e) ... to advise him in support of the charge, by ... (f) ... or summing up or by way of reply upon ... (g) ... evidence that is given on behalf of the accused;	Evidence in cases of
15	(h) ... order that no person other than the prosecutor, the ... (i) ... and that counsel shall have access to or remain in ... (j) ... in the room in which the inquiry is held, where it ... (k) ... reports to him that the ends of justice will be best ... (l) ... removed by no delay; and	Evidence in cases of
20	(m) ... regulate the course of the inquiry in any way that ... (n) ... appears to him to be desirable and that is not inconsistent ... (o) ... with this Act.	Evidence in cases of
25	452. When an accused is a juror, the provisions of sections 470 apply, mutatis mutandis.	Evidence in cases of

Forms Evidence or Witnesses

35	453. (1) When the accused is before a justice holding a preliminary inquiry, the justice shall ... (2) ... in the presence of the accused, the evidence ... (3) ... given under oath, of the witnesses called on the part of ... (4) ... the prosecution and allow the accused or his counsel to ... (5) ... cross-examine them;	Evidence in cases of
30	(6) ... cause a record of the evidence of each witness to be ... (7) ... taken by a stenographer appointed by him or in ... (8) ... taken during in the form of a deposition, in Form 27.	Evidence in cases of
35	(9) ... Where a deposition is taken down in writing, the ... (10) ... justice shall, in the presence of the accused, before taking ... (11) ... the accused if he wishes to call witnesses.	Evidence in cases of
40	(12) ... (a) ... cause the deposition to be read to the witness ... (13) ... (b) ... cause the deposition to be signed by the witness and ... (14) ... (c) ... sign the deposition himself.	Evidence in cases of
45	(15) ... (d) ... Where depositions are taken down in writing, the ... (16) ... (e) ... justice may sign	Evidence in cases of
50	(17) ... (f) ... at the end of each deposition or ... (18) ... (g) ... at the end of a session or of all the depositions in a ... (19) ... session that will indicate that the evidence is in ... (20) ... taken in accordance with each deposition.	Evidence in cases of

Issue of warrant.	(g) issue a warrant in Form 8 or 9, as the case may be, for the arrest of an accused	
	(i) who does not appear pursuant to service of a summons upon him, if service is proved, or	
	(ii) who does not appear at the time and place to which an inquiry has been adjourned;	5
Permission to sum up.	(h) grant or refuse permission to the prosecutor or his counsel to address him in support of the charge, by way of opening or summing up or by way of reply upon any evidence that is given on behalf of the accused;	10
Evidence in reply.	(i) receive evidence on the part of the prosecutor after hearing any evidence that is given on behalf of the accused;	
Inquiry may be private.	(j) order that no person other than the prosecutor, the accused and their counsel shall have access to or remain in the room in which the inquiry is held, where it appears to him that the ends of justice will be best answered by so doing; and	15
Regulating course of inquiry.	(k) regulate the course of the inquiry in any way that appears to him to be desirable and that is not inconsistent with this Act.	20
Corporation.	452. Where an accused is a corporation, subsections (1) and (2) of section 470 apply, <i>mutatis mutandis</i> .	

TAKING EVIDENCE OF WITNESSES.

	453. (1) When the accused is before a justice holding a preliminary inquiry, the justice shall	25
Evidence for prosecution to be taken on oath.	(a) take in the presence of the accused the evidence, given under oath, of the witnesses called on the part of the prosecution and allow the accused or his counsel to cross-examine them;	
Depositions in writing or by stenographer.	(b) cause a record of the evidence of each witness to be taken by a stenographer appointed by him, or in legible writing, in the form of a deposition, in Form 27.	30
Reading and signing depositions.	(2) Where a deposition is taken down in writing, the justice shall, in the presence of the accused, before asking the accused if he wishes to call witnesses,	35
	(a) cause the deposition to be read to the witness,	
	(b) cause the deposition to be signed by the witness, and	
	(c) sign the deposition himself.	
Authentication by justice.	(3) Where depositions are taken down in writing the justice may sign	40
	(a) at the end of each deposition, or	
	(b) at the end of several or of all the depositions in a manner that will indicate that his signature is intended to authenticate each deposition.	

(4) When the stenographer appointed to take down the evidence is not a duly sworn court stenographer he shall make oath that he will truly and faithfully report the evidence.

Steno-
grapher's
oath.

(5) When the evidence is taken down by a stenographer appointed by the justice it need not be read to or read by the witness, but the evidence shall be read by the stenographer and the transcript shall be read by the justice and shall be accompanied by

Authentic
copy of
transcript.

(a) an affidavit of the stenographer that it is a true report of the evidence, or

(b) a certificate that it is a true report of the evidence if the stenographer is a duly sworn court stenographer.

452. (1) When the evidence of the witness called on the part of the prosecution has been taken down and when the report by the jurist has been read, the justice shall address the jurist as follows or to the like effect:

Address to
jurist.

Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial.

Form of
address.

452. New

(2) When the jurist asks anything in evidence asked by the justice pursuant to subsection (1), the answer shall be taken down in writing and shall be read by the jurist and kept with the evidence of the witness and dealt with in accordance with the law.

Statement of
jurist.

(3) When subsections (1) and (2) have been completed with the jurist shall say the accused if he wishes to call any witnesses.

Witness
statement.

453. Sections 682, 683 and 684 (1).

(1) The justice shall direct the jurist to call the witness to any matter relevant to the inquiry, and for the purpose of the subsection section 453 applies mutatis mutandis.

Testimony
of witness
in evidence.

454. Nothing in this Act prevents a jurist or jurist in evidence at a preliminary inquiry any subsequent hearing or statement made at any time by the accused that by law is admissible against him.

Confession
of accused
in evidence.

Section 454. Jurist's Oath

454. (1) When an accused is charged with an offence alleged to have been committed on or on the last of the 30th day of the month in which he has been charged, the jurist before whom he is brought may, at any stage of the inquiry after hearing both parties, order that the accused be taken before a justice having jurisdiction in the place where the

Order that
accused be
taken before
justice having
jurisdiction.

Steno-
grapher to be
sworn.

(4) Where the stenographer appointed to take down the evidence is not a duly sworn court stenographer he shall make oath that he will truly and faithfully report the evidence.

Authentic-
ation of
transcript.

(5) Where the evidence is taken down by a stenographer appointed by the justice, it need not be read to or signed by the witnesses, but the evidence shall be transcribed by the stenographer and the transcript shall be signed by the justice and shall be accompanied by

(a) an affidavit of the stenographer that it is a true report of the evidence, or

(b) a certificate that it is a true report of the evidence if the stenographer is a duly sworn court stenographer.

Accused to
be addressed.

454. (1) When the evidence of the witnesses called on the part of the prosecution has been taken down and, where required by this Part, has been read, the justice shall address the accused as follows or to the like effect: 15

Form of
address.

Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial. 20

Statement of
accused.

(2) Where the accused says anything in answer to the address made by the justice pursuant to subsection (1), his answer shall be taken down in writing and shall be signed by the justice and kept with the evidence of the witnesses and dealt with in accordance with this Part. 25

Witnesses
for accused.

(3) When subsections (1) and (2) have been complied with the justice shall ask the accused if he wishes to call any witnesses. 30

Depositions
of such
witnesses.

(4) The justice shall hear each witness called by the accused who testifies to any matter relevant to the inquiry, and for the purposes of this subsection, section 453 applies, *mutatis mutandis*.

Confession
or admission
of accused.

455. Nothing in this Act prevents a prosecutor giving in evidence at a preliminary inquiry any admission, confession or statement made at any time by the accused that by law is admissible against him. 35

REMAND WHERE OFFENCE COMMITTED IN ANOTHER JURISDICTION.

Order that
accused be
taken before
justice where
offence com-
mitted.

456. (1) Where an accused is charged with an offence alleged to have been committed out of the limits of the jurisdiction in which he has been charged, the justice before whom he is brought may, at any stage of the inquiry after hearing both parties, order that the accused be taken before a justice having jurisdiction in the place where the 40

officer is alleged to have been furnished, who shall continue and complete the inquiry.

(1) Where a justice makes an order pursuant to subsection (1) he shall deliver to a peace officer

(a) a warrant in Form 10 and

(b) the relevant evidence and recognizances, if any.

(2) The peace officer shall provide the warrant to a justice having jurisdiction in the place where the offence is alleged to have been committed and shall deliver to that justice all the writings received by the peace officer pursuant to subsection (1).

(3) A peace officer who complies with subsection (2) and who proves under oath the handwriting of the justice who subscribed the writings referred to therein is entitled to receive from the justice a receipt in respect thereof.

454. Sections 684 and 686 (1).

(1) A recognizance that is delivered by a peace officer to a justice having jurisdiction in the place where the offence is alleged to have been committed shall be deemed to have been taken in the justice's court when it is delivered and continues in force, unless that justice receives a new recognizance, until the accused is committed for trial or discharged, in this case may be.

(2) The evidence that, pursuant to subsection (1), is delivered by a peace officer to a justice shall be deemed to have been taken by that justice.

Procedures Where Witnesses Refuse to Testify

457 (1) Where a person being brought before a justice is charged with an offence and being required by the justice to give evidence

(a) refuses to do so,

(b) having been sworn, refuses to answer the questions that are put to him,

(c) fails to produce any witness that he is required to produce or

(d) refuses to sign his deposition,

without obtaining a reasonable excuse for his failure to do so, the justice may adjourn the inquiry and may, by warrant in Form 10 commit the person to prison for a period not exceeding eight clear days or for the period during which the inquiry is adjourned, whichever is the lesser period.

(2) Where a person to whom subsection (1) applies is brought before the justice upon the requisition of the Attorney General, the justice shall, in addition to the provisions of subsection (1), apply in the case of that person the provisions of subsection (1) in relation to the period of adjournment or any part thereof, and may adjourn the inquiry and commit the person to prison from time to time until the person consents to do what is required of him.

456. Sections 665 (2) and (3) and 666.

offence is alleged to have been committed, who shall continue and complete the inquiry.

Procedure.

(2) Where a justice makes an order pursuant to subsection (1) he shall deliver to a peace officer

(a) a warrant in Form 10, and

(b) the information, evidence and recognizances, if any.

Duty of peace officer

(3) The peace officer shall produce the accused to a justice having jurisdiction in the place where the offence is alleged to have been committed and shall deliver to that justice all the writings received by the peace officer pursuant to subsection (2).

Receipt.

(4) A peace officer who complies with subsection (3) and who proves, under oath, the handwriting of the justice who subscribed the writings referred to therein is entitled to receive from the justice to whom he delivers the writings a receipt in respect thereof.

Effect of recognizance.

(5) A recognizance that is delivered by a peace officer to a justice having jurisdiction in the place where the offence is alleged to have been committed shall be deemed to have been taken by the justice to whom it is delivered, and continues in force, unless that justice requires a new recognizance, until the accused is committed for trial or discharged, as the case may be.

Deposition.

(6) The evidence that, pursuant to subsection (3), is delivered by a peace officer to a justice shall be deemed to have been taken by that justice.

PROCEDURE WHERE WITNESS REFUSES TO TESTIFY.

Witness refusing to be examined.

457. (1) Where a person, being present at a preliminary inquiry and being required by the justice to give evidence,
 (a) refuses to be sworn,
 (b) having been sworn, refuses to answer the questions that are put to him,
 (c) fails to produce any writings that he is required to produce, or
 (d) refuses to sign his deposition,

without offering a reasonable excuse for his failure or refusal, the justice may adjourn the inquiry and may, by warrant in Form 16, commit the person to prison for a period not exceeding eight clear days or for the period during which the inquiry is adjourned, whichever is the lesser period.

Further commitment.

(2) Where a person to whom subsection (1) applies is brought before the justice upon the resumption of the adjourned inquiry and again refuses to do what is required of him, the justice may again adjourn the inquiry for a period not exceeding eight clear days and commit him to prison for the period of adjournment or any part thereof, and may adjourn the inquiry and commit the person to prison from time to time until the person consents to do what is required of him.

(3) Nothing in this section shall be deemed to prevent the justice from sending the case for trial upon any other sufficient evidence taken by him.

RELEVANT EVIDENCE

448. The validity of any proceeding at or subsequent to a preliminary inquiry is not affected by the fact that (a) any material or object in the substance or form of the substance or warrant.

(b) any variance between the charge set out in the summons or warrant and the charge set out in the information or

(c) any variance between the charge set out in the summons or warrant or information and the evidence adduced by the prosecution at the inquiry.

449. Where it appears to the justice that the accused has been charged or tried by any information, summons or warrant mentioned in section 447, he may adjourn the inquiry and may remove the accused or admit him to bail in accordance with the law.

ADJOURNMENT AND DISCONTINUANCE

450. When all the evidence has been taken by the justice before him, he may adjourn the trial.

(a) If in the opinion the evidence is sufficient to put the accused on trial,

(b) to commit the accused to custody, or

(c) to order the accused, where it is a corporation, to stand trial in the court having criminal jurisdiction; or

(d) to discharge the accused, if in the opinion upon the whole of the evidence an offence was not committed by him.

451. (1) Where an accused is committed for trial or ordered to stand trial the justice may, if he thinks fit, direct that any witness who has given evidence in his opinion, whether or not he has given evidence in his opinion on the trial of the accused, may be called to give evidence on the trial of the accused.

(2) The provisions of section 449 shall apply to any witness who is called to give evidence on the trial of the accused as if he were an accused.

(3) A justice may, for any reason, adjourn the trial of any accused or admit him to bail in accordance with the law.

(4) A justice may, for any reason, adjourn the trial of any accused or admit him to bail in accordance with the law.

(5) A justice may, for any reason, adjourn the trial of any accused or admit him to bail in accordance with the law.

(6) A justice may, for any reason, adjourn the trial of any accused or admit him to bail in accordance with the law.

(7) A justice may, for any reason, adjourn the trial of any accused or admit him to bail in accordance with the law.

Saving.

(3) Nothing in this section shall be deemed to prevent the justice from sending the case for trial upon any other sufficient evidence taken by him.

REMEDIAL PROVISIONS.

Irregularity
or variance
not to affect
validity.

458. The validity of any proceeding at or subsequent to a preliminary inquiry is not affected by

5

(a) any irregularity or defect in the substance or form of the summons or warrant,

(b) any variance between the charge set out in the summons or warrant and the charge set out in the information, or

10

(c) any variance between the charge set out in the summons, warrant or information and the evidence adduced by the prosecution at the inquiry.

Adjournment
if accused
misled.

459. Where it appears to the justice that the accused has been deceived or misled by any irregularity, defect or variance mentioned in section 458, he may adjourn the inquiry and may remand the accused or admit him to bail in accordance with this Part.

15

ADJUDICATION AND RECOGNIZANCES.

460. When all the evidence has been taken by the justice he shall,

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Committal.

(a) if in his opinion the evidence is sufficient to put the accused on trial,

(i) commit the accused for trial by warrant in Form 17, or

(ii) order the accused, where it is a corporation, to stand trial in the court having criminal jurisdiction; or

25

Dismissal.

(b) discharge the accused, if in his opinion upon the whole of the evidence no sufficient case is made out to put the accused on trial.

30

Recognizance
of witness.

461. (1) Where an accused is committed for trial or is ordered to stand trial the justice who held the preliminary inquiry may require any witness whose evidence is, in his opinion, material, to enter into a recognizance to give evidence on the trial of the accused.

35

Form.

(2) The recognizance may be in Form 28, and may be set out at the end of a deposition or be separate therefrom.

Sureties or
deposit for
appearance
of witness.

(3) A justice may, for any reason satisfactory to him, require any witness entering into a recognizance pursuant to this section

40

(a) to produce one or more sureties in such amount as he may direct, or

458. Section 669.

459. Section 670.

460. Sections 687 and 690.

461. Sections 692 and 694.

(b) to deposit with him a sum of money sufficient in his opinion to ensure that the witness will appear and give evidence.

Witness refusing to be bound.

(4) Where a witness does not comply with subsection (1) or (3) when required to do so by a justice, he may be committed by the justice, by warrant in Form 21, to a prison in the territorial division where the trial is to be held, there to be kept until he does what is required of him or until the trial is concluded. 5

Discharge.

(5) Where a witness has been committed to prison pursuant to subsection (4), the court before which the witness appears or a justice having jurisdiction in the territorial division where the prison is situated may, by order in Form 35, discharge the witness from custody when the trial is concluded. 10 15

TRANSMISSION OF RECORD.

To clerk of court.

462. Where a justice commits an accused for trial or orders an accused to stand trial, he shall forthwith send to the clerk or other proper officer of the court by which the accused is to be tried the information, the evidence, the exhibits, the statement, if any, of the accused, the recognizances entered into, and any evidence taken before a coroner, that are in the possession of the justice. 20

BAIL.

463. (1) The following provisions with respect to bail apply where an accused has been committed for trial, namely, 25

By judge or magistrate.

(a) where an accused is charged with an offence other than an offence punishable with death, or an offence under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and 30

By superior court judge.

(b) where an accused is charged with any offence, or where bail has been refused by a judge of a county or district court or by a magistrate, he may apply to a judge of, or a judge presiding in, a superior court of criminal jurisdiction for the province. 35

Notice of application.

(2) Where an accused makes an application under subsection (1) he shall give notice thereof to the prosecutor. (3) The judge or magistrate may, upon production of any material that he considers necessary upon the application, order that the accused be admitted to bail 40

With sureties.

(a) on entering into a recognizance before a justice with sufficient sureties in such amount as the judge or magistrate directs, 45

- Deposit without sureties. (b) on entering into his own recognizance before a justice and depositing with the justice such sum of money as the judge or magistrate directs, or
- Recognizance of accused. (c) on entering into his own recognizance before a justice in such amount as the judge or magistrate directs without any deposit, 5
- Order for discharge. and where the order is complied with the justice shall issue an order for discharge in Form 35, and shall attach to it the order of the judge or magistrate.
- Form. (4) The recognizance mentioned in subsection (3) shall 10 be in Form 28.
- Procedure. (5) A justice who issues an order for discharge under this section shall send it to the keeper of the prison in which the accused is confined and the keeper shall thereupon discharge the accused if he is not in custody for any other reason. 15

Bail in certain cases. **464.** Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused who is charged with an offence punishable with death or an offence under sections 20 50 to 53 may admit that accused to bail before or after committal for trial.

- Judge of superior court may vary. **465.** (1) A judge of, or a judge presiding in a superior court of criminal jurisdiction may, upon application, 25
- (a) before an accused is committed for trial,
- (i) admit the accused to bail if a justice has no power to grant bail or if bail has been refused by a justice, or
- (ii) vary the amount of bail fixed by a justice, or
- (b) where an accused is committed for trial, vary an 30 order for bail fixed under subsection (3) of section 463 by a judge of a county or district court or a magistrate.
- (2) No application shall be made by way of *habeas corpus* for the purpose of fixing, reviewing or varying bail.
- No application by way of *habeas corpus*.

PART XVI.

INDICTABLE OFFENCES—TRIAL WITHOUT JURY.

INTERPRETATION.

- 466.** In this Part,
- “Judge.” (a) “judge” means,
- (i) in the province of Ontario, a judge or a junior judge of a county or district court,
 - (ii) in the province of Quebec, a judge of the sessions of the peace or a district magistrate, 5
 - (iii) in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, a judge of a county court,
 - (iv) in the province of Manitoba, the Chief Justice, 10 or a puisne judge of the Court of Queen’s Bench, or a judge of a county court,
 - (v) in the province of British Columbia, the Chief Justice or a puisne judge of the Supreme Court, or a judge of a county court, 15
 - (vi) in the provinces of Saskatchewan and Alberta, a judge of the superior court of criminal jurisdiction of the province, or of a district court, and
 - (vii) in the province of Newfoundland, a judge of the Supreme Court or of a district court, 20
 - (viii) in the Yukon Territory, a judge of the Territorial Court, and
 - (ix) in the Northwest Territories, a judge of the Territorial Court; and
- “Magistrate.” (b) “magistrate” means 25
- (i) a person appointed under the law of a province, by whatever title he may be designated, who is specially authorized by the terms of his appointment to exercise the jurisdiction conferred upon a magistrate by this Part, but does not include two or 30 more justices of the peace sitting together,
 - (ii) with respect to the Yukon Territory, a police magistrate appointed under the *Yukon Act*, and
 - (iii) with respect to the Northwest Territories, a police magistrate appointed under the *Northwest Territories Act*. 35

JURISDICTION OF MAGISTRATES.

ABSOLUTE JURISDICTION.

467. The jurisdiction of a magistrate to try an accused is absolute and does not depend upon the consent of the accused where the accused is charged in an information

(1) with
 (2) that or attempted theft
 (3) obtaining or attempting to obtain money or
 property by false pretences or
 (4) unlawfully having in his possession anything
 knowing that it was obtained by the commission in
 Canada of an offence punishable by indictment
 where the property is not a testamentary instrument

This Part is derived from Parts XVI and XVIII of the present *Criminal Code*. It is a consolidation and revision of those Parts.

(5) with an offence under

- (i) paragraph (a) of section 116
- (ii) section 176
- (iii) section 177
- (iv) section 179
- (v) section 181
- (vi) section 182
- (vii) section 231
- (viii) paragraph (a) of section (2) of section 232
- (ix) section 233

Obtaining
 money
 property
 by
 false
 pretences
 or
 (iii) section 177
 (iv) section 179
 (v) section 181
 (vi) section 182
 (vii) section 231
 (viii) paragraph (a) of section (2) of section 232
 (ix) section 233

MAGISTRATE'S JURISDICTION WITH CONSENT

4-3-5. (1) Where an accused is charged in an information with an indictable offence other than an offence listed in subsection (2) of section 416 and the offence is one over which a magistrate has absolute jurisdiction under section 467, a magistrate may try the accused if the accused elects to be tried by a magistrate.

(2) An accused to whom this section applies shall, after the information has been read to him, be put to his election in the following words:

You have the option to elect to be tried by a judge without a jury; or you may elect to be tried by a judge with a jury; or you may elect to be tried by a court composed of a judge and jury. How do you elect to be tried?

(3) Where an accused does not elect to be tried by a magistrate or stands aside, the magistrate shall hold a preliminary inquiry in accordance with Part XV, and if the accused is acquitted, for what or, in the case of a corporation 40 is ordered to stand trial, the magistrate shall

Magistrate's
 jurisdiction
 with
 consent
 (1) Where an accused is charged in an information with an indictable offence other than an offence listed in subsection (2) of section 416 and the offence is one over which a magistrate has absolute jurisdiction under section 467, a magistrate may try the accused if the accused elects to be tried by a magistrate.
 (2) An accused to whom this section applies shall, after the information has been read to him, be put to his election in the following words:
 You have the option to elect to be tried by a judge without a jury; or you may elect to be tried by a judge with a jury; or you may elect to be tried by a court composed of a judge and jury. How do you elect to be tried?
 (3) Where an accused does not elect to be tried by a magistrate or stands aside, the magistrate shall hold a preliminary inquiry in accordance with Part XV, and if the accused is acquitted, for what or, in the case of a corporation 40 is ordered to stand trial, the magistrate shall

Theft, etc.,
under
fifty dollars.

- (a) with
- (i) theft or attempted theft,
 - (ii) obtaining or attempting to obtain money or property by false pretences, or
 - (iii) unlawfully having in his possession anything, 5
knowing that it was obtained by the commission in Canada of an offence punishable by indictment, where the property is not a testamentary instrument and where the alleged value of what is alleged to be stolen, obtained, had in possession or attempted to be 10
stolen or obtained, does not exceed fifty dollars; or

Obstructing
public or
peace officer.

Common
gaming or
betting house.

Book making,
pool-selling,
etc.

Lotteries,
etc.

Cheating at
play.

Keeping
common
bawdy-house.

Assaults.

Assaulting
public or
peace officer.

Fraud in
relation to
fares.

- (b) with an offence under
- (i) paragraph (a) of section 110,
 - (ii) section 176,
 - (iii) section 177, 15
 - (iv) section 179,
 - (v) section 181,
 - (vi) section 182,
 - (vii) section 231,
 - (viii) paragraph (a) of subsection (2) of section 232, 20
or
 - (ix) section 336.

MAGISTRATE'S JURISDICTION WITH CONSENT.

Trial by
magistrate
with consent.

468. (1) Where an accused is charged in an information with an indictable offence other than an offence that is mentioned in subsection (2) of section 413, and the offence 25
is not one over which a magistrate has absolute jurisdiction under section 467, a magistrate may try the accused if the accused elects to be tried by a magistrate.

Election

(2) An accused to whom this section applies shall, after the information has been read to him, be put to his election 30
in the following words:

You have the option to elect to be tried by a magistrate without a jury; or you may elect to be tried by a judge without a jury; or you may elect to be tried by a court composed of a judge and jury. How do you 35
elect to be tried?

Procedure
where accused
does not
consent.

(3) Where an accused does not elect to be tried by a magistrate or stands mute, the magistrate shall hold a preliminary inquiry in accordance with Part XV, and if the accused is committed for trial or, in the case of a corporation 40
is ordered to stand trial, the magistrate shall

(a) endorse on the information a statement showing the nature of the election or that the accused stood mute, and

(b) state in the warrant of committal, if any, that the accused

(i) elected to be tried by a judge without a jury,

(ii) elected to be tried by a court composed of a judge and jury, or

(iii) stood mute.

5

Procedure where accused consents.

(4) Where an accused elects to be tried by a magistrate, the magistrate shall

(a) endorse on the information a record of the election, and

(b) call upon the accused to plead to the charge, and if the accused does not plead guilty the magistrate shall proceed with the trial or fix a time for the trial.

15

Magistrate may decide to hold preliminary inquiry.

469. Where an accused elects to be tried by a magistrate, but it appears to the magistrate that for any reason the charge should be prosecuted by indictment, he may, at any time before the accused has entered upon his defence, decide not to adjudicate and shall thereupon inform the accused of his decision and continue the proceedings as a preliminary inquiry.

20

Corporation.

470. (1) An accused that is a corporation shall appear by its counsel or agent.

Non-appearance of.

(2) Where an accused corporation does not appear pursuant to a summons and service of the summons upon the corporation in accordance with subsection (4) of section 441 is proved, the magistrate

25

(a) may, if the charge is one over which he has absolute jurisdiction, proceed with the trial of the charge in the absence of the accused corporation, and

30

(b) shall, if the charge is not one over which he has absolute jurisdiction, hold a preliminary inquiry in accordance with Part XV.

Corporation not electing.

(3) Where an accused corporation appears but does not make any election under subsection (2) of section 468, the magistrate shall hold a preliminary inquiry in accordance with Part XV.

35

Taking evidence.

471. Where an accused is tried by a magistrate in accordance with this Part, the evidence of witnesses for the prosecutor and the accused shall be taken in accordance with the provisions of Part XV relating to preliminary inquiries, but it is not necessary for witnesses to sign their depositions.

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JURISDICTION OF JUDGES.

Trial by
judge with
consent.

472. An accused who is charged with an indictable offence other than an offence that is mentioned in subsection (2) of section 413 shall, where he elects under section 450, 468 or 475 to be tried by a judge without a jury, be tried, subject to this Part, by a judge without a jury.

5

Court of
record.

473. (1) A judge who holds a trial under this Part shall, for all purposes thereof and proceedings connected therewith or relating thereto, be a court of record to be called the Non-Jury Criminal Court for the district or county in which it is held.

10

Title.

Custody of
records.

(2) The record of a trial that a judge holds under this Part shall be kept in the court over which the judge presides.

ELECTION.

Duty of
judge.

474. (1) Where an accused elects, under section 450 or 468, to be tried by a judge without a jury, a judge having 15 jurisdiction shall,

Notice by
sheriff.

(a) upon receiving a written notice from the sheriff stating that the accused is in custody and setting out the nature of the charge against him, or

Notice by
clerk of
court.

(b) upon being notified by the clerk of the court that the accused is not in custody and of the nature of the charge against him,

fix a time and place for the trial of the accused.

Notice by
sheriff, when
given.

(2) The sheriff shall give the notice mentioned in paragraph (a) of subsection (1) within twenty-four hours after the accused is committed for trial, if he is in custody pursuant to that committal or if, at the time of committal, he is in custody for any other reason.

Duty of
sheriff when
date set for
trial.

(3) Where, pursuant to subsection (1), a time and place is fixed for the trial of an accused who is in custody, the accused

(a) shall be notified forthwith by the sheriff of the time and place so fixed, and

(b) shall be produced at the time and place so fixed.

Duty of
accused when
not in
custody.

(4) Where an accused is not in custody the duty of ascertaining from the clerk of the court the time and place fixed for the trial, pursuant to subsection (1), is on the accused, and he shall attend for his trial at the time and place so fixed.

Notice of
intention to
re-elect.

475. (1) Where an accused elects under section 450 or 468 to be tried by a court composed of a judge and jury, the accused may notify the sheriff in the territorial division in which he is to be tried that he desires to re-elect under this section.

40

- Duty of sheriff. (2) A sheriff who receives notice pursuant to subsection (1) shall forthwith inform a judge having jurisdiction and the judge shall fix a time and place for the accused to re-elect and shall cause notice thereof to be given to the accused.
- Election. (3) The accused shall attend or, if he is in custody, shall be produced at the time and place fixed under subsection (2) and shall, after the charge upon which he has been committed for trial or ordered to stand trial has been read to him, be put to his election in the following words: 5
 You have elected to be tried by a court composed of a judge and jury. Do you now elect to be tried by a judge without a jury? 10
- Procedure. (4) Where an accused elects under this section to be tried by a judge without a jury, the judge shall proceed with the trial or fix a time and place for the trial. 15
- Limit of time for re-election. (5) Where an accused does not notify the sheriff in accordance with subsection (1) more than fourteen days before the day fixed for the opening of the sittings or session of the court sitting with a jury by which he is to be tried, no election may be made under this section unless the Attorney General or counsel acting on his behalf consents in writing. 20
- Consent by Crown to re-election in certain cases. **476.** Where an accused, being charged with an offence that, under this Part, may be tried by a judge without a jury, is committed for trial or, in the case of a corporation, is ordered to stand trial, within fourteen days of the opening of the sittings or session of the court composed of a judge and jury by which the accused is to be tried, the accused is not entitled to elect, under section 475, to be tried under this Part by a judge without a jury unless the Attorney General or counsel acting on his behalf consents in writing. 30
- Election deemed to have been made in certain cases. **477.** Where an accused is committed for trial or ordered to stand trial for an offence that, under this Part, may be tried by a judge without a jury, he shall, for the purposes of the provisions of this Part relating to election and re-election, be deemed to have elected to be tried by a court composed of a judge and jury if 35
 (a) he stood mute when he was put to his election under section 450 or 468, or
 (b) he elected under section 468 to be tried by a magistrate and the magistrate, pursuant to section 469, continued the proceedings as a preliminary inquiry. 40

TRIAL.

Preferring charge.

478. (1) Where an accused elects, under section 450, 468 or 475, to be tried by a judge without a jury, an indictment in Form 4 shall be preferred by the Attorney General or his agent, or by the Deputy Attorney General, or by any person who has the written consent of the Attorney General, and in the province of British Columbia may be preferred by the clerk of the peace. 5

What offences may be included.

(2) An indictment that is preferred under subsection (1) may contain any number of counts, and there may be joined in the same indictment 10

(a) counts relating to offences in respect of which the accused elected to be tried by a judge without a jury and for which the accused was committed for trial, whether or not the offences were included in one information, and 15

(b) counts relating to offences disclosed by the evidence taken on the preliminary inquiry, in addition to or in substitution for any offence for which the accused was committed for trial.

Consent of Attorney General or accused in certain cases.

(3) An indictment that is preferred under subsection (1) may include an offence that is not referred to in paragraph (a) or (b) of subsection (2) if the accused consents, and that offence may be dealt with, tried and determined and punished in all respects as if the offence were one in respect of which the accused had been committed for trial, but if that offence was committed wholly in a province other than that in which the accused is before the court, subsection (3) of section 421 applies. 20 25

GENERAL.

Discretion of judge or magistrate where more than one accused.

479. Where two or more persons are charged with the same offence the following provisions apply, namely, 30

(a) if one or more of them, but not all, elect under section 450 to be tried by a judge without a jury, a judge may, in his discretion, decline to fix a time for the trial pursuant to section 474 and may require all the persons to be tried by a court composed of a judge and jury; 35

(b) if one or more of them, but not all, elect under section 468 to be tried by a magistrate or by a judge without a jury, as the case may be, the magistrate may, in his discretion, decline to record the election and if he does so, shall hold a preliminary inquiry; and 40

(c) if one or more of them, but not all, elect under section 475 to be tried by a judge without a jury the judge may, in his discretion, require all the persons to be tried by a court composed of a judge and jury.

Attorney
General may
require trial
by jury.

480. The Attorney General may, notwithstanding that an accused elects under section 450, 468 or 475 to be tried by a judge or magistrate, as the case may be, require the accused to be tried by a court composed of a judge and jury, unless the alleged offence is one that is punishable with imprisonment for five years or less, and where the Attorney General so requires, a judge has no jurisdiction to try the accused under this Part and a magistrate shall hold a preliminary inquiry. 5
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Continuance
of proceedings
when judge
or magistrate
unable to act.

481. (1) Where an accused elects, under section 450, 468 or 475 to be tried by a judge or magistrate, as the case may be, and the judge or magistrate before whom the trial was commenced dies or is for any reason unable to continue, the trial may be continued, without further election by the accused, before another judge or magistrate, as the case may be, who has jurisdiction to try the accused under this Part. 15
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Duty of
judge or
magistrate.

(2) A judge or magistrate who acts pursuant to subsection (1)

(a) shall, if an adjudication was made by the judge or magistrate before whom the trial was commenced, impose the punishment or make the order that, in the circumstances, is authorized by law, or 25

(b) shall, if an adjudication was not made by the judge or magistrate before whom the trial was commenced, commence the trial again as a trial *de novo*. 30

Record of
plea or verdict
of guilty.

482. (1) Where an accused who is tried under this Part pleads guilty to or is found guilty of an offence with which he is charged, the judge or magistrate, as the case may be, shall cause a conviction in Form 31 to be drawn up and shall sentence the accused or otherwise deal with him in the manner authorized by law, and upon request shall make out and deliver to the prosecutor or to the accused a certified copy of the conviction. 35

Discharge
and record of
acquittal.

(2) Where an accused who is tried under this Part is found not guilty of an offence with which he is charged, the judge or magistrate, as the case may be, shall immediately discharge him in respect of that offence and shall cause an order in Form 33 to be drawn up, and upon request shall make out and deliver to the accused a certified copy of the order. 40
45

Transmission of record by magistrate.

(3) Where an accused elects to be tried by a magistrate under this Part, the magistrate shall transmit the written charge, the memorandum of adjudication and the conviction, if any, into such custody as the Attorney General may direct.

5

Proof of conviction or dismissal.

(4) A copy of a conviction or of an order, certified by the judge or by the proper officer of the court, or by the magistrate, as the case may be, or proved to be a true copy, is, upon proof of the identity of the person, sufficient evidence in any legal proceedings to prove the conviction of that person or the dismissal of a charge against him, as the case may be, for the offence mentioned therein.

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Warrant of committal.

(5) Where an accused other than a corporation is convicted, the judge or magistrate, as the case may be, shall issue or cause to be issued a warrant of committal in Form 18, and section 447 applies in respect of a warrant of committal issued under this subsection.

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Adjournment.

483. A judge or magistrate acting under this Part may from time to time adjourn a trial until it is finally terminated.

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Application of Parts XV, XVII and XX.

484. The provisions of Part XV relating to bail and transmission of the record by the magistrate where he holds a preliminary inquiry and the provisions of Parts XVII and XX, in so far as they are not inconsistent with this Part apply, *mutatis mutandis*, to proceedings under this Part.

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PART XVII

PROCEDURE BY INDICTMENT

PRESENCE OF INDICTMENT

Section 100

Section 101

Section 102

Section 103

Section 104

Section 105

Section 106

Section 107

100. For the purpose of this Part, the following provisions shall apply:—
(a) the presence of an indictment, and
(b) the presence of an indictment by a grand jury.

101. The presence of any person, before a grand jury, shall be deemed to be the presence of that person if that person has been committed to the custody of the sheriff or other person for the purpose of appearing before the grand jury, and if the sheriff or other person has been committed to the custody of the sheriff or other person for the purpose of appearing before the grand jury.

102. (1) A bill of indictment may be returned by the sheriff, or any other person, before the grand jury of any court constituted with a grand jury.
(2) The sheriff or other person who has the written consent of the grand jury of the court specified in the consent, or of any other person, may return a bill of indictment before the grand jury of that court.

103. (1) No return of an indictment shall be taken to an indictment in any court unless it is taken to an indictment in that court.
(2) No return of an indictment shall be taken to an indictment in any court unless it is taken to an indictment in that court.

104. (1) A bill of indictment may be returned by the sheriff, or any other person, before the grand jury of any court constituted with a grand jury.
(2) The sheriff or other person who has the written consent of the grand jury of the court specified in the consent, or of any other person, may return a bill of indictment before the grand jury of that court.

105. (1) In the proceedings of a grand jury, the grand jury shall have the same powers and authority as the grand jury of the court in which it is sitting.
(2) The grand jury shall have the same powers and authority as the grand jury of the court in which it is sitting.

PART XVII.

PROCEDURE BY INDICTMENT.

PREFERRING INDICTMENT.

Finding indictment.

485. For the purposes of this Part, finding an indictment includes

- (a) preferring an indictment, and
- (b) presentment of an indictment by a grand jury.

Prosecutor may prefer indictment.

486. The prosecutor may prefer, before a court constituted with a grand jury, a bill of indictment against any person who has been committed for trial at that court in respect of

- (a) the charge on which that person was committed for trial, or
- (b) any charge founded on the facts disclosed by the evidence taken on the preliminary inquiry.

Attorney General may prefer indictment.

487. (1) A bill of indictment may be preferred (a) by the Attorney General or anyone by his direction, before the grand jury of any court constituted with a grand jury,

Other person with consent.

- (b) by anyone who has the written consent of the Attorney General, or the written consent of a judge of a court constituted with a grand jury, before the grand jury of the court specified in the consent, or
- (c) by order of a court constituted with a grand jury, before the grand jury of that court.

Or by order.

Consent need not be averred.

(2) No reference is necessary in an indictment to a consent that is given or an order that is made under this section.

Saving.

(3) No objection shall be taken to an indictment for want of a consent or order required by this section unless it is taken by motion to quash the indictment before the accused is given in charge to the jury.

No indictment except as provided.

488. (1) Except as provided in this Part no bill of indictment shall be preferred in Canada.

Criminal information abolished.

(2) No criminal information shall be laid or granted.

No trial on coroner's inquisition.

(3) No person shall be tried upon a coroner's inquisition.

Preferring indictment in certain provinces.

489. (1) In the provinces of Quebec, Manitoba, Saskatchewan, Alberta and British Columbia and in the Yukon Territory and Northwest Territories it is not necessary to prefer a bill of indictment before a grand jury, but it

is sufficient if the trial of an accused is commenced by an indictment in which the offence is charged. (2) An indictment under subsection (1) may be preferred by the Attorney General or his agent by the Deputy Attorney General or by any person with the written consent of a judge of the court or of the Attorney General or in any province to which this section applies, by order of the court.

485. Section 5 (1) (a).

486. The Attorney General or counsel instructed by him for the purpose may, at any time after an indictment has been found and before judgment thereon, the court may make an entry on the record, and when the entry is made all proceedings on the indictment shall be stayed accordingly and any proceedings relating to the proceedings aforesaid shall be discontinued.

486. Section 872.

487. An indictment is sufficient if it is on paper and is in Form B or A as the case may be.

487. Section 873 (1) to (3).

488. (1) Each count in an indictment shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the accused committed an indictable offence therein specified. (2) The statement referred to in subsection (1) may be (a) in popular language without technical accuracy or allegations of matters that are not essential to be proved; (b) in the words of the enactment that describes the offence or declares the matter charged to be an indictable offence; or (c) in words that are sufficient to give to the accused notice of the offence with which he is charged. (3) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the accused reasonable information with respect to the act or omission charged to be an indictable offence or the nature of the offence charged to be an indictable offence.

488. Sections 873 (4), 940 and new in part.

489. Where an accused is charged with an offence under section 87 or sections 88 to 93 every count in the indictment shall be a separate count.

489. Section 873 (5), (6) and (7).

is sufficient if the trial of an accused is commenced by an indictment in writing setting forth the offence with which he is charged.

Who may prefer.

(2) An indictment under subsection (1) may be preferred by the Attorney General or his agent, by the Deputy Attorney General, or by any person with the written consent of a judge of the court or of the Attorney General or, in any province to which this section applies, by order of the court. 5

Attorney General may direct stay.

490. The Attorney General or counsel instructed by him for the purpose may, at any time after an indictment has been found and before judgment, direct the clerk of the court to make an entry on the record that the proceedings are stayed by his direction, and when the entry is made all proceedings on the indictment shall be stayed accordingly and any recognizance relating to the proceedings is vacated. 15

Form of indictment.

491. An indictment is sufficient if it is on paper and is in Form 3 or 4, as the case may be.

GENERAL PROVISIONS AS TO COUNTS.

Substance of offence.

492. (1) Each count in an indictment shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the accused committed an indictable offence therein specified. 20

In popular language.

(2) The statement referred to in subsection (1) may be (a) in popular language without technical averments or allegations of matters that are not essential to be proved, 25

In words of enactment.

(b) in the words of the enactment that describes the offence or declares the matters charged to be an indictable offence, or

Or otherwise.

(c) in words that are sufficient to give to the accused notice of the offence with which he is charged. 30

Details of circumstances

(3) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the accused reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to, but otherwise the absence or insufficiency of details does not vitiate the count. 35

Indictment for treason.

(4) Where an accused is charged with an offence under section 47 or sections 49 to 53, every overt act that is to be relied upon shall be stated in the indictment. 40

Reference
to section.

(5) A count may refer to any section, subsection, paragraph or subparagraph of the enactment that creates the offence charged, and for the purpose of determining whether a count is sufficient, consideration shall be given to any such reference. 5

General
provisions
not restricted.

(6) Nothing in this Part relating to matters that do not render a count insufficient shall be deemed to restrict or limit the application of this section.

Certain
omissions
not grounds
for objection.

493. No count in an indictment is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of section 492 and, without restricting the generality of the foregoing, no count in an indictment is insufficient by reason only that 10

(a) it does not name the person injured or intended or attempted to be injured, 15

(b) it does not name the person who owns or has a special property or interest in property mentioned in the count,

(c) it charges an intent to defraud without naming or describing the person whom it was intended to defraud, 20

(d) it does not set out any writing that is the subject of the charge,

(e) it does not set out the words used where words that are alleged to have been used are the subject of the charge, 25

(f) it does not specify the means by which the alleged offence was committed,

(g) it does not name or describe with precision any person, place or thing, or 30

(h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

SPECIAL PROVISIONS AS TO COUNTS.

Sufficiency
of count
charging
libel.

494. (1) No count for publishing a blasphemous, seditious or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other written matter, is insufficient by reason only that it does not set out the words that are alleged to be libellous or the writing that is alleged to be obscene. 35 40

Specifying
sense.

(2) A count for publishing a libel may charge that the published matter was written in a sense that by innuendo made the publication thereof criminal, and may specify that sense without any introductory assertion to show how the matter was written in that sense. 5

Proof.

(3) It is sufficient, on the trial of a count for publishing a libel, to prove that the matter published was libellous, with or without innuendo.

Sufficiency
of count
charging
perjury, etc.

495. No count that charges

(a) perjury, 10

(b) the making of a false oath or a false statement,

(c) fabricating evidence, or

(d) procuring the commission of an offence mentioned in paragraph (a), (b) or (c),

is insufficient by reason only that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used or the evidence fabricated, or that it does not expressly negative the truth of the words used. 15
20

Sufficiency of
count relating
to fraud.

496. No count that alleges false pretences, fraud or an attempt or conspiracy by fraudulent means, is insufficient by reason only that it does not set out in detail the nature of the false pretence, fraud or fraudulent means.

PARTICULARS.

What may
be ordered.

497. (1) The court may, where it is satisfied that it is necessary for a fair trial, order the prosecutor to furnish particulars 25

(a) of what is relied upon in support of a charge of perjury, the making of a false oath or of a false statement, fabricating evidence or counselling or procuring the commission of any of those offences; 30

(b) of any false pretence or fraud that is alleged;

(c) of any alleged attempt or conspiracy by fraudulent means;

(d) setting out the passages in a book, pamphlet, newspaper or other printing or writing that are relied upon in support of a charge of selling or exhibiting an obscene book, pamphlet, newspaper, printing or writing; 35

(e) further describing any writing or words that are the subject of a charge; 40

(f) further describing the means by which an offence is alleged to have been committed; or

(g) further describing a person, place or thing referred to in an indictment.

Regard to evidence. (2) For the purpose of determining whether or not a particular is required, the court may give consideration to any evidence that has been taken.

(3) Where a particular is delivered pursuant to this section, 5

Copy to accused. (a) a copy shall be given without charge to the accused or his counsel,

Recording. (b) the particular shall be entered in the record, and

Effect of. (c) the trial shall proceed in all respects as if the indictment had been amended to conform with the 10 particular.

OWNERSHIP OF PROPERTY.

Ownership. **498.** The real and personal property of which a person has, by law, the management, control or custody shall, for the purposes of an indictment or proceeding against any other person for an offence committed on or in respect 15 of the property, be deemed to be the property of the person who has the management, control or custody of it.

JOINDER OR SEVERANCE OF COUNTS.

Count for murder to stand alone. **499.** No count that charges an offence other than murder shall be joined in an indictment to a count that charges murder. 20

Offences may be charged in the alternative. **500.** (1) A count is not objectionable by reason only that (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an indictable offence 25 the matters, acts or omissions charged in the count, or (b) it is double or multifarious.

Application to amend or divide counts. (2) An accused may at any stage of his trial apply to the court to amend or to divide a count that (a) charges in the alternative different matters, acts or 30 omissions that are stated in the alternative in the enactment that describes the offence or declares that the matters, acts or omissions charged are an indictable offence, or (b) is double or multifarious, 35 on the ground that, as framed, it embarrasses him in his defence.

(3) The court may, where it is satisfied that the ends of justice require it, order that a count be amended or divided into two or more counts, and thereupon a formal indictment may be inserted before each of the counts into which it is divided.

497. (1) Subject to section 498, any number of counts for any number of separate offences may be joined in the same indictment, but the counts shall be distinguished in the manner shown in Forms 3 and 4.

(2) Where there is more than one count in an indictment, each count may be treated as a separate indictment. (3) The court may, where it is satisfied that the ends of justice require it, direct that the accused be tried separately upon one or more of the counts.

498. Section 865.

(4) An order for the separate trial in an indictment may be made before or during the trial, but if the order is made during the trial the jury shall be discharged from giving a verdict on the counts on which the trial has not proceeded.

(5) The counts in respect of which a jury is discharged pursuant to subsection (4) may subsequently be proceeded upon in all respects as if they were contained in a separate indictment.

499. Section 856 in part.

500. Sections 854 and 891.

500. Any one who is charged with being an accessory after the fact to any offence, whether or not the principal or any other party to the offence has been indicted or convicted or is or is not amenable to justice.

502. (1) Any number of persons may be charged in the same indictment with offences under section 202, paragraph (b) of subsection (1) of section 202, paragraph (a) of the property was had in possession at different times.

(2) Where persons are charged in the same indictment with an offence referred to in that subsection, any one or more of those persons who separately committed the offence in respect of the property or any part of it may be convicted.

Order. (3) The court may, where it is satisfied that the ends of justice require it, order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided. 5

Joinder of counts. **501.** (1) Subject to section 499, any number of counts for any number of indictable offences may be joined in the same indictment, but the counts shall be distinguished in the manner shown in Forms 3 and 4.

Each count separate. (2) Where there is more than one count in an indictment, each count may be treated as a separate indictment. 10

Separate trial. (3) The court may, where it is satisfied that the ends of justice require it, direct that the accused be tried separately upon one or more of the counts.

Order for severance. (4) An order for the separate trial of one or more counts in an indictment may be made before or during the trial, but if the order is made during the trial the jury shall be discharged from giving a verdict on the counts on which the trial does not proceed. 15

Subsequent procedure. (5) The counts in respect of which a jury is discharged pursuant to subsection (4) may subsequently be proceeded upon in all respects as if they were contained in a separate indictment. 20

JOINDER OF ACCUSED IN CERTAIN CASES.

Accessories after the fact. **502.** Any one who is charged with being an accessory after the fact to any offence may be indicted, whether or not the principal or any other party to the offence has been indicted or convicted or is or is not amenable to justice. 25

Trial of persons jointly for having in possession. **503.** (1) Any number of persons may be charged in the same indictment with an offence under section 296 or paragraph (b) of subsection (1) of section 298, notwithstanding that 30

(a) the property was had in possession at different times; or

(b) the person by whom the property was obtained 35

(i) is not indicted with them, or

(ii) is not in custody or is not amenable to justice.

Conviction of one or more. (2) Where, pursuant to subsection (1), two or more persons are charged in the same indictment with an offence referred to in that subsection, any one or more of those persons who separately committed the offence in respect of the property or any part of it may be convicted. 40

Procedures before Grand Jury

500. Every person who appears before a grand jury to give evidence in support of a bill of indictment shall be examined touching the matters in question upon oath to be administered by the foreman of the grand jury or by any member.

501. Sections 856 (in part), 857 and 858.

501. The name of every witness who is examined whom it is intended to examine shall be endorsed on the bill of indictment and submitted to the grand jury by the prosecutor, and no other witnesses shall be examined by or before the grand jury unless the presiding judge otherwise orders in writing.

502. The foreman of the grand jury or any member of the grand jury who acts on his behalf shall write the initials of each witness who is sworn and examined with respect to the bill of indictment.

Procedures when Person Indicted is at Large

507. (1) Where an indictment has been found against a person who is at large, and that person does not appear or remain in attendance for the trial, the court before which the accused should have appeared or remained in attendance that, whether or not he is found to be in attendance, the court may issue a warrant for his arrest.

502. Section 849 (1) in part.

(2) A warrant issued under subsection (1) may be in force in any province or territory in Canada.

503. Sections 849 (1) in part, 849 (2) and 954.

503. (1) A court may grant an order for the arrest of a person at any time of the court, may at any time before or after an indictment is found, upon the application of the prosecutor of the accused, order the trial to be held in a particular division in the same province or other place that in which the accused would otherwise be tried if (a) it appears expedient in the interests of justice or (b) a competent authority has directed that a jury is not to be summoned at the time appointed in a particular division where the trial would otherwise be held.

PROCEEDINGS BEFORE GRAND JURY.

Evidence
under oath.

504. Every person who appears before a grand jury to give evidence in support of a bill of indictment shall be examined touching the matters in question upon oath to be administered by the foreman of the grand jury or by any member who acts on his behalf.

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Endorsing
bill of
indictment.

505. The name of every witness who is examined or whom it is intended to examine shall be endorsed on the bill of indictment and submitted to the grand jury by the prosecutor, and no other witnesses shall be examined by or before the grand jury unless the presiding judge otherwise orders in writing.

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Foreman to
initial name

506. The foreman of the grand jury or any member of the grand jury who acts on his behalf shall write his initials against the name of each witness who is sworn and examined with respect to the bill of indictment.

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PROCEEDINGS WHEN PERSON INDICTED IS AT LARGE.

Bench
warrant.

507. (1) Where an indictment has been found against a person who is at large, and that person does not appear or remain in attendance for his trial, the court before which the accused should have appeared or remained in attendance may, whether or not he is bound by recognizance to appear, issue a warrant for his arrest.

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Execution.

(2) A warrant issued under subsection (1) may be in Form 15 and may be executed anywhere in Canada.

CHANGE OF VENUE.

Application,
how made.

508. (1) A court before which an accused is or may be indicted, at any term or sittings thereof, or a judge who may hold or sit in that court, may at any time before or after an indictment is found, upon the application of the prosecutor or the accused, order the trial to be held in a territorial division in the same province other than that in which the offence would otherwise be tried if

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- (a) it appears expedient to the ends of justice, or
- (b) a competent authority has directed that a jury is not to be summoned at the time appointed in a territorial division where the trial would otherwise by law be held.

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504. Sections 874 and 875.

505. Section 876.

506. Section 877.

507. Section 879.

508. Sections 695 (2), 884, 885 and 887.

Conditions
as to expense.

(2) The court or judge may, in an order made upon an application by the prosecutor under subsection (1), prescribe conditions that he thinks proper with respect to the payment of additional expenses caused to the accused as a result of the change of venue.

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Transmission
of record.

(3) Where an order is made under subsection (1), the officer who has custody of the indictment, if any, and the writings and exhibits relating to the prosecution, shall transmit them forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

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Idem.

(4) Where the writings and exhibits referred to in subsection (3) have not been returned to the court in which the trial was to be held at the time an order is made to change the place of trial, the person who obtains the order shall serve a true copy thereof upon the person in whose custody they are and that person shall thereupon transmit them to the clerk of the court before which the trial is to be held.

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Order is auth-
ity to remove
prisoner.

509. An order that is made under section 508 is sufficient warrant, justification and authority to all sheriffs, keepers of prisons and peace officers for the removal, disposal and reception of an accused in accordance with the terms of the order, and the sheriff may appoint and authorize any peace officer to convey the accused to a prison in the territorial division in which the trial is ordered to be held.

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AMENDMENT.

Amending
defective
indictment
or count.

510. (1) An objection to an indictment or to a count in an indictment for a defect apparent on the face thereof shall be taken by motion to quash the indictment or count before the accused has pleaded, and thereafter only by leave of the court or judge before whom the trial takes place, and a court or judge before whom an objection is taken under this section may, if it is considered necessary, order the indictment or count to be amended to cure the defect.

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Amendment
where
variance.

(2) A court may, upon the trial of an indictment, amend the indictment or a count thereof or a particular that is furnished under section 497, to make the indictment, count or particular conform to the evidence, where there appears to be a variance between the evidence and

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(1) the charge in a count in the indictment as found;

(2) the charge in a count in the indictment

as amended, or

(3) as it would have been if it had been amended

in conformity with any particular that has been

inserted pursuant to section 897.

(4) A court shall, upon the amendment of an accused or at any stage of the trial, amend the indictment or a count thereof as may be necessary where it appears

(a) that the indictment has been preferred

(i) under another Act of the Parliament of Canada

instead of this Act, or

(ii) under this Act instead of another Act of the

Parliament of Canada;

(b) that the indictment or a count thereof

(i) fails to state or state defectively anything that

is requisite to constitute the offence;

(ii) does not negative an exception that would be

regarded

(iii) in any way defective in substance;

and the matters to be stated in the proposed amend-

ment are disclosed by the evidence or the law;

and the matters to be stated in the proposed amend-

ment are disclosed by the evidence or the law;

and the matters to be stated in the proposed amend-

ment are disclosed by the evidence or the law;

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ment are disclosed by the evidence or the law;

and the matters to be stated in the proposed amend-

ment are disclosed by the evidence or the law;

and the matters to be stated in the proposed amend-

ment are disclosed by the evidence or the law;

and the matters to be stated in the proposed amend-

509. Section 886 (1).

510. Sections 845 (3), 847 (2), 889, 890, 893 and 898.

- (a) the charge in a count in the indictment as found;
or
- (b) the charge in a count in the indictment
- (i) as amended, or
 - (ii) as it would have been if it had been amended 5
in conformity with any particular that has been
furnished pursuant to section 497.
- (3) A court shall, upon the arraignment of an accused,
or at any stage of the trial, amend the indictment or a
count thereof as may be necessary where it appears 10
- (a) that the indictment has been preferred
- (i) under another Act of the Parliament of Canada
instead of this Act, or
 - (ii) under this Act instead of another Act of the
Parliament of Canada; 15
- (b) that the indictment or a count thereof
- (i) fails to state or states defectively anything that
is requisite to constitute the offence,
 - (ii) does not negative an exception that should be
negatived, 20
 - (iii) is in any way defective in substance,
and the matters to be alleged in the proposed amend-
ment are disclosed by the evidence taken on the pre-
liminary inquiry or on the trial; or
- (c) that the indictment or a count thereof is in any 25
way defective in form.
- (4) The court shall, in considering whether or not an
amendment should be made, consider
- (a) the matters disclosed by the evidence taken on the
preliminary inquiry, 30
 - (b) the evidence taken on the trial, if any,
 - (c) the circumstances of the case,
 - (d) whether the accused has been misled or prejudiced
in his defence by a variance, error or omission mentioned
in subsection (2) or (3), and 35
 - (e) whether, having regard to the merits of the case,
the proposed amendment can be made without injustice
being done.
- (5) Where, in the opinion of the court, the accused has
been misled or prejudiced in his defence by a variance, 40
error or omission in an indictment or a count thereof, the
court may, if it is of opinion that the misleading or prejudice
may be removed by an adjournment, adjourn the trial and
may make such an order with respect to the payment of
costs resulting from the necessity for amendment as it 45
considers desirable.
- (6) The question whether an order to amend an indict-
ment or a count thereof should be granted or refused is a
question of law.

Indictment
under wrong
Act.

Amending
defective
statement.

Defect in
substance.

Defect
in form.

What to
be considered.

Adjournment
if accused
prejudiced.

Question of
law.

(7) An order to compel an indictment or a count thereof shall be enforced on the indictment as part of the record and the trial shall proceed as if the indictment or count had been originally found as amended.

(8) A mistake in the heading of an indictment shall be corrected as soon as it is discovered but, whether corrected or not, is not material.

(9) The authority of a court to amend indictments does not authorize the court to add to the overt acts stated in an indictment for treason or for an offense against any provision in sections 20 to 23.

Indictment
 Amendment
 Error

211. When a grand jury returns a true bill in a case of an indictment and the indictment is subsequently amended in accordance with section 210, it is not necessary to present the amended indictment to the grand jury, and the indictment, as amended, shall be deemed to be as valid in all respects for all purposes of the proceedings as if it had been returned by the grand jury in its amended form.

Amendment
 Grand jury
 Return

Indictment and Counts or Documents

212. A returned indictment shall be deemed to be amended for trial or at the trial:

(a) to insert without change the indictment, his own statement, the evidence and the exhibits, if any; and

(b) to receive or payment of a reasonable fee not to exceed ten cents per folio of one hundred words, a copy

(1) of the evidence,

(2) of the indictment, if any, and

(3) of the return, if any,

but the trial shall not be postponed to enable the accused to secure copies unless the court is satisfied that the failure of the accused to secure them before the trial is not attributable to lack of diligence on the part of the accused.

Indictment
 Amendment
 Trial
 Copy

213. (1) An accused who is indicted for treason or for being an accessory after the fact to treason is entitled to receive after the indictment has been found and at least ten days before his arraignment:

(a) a copy of the indictment;

(b) a list of the witnesses to be produced on the trial to prove the indictment; and

(c) a copy of the panel of jurors who are to try him, returned by the sheriff.

Delivery of
 Documents
 Accused

Endorsing indictment. (7) An order to amend an indictment or a count thereof shall be endorsed on the indictment as part of the record and the trial shall proceed as if the indictment or count had been originally found as amended.

Mistakes not material. (8) A mistake in the heading of an indictment shall be corrected as soon as it is discovered but, whether corrected or not, is not material. 5

Limitation. (9) The authority of a court to amend indictments does not authorize the court to add to the overt acts stated in an indictment for treason or for an offence against any provision in sections 50 to 53. 10

Amended indictment need not be presented to grand jury. **511.** Where a grand jury returns a true bill in respect of an indictment and the indictment is subsequently amended in accordance with section 510, it is not necessary to present the amended indictment to the grand jury, but the indictment, as amended, shall be deemed to be as valid in all respects for all purposes of the proceedings as if it had been returned by the grand jury in its amended form. 15

INSPECTION AND COPIES OF DOCUMENTS.

Right of accused. **512.** An accused is entitled, after he has been committed for trial or at his trial, 20

To inspect. (a) to inspect without charge the indictment, his own statement, the evidence and the exhibits, if any; and

To receive copies. (b) to receive, on payment of a reasonable fee not to exceed ten cents per folio of one hundred words, a copy 25

(i) of the evidence,

(ii) of his own statement, if any, and

(iii) of the indictment,

but the trial shall not be postponed to enable the accused to secure copies unless the court is satisfied 30 that the failure of the accused to secure them before the trial is not attributable to lack of diligence on the part of the accused.

Delivery of documents in case of treason, etc. **513.** (1) An accused who is indicted for treason or for being an accessory after the fact to treason is entitled 35 to receive, after the indictment has been found and at least ten days before his arraignment,

(a) a copy of the indictment,

(b) a list of the witnesses to be produced on the trial to prove the indictment, and 40

(c) a copy of the panel of jurors who are to try him, returned by the sheriff.

(3) The list of the witnesses and the copy of the panel of the jurors related to in subsection (1) shall mention the names, residences and places of abode of the witnesses and jurors respectively.

(4) The witness related to in subsection (1) shall be given to the accused at the same time and in the presence of at least two witnesses.

(5) This section does not apply to the offence of treason by killing his Majesty, or to the offence of treason when the overt act alleged is an attempt to injure the person of His Majesty in any manner or to the offence of being an accessory after the fact in such a case of treason.

Witnesses
 Jurors
 Accused
 Panel of Jurors

511. New.

(1) A judge who presides over a trial shall, after three days' notice to the accused or prosecutor, as the case may be, order the release of any exhibit for the purpose of examination or other test or examination, subject to such terms as appear to be necessary or desirable to ensure the safekeeping of the exhibit and its preservation for use at the trial.

Exhibit
 Accused
 Prosecutor

512. Sections 691, 894, 895 and 896

(2) Every man who fails to comply with the terms of an order that is made in pursuance of section 691, 894, 895 or 896 shall be liable to be dealt with summarily by the judge or magistrate who made the order or before whom the trial of the accused takes place.

Order
 Judge
 Magistrate
 Trial

513. Section 897.

(1) An accused who is called upon to plead may plead guilty or not guilty, or be found not guilty by the jury and no other plea.

(2) Where the accused refuses to plead or does not answer directly the court shall order the clerk of the court to enter a plea of not guilty.

(3) An accused is not entitled as of right to have his trial postponed but the court may, if it considers that the accused should be allowed further time for his defence or to prepare for his defence or for any other reason, adjourn the trial to a later time in the session or to the next or any subsequent session or sessions of the court, upon such terms as the court considers proper.

Accused
 Plea
 Court
 Trial
 Postponed
 Defence
 Session

Details.

(2) The list of the witnesses and the copy of the panel of the jurors referred to in subsection (1) shall mention the names, occupations and places of abode of the witnesses and jurors respectively.

Witnesses to delivery.

(3) The writings referred to in subsection (1) shall be given to the accused at the same time and in the presence of at least two witnesses. 5

Exception.

(4) This section does not apply to the offence of treason by killing Her Majesty, or to the offence of treason where the overt act alleged is an attempt to injure the person of Her Majesty in any manner or to the offence of being an accessory after the fact in such a case of treason. 10

Release of exhibits for examination or test.

514. (1) A judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction may, on summary application on behalf of the accused or the prosecutor, after three days' notice to the accused or prosecutor, as the case may be, order the release of any exhibit for the purpose of a scientific or other test or examination, subject to such terms as appear to be necessary or desirable to ensure the safeguarding of the exhibit and its preservation for use at the trial. 15 20

Disobeying order.

(2) Every one who fails to comply with the terms of an order that is made under subsection (1) is guilty of contempt of court and may be dealt with summarily by the judge or magistrate who made the order or before whom the trial of the accused takes place. 25

PLEAS.

Pleas permitted.

515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where the accused refuses to plead or does not answer directly the court shall order the clerk of the court to enter a plea of not guilty. 30

Allowing time to plead.

(3) An accused is not entitled as of right to have his trial postponed but the court may, if it considers that the accused should be allowed further time to plead, move to quash, or prepare for his defence or for any other reason, adjourn the trial to a later time in the session or sittings of the court, or to the next or any subsequent session or sittings of the court, upon such terms as the court considers proper. 35 40

- Special pleas. **516.** (1) An accused may plead the special pleas of
 (a) *autrefois acquit*,
 (b) *autrefois convict*, and
 (c) pardon.
- In case of libel. (2) An accused who is charged with defamatory libel 5 may plead in accordance with sections 520 and 521.
- Disposal. (3) The pleas of *autrefois acquit*, *autrefois convict* and pardon shall be disposed of by the judge without a jury before the accused is called upon to plead further.
- Pleading over. (4) When the pleas referred to in subsection (3) are 10 disposed of against the accused he may plead guilty or not guilty.
- Statement sufficient. (5) Where an accused pleads *autrefois acquit* or *autrefois convict* it is sufficient if he
 (a) states that he has been lawfully acquitted or con- 15 victed, as the case may be, of the offence charged in the count to which the plea relates, and
 (b) indicates the time and place of the acquittal or conviction.
- Evidence of identity of charges. **517.** Where an issue on a plea of *autrefois acquit* or 20 *autrefois convict* is tried, the evidence and adjudication and the notes of the judge and official stenographer on the former trial and the record transmitted to the court pursuant to section 462 on the charge that is pending before that court, are admissible in evidence to prove or to dis- 25 prove the identity of the charges.
- What determines identity. **518.** (1) Where an issue on a plea of *autrefois acquit* or *autrefois convict* to a count is tried and it appears
 (a) that the matter on which the accused was given in charge on the former trial is the same in whole or in 30 part as that on which it is proposed to give him in charge, and
 (b) that on the former trial, if all proper amendments had been made that might then have been made, he might have been convicted of all the offences of which 35 he may be convicted on the count to which the plea of *autrefois acquit* or *autrefois convict* is pleaded, the judge shall give judgment discharging the accused in respect of that count.
- Allowance of special plea in part. (2) The following provisions apply where an issue on a 40 plea of *autrefois acquit* or *autrefois convict* is tried, namely,
 (a) where it appears that the accused might on the former trial have been convicted of an offence of which he may be convicted on the count in issue, the judge shall direct that the accused shall not be found guilty of any 45 offence of which he might have been convicted on the former trial, and

516. Sections 905 (1) and 906.

(1) Where a person is accused of an offence which is defined in section 905 (1) and it is proved that he committed the offence, it shall be presumed that he committed the offence unless the contrary is proved.

(2) Where an indictment is returned against a person charged with an offence which is defined in section 905 (1) and it is proved that he committed the offence, it shall be presumed that he committed the offence unless the contrary is proved.

(3) A conviction or acquittal of a person charged with an offence which is defined in section 905 (1) shall not be a bar to a subsequent indictment for the same offence against him.

517. Section 908.

(1) Where a person is accused of an offence which is defined in section 908 (1) and it is proved that he committed the offence, it shall be presumed that he committed the offence unless the contrary is proved.

(2) Where an indictment is returned against a person charged with an offence which is defined in section 908 (1) and it is proved that he committed the offence, it shall be presumed that he committed the offence unless the contrary is proved.

518. Section 907.

(1) Where a person is accused of an offence which is defined in section 907 (1) and it is proved that he committed the offence, it shall be presumed that he committed the offence unless the contrary is proved.

(2) Where an indictment is returned against a person charged with an offence which is defined in section 907 (1) and it is proved that he committed the offence, it shall be presumed that he committed the offence unless the contrary is proved.

(3) A person who is accused of an offence which is defined in section 907 (1) and it is proved that he committed the offence, shall not be liable to a subsequent indictment for the same offence against him.

(4) The provisions of this section shall apply to a person who is accused of an offence which is defined in section 907 (1) and it is proved that he committed the offence, as if he were a person who is accused of an offence which is defined in section 907 (1) and it is proved that he committed the offence.

(b) where it appears that the accused may be convicted on the count in issue of an offence of which he could not have been convicted on the former trial, the accused shall plead guilty or not guilty with respect to that offence.

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Circumstances of aggravation.

519. (1) Where an indictment charges substantially the same offence as that charged in an indictment on which an accused was previously convicted or acquitted, but adds a statement of intention or circumstances of aggravation tending, if proved, to increase the punishment, the previous conviction or acquittal bars the subsequent indictment. 10

Effect of previous charge of murder or manslaughter.

(2) A conviction or acquittal on an indictment for murder bars a subsequent indictment for the same homicide charging it as manslaughter or infanticide, and a conviction or acquittal on an indictment for manslaughter or infanticide bars a subsequent indictment for the same homicide charging it as murder. 15

Effect of previous charge of infanticide or manslaughter.

(3) A conviction or acquittal on an indictment for infanticide bars a subsequent indictment for the same homicide charging it as manslaughter, and a conviction or acquittal on an indictment for manslaughter bars a subsequent indictment for the same homicide charging it as infanticide. 20

Libel, plea of justification.

520. (1) An accused who is charged with publishing a defamatory libel may plead that the defamatory matter published by him was true, and that it was for the public benefit that the matter should have been published in the manner in which and at the time when it was published. 25

Where more than one sense alleged.

(2) A plea that is made under subsection (1) may justify the defamatory matter in any sense in which it is specified in the count, or in the sense that the defamatory matter bears without being specified, or separate pleas justifying the defamatory matter in each sense may be pleaded separately to each count as if two libels had been charged in separate counts. 30

Plea in writing.

(3) A plea that is made under subsection (1) shall be in writing, and shall set out the particular facts by reason of which it is alleged to have been for the public good that the matter should have been published. 35

Reply

(4) The prosecutor may in his reply deny generally the truth of a plea that is made under this section. 40

Plea of justification necessary to try truth.

521. (1) The truth of the matters charged in an alleged libel shall not be inquired into in the absence of a plea of justification under section 520 unless the accused is charged with publishing the libel knowing it to be false, in which case evidence of the truth may be given to negative the allegation that the accused knew that the libel was false. 45

(2) The accused may, in addition to a plea that is made under section 230, plead not guilty and the plea shall be treated as a plea of not guilty.

(3) Where a plea of justification is pleaded and the accused is acquitted, the court may, in pronouncing sentence, consider whether the guilt of the accused is aggravated or mitigated by the plea.

519. Section 909.

519. Any ground of defence for which a special plea is provided by this Act may be relied upon under the plea of not guilty.

Division 100. Evidence.

520. (1) Where, upon the trial of an offence, it is proved that an indictment charges a person with an offence and the accused was convicted of that offence, the court may, if it is satisfied that the accused is not guilty of the offence charged, order that the accused be acquitted of that offence.

(2) Where the accused is found to have been insane at the time the offence was committed, the court may, if it is satisfied that the accused is not guilty of the offence charged, order that the accused be acquitted of that offence.

520. Section 910.

520. (1) A court judge or magistrate may, if it is proved to the satisfaction of the court that there is sufficient evidence to justify a conviction, order that the accused be acquitted of that offence.

(2) Where the accused is found to have been insane at the time the offence was committed, the court may, if it is satisfied that the accused is not guilty of the offence charged, order that the accused be acquitted of that offence.

(3) For the purposes of subsection (1), the following provisions apply, namely:—

(a) where the accused is to be tried by a court composed of a judge and jury;

(b) if the issue is directed before the accused is given in charge to a jury for trial on the indictment, it shall be tried by twelve jurors or, in the Province of Alberta, by six jurors; and

521. Section 911.

(c) if the issue is directed after the accused is given in charge to a jury for trial, the jury shall be sworn to try that issue in addition to the issue on which they are already sworn; and

Not guilty,
in addition.

(2) The accused may, in addition to a plea that is made under section 520, plead not guilty and the pleas shall be inquired into together.

Effect of plea
on punish-
ment.

(3) Where a plea of justification is pleaded and the accused is convicted, the court may, in pronouncing sentence, consider whether the guilt of the accused is aggravated or mitigated by the plea. 5

Plea of not
guilty.

522. Any ground of defence for which a special plea is not provided by this Act may be relied upon under the plea of not guilty. 10

DEFENCE OF INSANITY.

Insanity of
accused when
offence com-
mitted.

523. (1) Where, upon the trial of an accused who is charged with an indictable offence, evidence is given that the accused was insane at the time the offence was committed and the accused is acquitted,

(a) the jury, or 15

Special
finding.

(b) the judge or magistrate, where there is no jury, shall find whether the accused was insane at the time the offence was committed and shall declare whether he is acquitted on account of insanity.

Custody
after
finding.

(2) Where the accused is found to have been insane at the time the offence was committed, the court, judge or magistrate before whom the trial is held shall order that he be kept in strict custody in the place and in the manner that the court, judge or magistrate directs, until the pleasure of the Lieutenant-Governor of the province is known. 20 25

Insanity at
time of trial.

524. (1) A court, judge or magistrate may, at any time before verdict, where it appears that there is sufficient reason to doubt that the accused is, on account of insanity, capable of conducting his defence, direct that an issue be tried whether the accused is then, on account of insanity, unfit to stand his trial. 30

Trial of issue.

(2) For the purposes of subsection (1), the following provisions apply, namely,

(a) where the accused is to be tried by a court composed of a judge and jury, 35

(i) if the issue is directed before the accused is given in charge to a jury for trial on the indictment, it shall be tried by twelve jurors, or in the Province of Alberta, by six jurors, and

(ii) if the issue is directed after the accused has been given in charge to a jury for trial on the indictment, the jury shall be sworn to try that issue in addition to the issue on which they are already sworn; and 40

(b) where the accused is to be tried by a judge or magistrate, he shall try the issue and render a verdict. 45

If sane,
trial proceeds.

(3) Where the verdict is that the accused is not unfit on account of insanity to stand his trial, the arraignment or the trial shall proceed as if no such issue had been directed.

(4) When the verdict is that the accused is unfit on account of insanity to stand his trial, the court judge or magistrate shall order that the accused be kept in custody until the pleasure of the Lieutenant-Governor of the province is known, and any plea that has been pleaded shall be set aside and the jury shall be discharged.

522. Section 905 (2).

(5) No proceedings pursuant to this section shall prevent the accused from being tried subsequently on the indictment.

523. Section 966.

234. When an accused is pursuant to this Part found to be insane (the Lieutenant-Governor of the province may have an order for the care custody of the accused in the place and at the manner that he may direct.

524. Section 967.

(1) The Lieutenant-Governor of a province may, upon evidence satisfactory to him that a person who is insane, mentally ill, mentally defective or feeble-minded is in custody in a prison in that province, order that the person be removed to a place of safe-keeping to be named in the order.

(2) A person who is removed to a place of safe-keeping under an order made pursuant to subsection (1) shall, subject to subsection (3) and (4), be kept in that place, and any other place of safe-keeping in which, from time to time, he may be ordered by the Lieutenant-Governor to be kept.

(3) Where the Lieutenant-Governor is satisfied that a person in whom subsection (1) applies has recovered, he may order that the person

(a) be returned to the prison from which he was removed pursuant to subsection (1); or

(b) be discharged, if he is not liable to further custody in prison.

(4) Where the Lieutenant-Governor is satisfied that a person to whom subsection (1) applies has partially recovered, he may, where the person is not liable to further custody in prison, order that the person shall be subject to the direction of the Minister of Health for the province or such other person as the Lieutenant-Governor may designate, and the Minister of Health or other person designated may make any order or direction in respect of the custody and care of the person that he considers proper.

(5) In this section "prison" means a prison other than a reformatory, and includes a reformatory school or industrial school.

If insane,
order for
custody.

(4) Where the verdict is that the accused is unfit on account of insanity to stand his trial, the court, judge or magistrate shall order that the accused be kept in custody until the pleasure of the Lieutenant-Governor of the province is known, and any plea that has been pleaded shall be set aside and the jury shall be discharged. 5

Subsequent
trial.

(5) No proceeding pursuant to this section shall prevent the accused from being tried subsequently on the indictment.

Insanity of
accused to
be discharged
for want of
prosecution.

525. Where an accused who is charged with an indictable offence is brought before a court, judge or magistrate to be discharged for want of prosecution and the accused appears to be insane, the court, judge or magistrate shall proceed in accordance with section 524 in so far as that section may be applied. 10

Custody of
insane
persons.

526. Where an accused is, pursuant to this Part, found to be insane, the Lieutenant-Governor of the province may make an order for the safe custody of the accused in the place and in the manner that he may direct. 15

Prisoner
mentally
ill.

527. (1) The Lieutenant-Governor of a province may, upon evidence satisfactory to him that a person who is insane, mentally ill, mentally deficient or feeble-minded is in custody in a prison in that province, order that the person be removed to a place of safe-keeping to be named in the order. 20

Custody
in safe-
keeping.

(2) A person who is removed to a place of safe-keeping under an order made pursuant to subsection (1) shall, subject to subsections (3) and (4), be kept in that place or in any other place of safe-keeping in which, from time to time, he may be ordered by the Lieutenant-Governor to be kept. 25

Order for
imprison-
ment or
discharge.

(3) Where the Lieutenant-Governor is satisfied that a person to whom subsection (2) applies has recovered, he may order that the person 30

(a) be returned to the prison from which he was removed pursuant to subsection (1), if he is liable to further custody in prison, or 35
(b) be discharged, if he is not liable to further custody in prison.

Order for
transfer
to custody
of Minister
of Health.

(4) Where the Lieutenant-Governor is satisfied that a person to whom subsection (2) applies has partially recovered, he may, where the person is not liable to further custody in prison, order that the person shall be subject to the direction of the Minister of Health for the province, or such other person as the Lieutenant-Governor may designate, and the Minister of Health or other person designated may make any order or direction in respect of the custody and care of the person that he considers proper. 40 45

"Prison".

(5) In this section, "prison" means a prison other than a penitentiary, and includes a reformatory school or industrial school.

Corporation, 1908, 1913

523. Every corporation against which an indictment is found shall appear and plead by counsel or agent.

524. (1) The clerk of the court shall, when an indictment is found against a corporation, cause a notice of the indictment to be served upon the corporation.

525. Section 968.

(2) A notice of an indictment returned against a corporation shall set out the nature and purpose of the indictment, advise that copies of the indictment appear and plead within seven days after service of the notice, a plea of not guilty will be entered for the accused by the court, and that the trial of the indictment will be proceeded with as though the corporation had appeared and pleaded.

526. Section 969.

(3) When a corporation to which this section applies is a municipal corporation, the notice shall be served by delivering it to the mayor, treasurer or clerk of the corporation.

527. Section 970.

(4) In a corporation other than a municipal corporation the notice shall be served by delivering it to the president, secretary or other executive officer of the corporation.

528. Where a corporation does not appear in the court in which an indictment is found and plead within the time specified in the notice referred to in section 523, the presiding judge may, on application by affidavit of service of the notice, enter the clerk of the court to enter a plea of not guilty on behalf of the corporation and the plea has the same force and effect as if the corporation had appeared by its counsel or agent and pleaded that plea.

529. Where the corporation appears and pleads to the indictment or a plea of not guilty is entered by order of the court pursuant to section 526, the court shall proceed with the trial of the indictment and, where the corporation is convicted, section 923 applies.

Process or Proceedings, 1908, 1913

530. (1) It is sufficient in making up the record of a conviction or acquittal on an indictment, to copy the indictment and the plea that was pleaded, without a formal caption or heading.

CORPORATIONS.

Appearance
by attorney.

528. Every corporation against which an indictment is found shall appear and plead by counsel or agent.

Notice to
corporation.

529. (1) The clerk of the court shall, where an indictment is found against a corporation, cause a notice of the indictment to be served upon the corporation. 5

Contents of
notice.

(2) A notice of an indictment referred to in subsection (1) shall set out the nature and purport of the indictment and advise that, unless the corporation appears and pleads within seven days after service of the notice, a plea of not guilty will be entered for the accused by the court, and that the trial of the indictment will be proceeded with as though the corporation had appeared and pleaded. 10

How served.

(3) Where a corporation to which this section applies
(a) is a municipal corporation, the notice shall be served by delivering it to the mayor, treasurer or clerk of the corporation, or 15
(b) is a corporation other than a municipal corporation, the notice shall be served by delivering it to the manager, secretary or other executive officer of the corporation or of a branch thereof. 20

Procedure on
default of
appearance.

530. Where a corporation does not appear in the court in which an indictment is found and plead within the time specified in the notice referred to in section 529, the presiding judge may, on proof by affidavit of service of the notice, order the clerk of the court to enter a plea of not guilty on behalf of the corporation, and the plea has the same force and effect as if the corporation had appeared by its counsel or agent and pleaded that plea. 25

Trial of
corporation.

531. Where the corporation appears and pleads to the indictment or a plea of not guilty is entered by order of the court pursuant to section 530, the court shall proceed with the trial of the indictment and, where the corporation is convicted, section 623 applies. 30

RECORD OF PROCEEDINGS.

How
recorded.

532. (1) It is sufficient, in making up the record of a conviction or acquittal on an indictment, to copy the indictment and the plea that was pleaded, without a formal caption or heading. 35

528. Section 916.

529. Section 918.

530. Section 919.

531. Section 920.

532. Section 914.

Record of proceedings.

(2) The court shall keep a record of every arraignment and of proceedings subsequent to arraignment.

Form of record in case of amendment.

533. Where it is necessary to draw up a formal record in proceedings in which the indictment has been amended, the record shall be drawn up in the form in which the indictment remained after the amendment, without reference to the fact that the indictment was amended. 5

JURIES.

Qualification of juror.

534. (1) A person who is qualified and summoned as a grand or petit juror according to the laws in force for the time being in a province is qualified to serve as a grand or petit juror, as the case may be, in criminal proceedings in that province. 10

Seven may find bill.

(2) Where the panel of grand jurors is not more than thirteen, seven grand jurors may find a true bill.

MIXED JURIES.

Mixed juries in Quebec.

535. (1) In those districts in the province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed one-half of persons who speak the English language and one-half of persons who speak the French language, he shall in his return specify in separate lists those jurors whom he returns as speaking the English language and those whom he returns as speaking the French language, and the names of the jurors summoned shall be called alternately from those lists. 15 20

Motion by accused.

(2) In any district referred to in subsection (1) the accused may, upon arraignment, move that he be tried by a jury composed entirely of jurors who speak the language of the accused if that language is English or French. 25

Order for panel.

(3) Where a motion is made under subsection (2), the judge may order the sheriff to summon a sufficient panel of jurors who speak the language of the accused unless, in his discretion, it appears that the ends of justice are better served by empanelling a mixed jury. 30

533. Section 915.

534. Section 921.

535. Section 923.

When an objection is taken to the competency of a juror... the court shall determine whether the juror is competent... and if not, the court shall discharge the juror...

When an objection is taken to the competency of a juror... the court shall determine whether the juror is competent... and if not, the court shall discharge the juror...

When an objection is taken to the competency of a juror... the court shall determine whether the juror is competent... and if not, the court shall discharge the juror...

When an objection is taken to the competency of a juror... the court shall determine whether the juror is competent... and if not, the court shall discharge the juror...

When an objection is taken to the competency of a juror... the court shall determine whether the juror is competent... and if not, the court shall discharge the juror...

Mixed juries
in Manitoba.

536. (1) Where an accused who is arraigned before the Court of Queen's Bench for Manitoba demands a jury composed at least half of persons who speak the language of the accused, if that language is either English or French, he shall be tried by a jury composed at least one-half of the persons whose names stand first in succession upon the general panel and who, not being lawfully challenged, are found, in the judgment of the court, to speak the language of the accused. 5

When panel
exhausted.

(2) Where, as a result of challenges or any other cause there is, in proceedings to which this section applies, a deficiency of persons who speak the language of the accused, the court shall fix another time for the trial, and the sheriff shall remedy the deficiency by summoning, for the time so fixed, the additional number of jurors who speak the language of the accused that the court orders and whose names appear next in succession on the list of petit jurors. 10 15

CHALLENGING THE ARRAY.

Objection to
constitution
of grand
jury.

537. Where an objection is taken to the constitution of a grand jury it shall be taken by motion to the court, but an indictment shall be quashed pursuant thereto only if the judge is of opinion that 20

- (a) the objection is well founded, and
- (b) the accused has suffered or may suffer prejudice in the circumstances of which he complains.

Challenging
the array.

538. (1) The accused or the prosecutor may challenge the array of petit jurors only on the ground of partiality, fraud or wilful misconduct on the part of the sheriff or his deputies by whom the panel was returned. 25

In writing.

(2) A challenge under subsection (1) shall be in writing and shall state that the person who returned the panel was partial or fraudulent or that he wilfully misconducted himself, as the case may be. 30

Form.

(3) A challenge under this section may be in Form 36.

Trying
ground of
challenge.

539. Where a challenge is made under section 538, the judge shall determine whether the alleged ground of challenge is true or not, and where he is satisfied that the alleged ground of challenge is true he shall direct a new panel to be returned. 35

536. Section 924.

7-10. (1) The name of each juror, the name of each juror that has been returned, the number on the panel and the place of his abode, shall be written on a separate card, and all the cards shall, as far as possible, be of equal size. (2) The sheriff or other officer who returns the panel shall deliver the cards referred to in subsection (1) to the clerk of the court who shall cause them to be placed together in a box to be provided for the purpose and to be sealed together.

To be placed in box

(3) Where (a) the jury is not challenged, or (b) the jury is challenged but the judge does not direct a new panel to be returned, the clerk of the court shall, in open court, draw out the cards referred to in subsection (2) one after another, and shall call out the name and number upon each card as it is drawn, until the number of persons who have answered to their names is, in the opinion of the judge, sufficient to provide a full jury after allowing for

To be drawn by the court

537. Section 899 (2).

(2) The clerk of the court shall swear each member of the jury in the order in which the names of the jurors are drawn.

To be sworn by the court

(3) Where the number of persons who answer to their names is not sufficient to provide a full jury, the clerk of the court shall proceed in accordance with subsection (2) and (4) until twelve jurors are sworn.

To be sworn by the court

538. Section 925.

2-41. Notwithstanding anything in this Act or any other Act in force in the Province of Alberta and in the Yukon Territory and the Northwest Territories and in that Province and those Territories the service is entitled to call the number of challenges provided for in section 923 and the prosecutor may not direct more than twenty-four jurors to stand by unless the presiding judge, for special cause to be shown, so orders.

Challenges to be made in Alberta and Yukon Territory

539. Section 926.

2-42. (1) An accused who is charged with an offence punishable with death is entitled to challenge twenty-four persons.

Twenty-four persons to be challenged

(2) An accused who is charged with an offence other than an offence punishable with death, for which his term of imprisonment is imprisonment for more than five years, is entitled to challenge twenty persons.

Twenty persons to be challenged

(3) An accused who is charged with an offence that is not punishable with imprisonment is entitled to challenge ten persons.

Ten persons to be challenged

EMPANELLING JURY.

Names of jurors on cards.

540. (1) The name of each juror on a panel of petit jurors that has been returned, his number on the panel and the place of his abode, shall be written on a separate card, and all the cards shall, as far as possible, be of equal size.

To be placed in box.

(2) The sheriff or other officer who returns the panel shall deliver the cards referred to in subsection (1) to the clerk of the court who shall cause them to be placed together in a box to be provided for the purpose and to be shaken together. 5

To be drawn by clerk of court.

(3) Where 10

(a) the array is not challenged, or

(b) the array is challenged but the judge does not direct a new panel to be returned,

the clerk of the court shall, in open court, draw out the cards referred to in subsection (2) one after another, and shall call out the name and number upon each card as it is drawn, until the number of persons who have answered to their names is, in the opinion of the judge, sufficient to provide a full jury after allowing for challenges and directions to stand by. 15 20

Juror to be sworn.

(4) The clerk of the court shall swear each member of the jury in the order in which the names of the jurors were drawn.

Drawing additional names if necessary.

(5) Where the number of persons who answer to their names is not sufficient to provide a full jury, the clerk of the court shall proceed in accordance with subsections (3) and (4) until twelve jurors are sworn. 25

Challenges by accused in Alberta and Territories.

541. Notwithstanding anything in this Act, six jurors shall be sworn in the Province of Alberta and in the Yukon Territory and the Northwest Territories, and in that province and those Territories the accused is entitled to half the number of challenges provided for in section 542, and the prosecutor may not direct more than twenty-four jurors to stand by unless the presiding judge, for special cause to be shown, so orders. 30 35

Peremptory challenges by accused. Twenty in certain cases.

542. (1) An accused who is charged with an offence punishable with death is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence punishable with death, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily. 40

Four in other cases.

(3) An accused who is charged with an offence that is not referred to in subsection (1) or (2) is entitled to challenge four jurors peremptorily. 45

Challenge by
prosecutor.

543. (1) The prosecutor is entitled to challenge four jurors peremptorily, and may direct any number of jurors who are not challenged peremptorily by the accused to stand by until all the jurors have been called who are available for the purpose of trying the indictment. 5

Direction to
stand by.

Limitation.

(2) Notwithstanding subsection (1), the prosecutor may not direct more than forty-eight jurors to stand by unless the presiding judge, for special cause to be shown, so orders.

Accused to
challenge
first if re-
quired.

(3) The accused may be called upon to declare whether he challenges a juror peremptorily or for cause before the prosecutor is called upon to declare whether he requires the juror to stand by, or challenges him peremptorily or for cause. 10

Peremptory
challenges
in case of
mixed jury.

544. Where an accused who is charged with an offence for which he is entitled to twenty or twelve peremptory challenges in accordance with this Part is to be tried pursuant to section 535 or 536 by a jury composed one-half of persons who speak the language of the accused, he is entitled to exercise one-half of those challenges in respect of the jurors who speak English and one-half in respect of the jurors who speak French. 15 20

Challenges
where tried
jointly.

545. Where two or more accused persons are jointly charged in an indictment and it is proposed to try them together each may make his challenges in the same manner as if he were to be tried alone. 25

Standing by
in libel cases.

546. A prosecutor other than the Attorney General or counsel acting on his behalf is not entitled, on the trial of an indictment for the publication of a defamatory libel, to direct a juror to stand by.

Challenge for
cause.

547. (1) A prosecutor or an accused is entitled to any 30 number of challenges on the ground that

- (a) the name of a juror does not appear on the panel, but no misnomer or misdescription is a ground of challenge where it appears to the court that the description given on the panel sufficiently designates the 35 person referred to,
- (b) a juror is not indifferent between the Queen and the accused,
- (c) a juror has been convicted of an offence for which he was sentenced to death or to a term of imprisonment 40 exceeding twelve months,

543. Section 933.

544. Section 937.

545. Section 938.

546. Section 934.

547. Section 935.

- (d) a juror is an alien, or
 (e) a juror is physically unable to perform properly the duties of a juror.
- No other ground. (2) No challenge for cause shall be allowed on a ground not mentioned in subsection (1). 5
- Challenge in writing. **548.** (1) Where a challenge is made on a ground mentioned in section 547, the court may, in its discretion, require the party that challenges to put the challenge in writing.
- Form. (2) A challenge may be in Form 37.
- Denial. (3) A challenge may be denied by the other party to the proceedings on the ground that it is not true. 10
- Objection that name not on panel. **549.** (1) Where the ground of a challenge is that the name of a juror does not appear on the panel, the issue shall be tried by the judge on the *voir dire* by the inspection of the panel, and such other evidence that the judge thinks fit to receive. 15
- Other grounds. (2) Where the ground of a challenge is one not mentioned in subsection (1), the two jurors who were last sworn, or if no jurors have then been sworn, two persons present whom the court may appoint for the purpose, shall be sworn to determine whether the ground of challenge is true. 20
- If challenge not sustained. If challenge sustained. (3) Where the finding, pursuant to subsection (1) or (2) is that the ground of challenge is not true, the juror shall be sworn, but if the finding is that the ground of challenge is true, the juror shall not be sworn. 25
- Disagreement of triers. (4) Where, after what the court considers to be a reasonable time, the two persons who are sworn to determine whether the ground of challenge is true are unable to agree, the court may discharge them from giving a verdict and may direct two other persons to be sworn to determine whether the ground of challenge is true. 30
- Calling jurors who have stood by. **550.** (1) Where, as a result of challenges and directions to stand by, a full jury has not been sworn and no names remain to be called, the names of those who have been directed to stand by shall be called again in the order in which their names were drawn and they shall be sworn, unless challenged by the accused, or unless the prosecutor challenges them or shows cause why they should not be sworn. 35
- Other jurors becoming available. (2) Where, before a juror is sworn pursuant to subsection (1), other jurors in the panel become available, the prosecutor may require the names of those jurors to be put into and drawn from the box in accordance with section 540, and those jurors shall be challenged, ordered to stand by or sworn, as the case may be, before the names of the jurors who were originally ordered to stand by are called again. 45

548. Section 936.

549. Sections 930 and 931.

550. Section 928.

Panel exhausted,
summoning
other jurors.

551. (1) Where a full jury cannot be provided notwithstanding that the relevant provisions of this Part have been complied with, the court may, at the request of the prosecutor, order the sheriff or other proper officer forthwith to summon as many persons, whether qualified jurors or not, as the court directs for the purpose of providing a full jury. 5

Orally.

(2) Jurors may be summoned under subsection (1) by word of mouth, if necessary.

Adding
names to
panel.

(3) The names of the persons who are summoned under this section shall be added to the general panel for the purposes of the trial, and the same proceedings shall be taken with respect to calling and challenging those persons and directing them to stand by as are provided in this Part with respect to the persons named in the original panel. 10

Who shall
be jury.

552. (1) The twelve jurors, or in the province of Alberta, the Yukon Territory and the Northwest Territories the six jurors, whose names are drawn and who are sworn in accordance with this Part, shall be the jury to try the issues of the indictment, and the names of the jurors so drawn and sworn shall be kept apart until the jury gives its verdict or until it is discharged, whereupon the names shall be returned to the box as often as occasion arises, as long as an issue remains to be tried before a jury. 15 20

Returning
names to box.

Same jury
may try
another issue
by consent.

(2) The court may try an issue with the same jury in whole or in part that previously tried or was drawn to try another issue, without the jurors being sworn again, but if the prosecutor or the accused objects to any of the jurors or the court excuses any of the jurors, the court shall order those persons to withdraw and shall direct that the required number of names to make up a full jury be drawn and, subject to the provisions of this Part relating to challenges and directions to stand by, the persons whose names are drawn shall be sworn. 25 30

Sections
directory.

(3) No omission to follow the directions of this section or section 540 or 550 affects the validity of a proceeding. 35

Juror unable
to continue.

553. (1) Where in the course of a trial a member of the jury is, in the opinion of the judge, by reason of illness or some other cause, unable to continue to act, the judge may discharge him.

Trial may
continue.

(2) Where in the course of a trial a member of the jury dies or is discharged pursuant to subsection (1), the jury shall, if the prosecutor and the accused consent in writing and if the number of jurors is not reduced below ten, or in the province of Alberta, the Yukon Territory and the Northwest Territories below five, be deemed to remain properly constituted for all purposes of the trial and the trial shall proceed and a verdict may be given accordingly. 40 45

551. Section 939.

551. (1) The trial is adjourned if the court is satisfied that the interests of justice require it to be adjourned.

(2) The judge may adjourn the trial from time to time in the same or other proceedings.

(3) No formal adjournment of trial or entry thereof is necessary.

(4) The judge may reserve his final decision on any question raised at the trial, and his decision when given shall be deemed to have been given at the trial.

Continued
 Adjournment
 Formal
 Proceedings
 Proceedings
 Decision

552. Section 929.

552. On the trial of an accused for an indictable offence the evidence of the witnesses for the prosecution and the accused shall be taken by a stenographer or other person in accordance with the provisions of Part X relating to preliminary inquiries by stenographers at preliminary inquiries.

Witness
 Evidence

553. (1) The judge may at any time before the jury is sworn to consider in private, permit the return of the jury to separate, but this section does not apply where an accused is liable upon conviction to be sentenced to death.

Witness
 Jury
 Sworn

(2) Where permission to separate cannot be given or is not given the jury shall be kept under the charge of an officer of the court as the judge directs, and that officer shall prevent the jurors from communicating with anyone without leave of the judge.

Separate
 Jury

(3) Failure to comply with subsection (2) does not affect the validity of the proceedings.

Validity
 Proceedings

(4) Where the fact that there has been a failure to comply with this section is discovered before the verdict of the jury is returned the judge may, if he considers that the failure to comply might lead to a miscarriage of justice, discharge the jury and

Verdict
 Jury

(a) direct that the accused be tried with a new jury during the same session or sitting of the court or

Accused
 Jury

553. Section 929A.

(1) postpone the trial on such terms as the judge may think fit.

Postpone
 Trial

(2) The judge shall direct the jurors to provide the jurors who are sworn with suitable and sufficient refreshment, food and lodging while they are together until they have given their verdict.

Refreshment
 Food
 Lodging

554. (1) Where it is necessary to subpoena a witness to attend at a trial, a subpoena shall be present in court during the whole of the trial.

Subpoena
 Witness
 Trial

(2) The court may (a) cause the accused to be removed and to be kept out of court where he is not necessary for the trial or

Accused
 Court

TRIAL.

- Continuous trial. **554.** (1) The trial of an accused shall proceed continuously subject to adjournment by the court.
- Adjournment. (2) The judge may adjourn the trial from time to time in the same sittings.
- Formal adjournment unnecessary. (3) No formal adjournment of trial or entry thereof is 5 required.
- Questions reserved for decision. (4) The judge may reserve his final decision on any question raised at the trial, and his decision, when given, shall be deemed to have been given at the trial.
- Taking evidence. **555.** On the trial of an accused for an indictable offence 10 the evidence of the witnesses for the prosecutor and the accused shall be taken by a stenographer in accordance with the provisions of Part XV relating to the taking of evidence by stenographers at preliminary inquiries.
- Separation of jurors except in capital cases. **556.** (1) The judge may, at any time before the jury 15 retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is liable, upon conviction, to be sentenced to death.
- Keeping in charge. (2) Where permission to separate cannot be given or is 20 not given the jury shall be kept under the charge of an officer of the court as the judge directs, and that officer shall prevent the jurors from communicating with anyone without leave of the judge.
- Saving. (3) Failure to comply with subsection (2) does not affect 25 the validity of the proceedings.
- Empanelling new jury in certain cases. (4) Where the fact that there has been a failure to comply with this section is discovered before the verdict of the jury is returned the judge may, if he considers that the failure to comply might lead to a miscarriage of justice, 30 discharge the jury and
- (a) direct that the accused be tried with a new jury during the same session or sittings of the court, or
- (b) postpone the trial on such terms as justice may require. 35
- Refreshment and accommodation. (5) The judge shall direct the sheriff to provide the jurors who are sworn with suitable and sufficient refreshment, food and lodging while they are together until they have given their verdict.
- Accused to be present. **557.** (1) Subject to subsection (2), an accused other 40 than a corporation shall be present in court during the whole of his trial.
- Exceptions. (2) The court may
- (a) cause the accused to be removed and to be kept out of court, where he misconducts himself by interrupting 45

554. Sections 945 (1), (2) and (6) and 579.

555. New.

556. Sections 945 (3), (4) and (5), 946 and 959.

557. Sections 942 and 943.

- the proceedings so that to continue the proceedings in his presence would not be feasible, or
- (b) permit the accused to be out of court during the whole or any part of his trial on such conditions as the court considers proper. 5
- (3) An accused is entitled, after the close of the case for the prosecution, to make full answer and defence personally or by counsel.
- 558.** (1) Where an accused, or any one of several accused being tried together, is defended by counsel, the counsel shall, at the end of the case for the prosecution, declare whether or not he intends to adduce evidence on behalf of the accused for whom he appears and if he does not announce his intention to adduce evidence, the prosecutor may address the jury by way of summing up. 15
- (2) Counsel for the accused or the accused, where he is not defended by counsel, is entitled, if he thinks fit, to open the case for the defence, and after the conclusion of that opening to examine such witnesses as he thinks fit, and when all the evidence is concluded to sum up the evidence. 20
- (3) Where no witnesses are examined for an accused, he or his counsel is entitled to address the jury last, but otherwise counsel for the prosecution is entitled to address the jury last.
- (4) Notwithstanding subsection (3) the prosecutor is entitled to reply. 25
- (5) Where two or more accused are tried jointly and witnesses are examined for any of them, all the accused or their respective counsel are required to address the jury before it is addressed by the prosecutor. 30
- 559.** (1) The judge may, where it appears to be in the interests of justice, at any time after the jury has been sworn and before they give their verdict, direct the jury to have a view of any place, thing or person, and shall give directions as to the manner in which, and the persons by whom, the place, thing or person shall be shown to the jury, and may for that purpose adjourn the trial. 35
- (2) Where a view is ordered under subsection (1), the judge shall give any directions that he considers necessary for the purpose of preventing undue communication by any person with members of the jury, but failure to comply with any directions given under this subsection does not affect the validity of the proceedings. 40
- (3) Where a view is ordered under subsection (1) the accused and the judge shall attend. 45

To make
defence.

Summing up
by prosecutor.

Summing up
by accused.

Accused's
right of reply.

Prosecutor's
right to reply.

Prosecutor's
right of
reply where
more than
one accused.

View.

Directions
to prevent
communi-
cation.

Who shall
attend.

Disagree-
ment of jury.

560. (1) Where the judge is satisfied that the jury is unable to agree upon its verdict and that further detention of the jury would be useless, he may in his discretion discharge that jury and direct a new jury to be empanelled during the sittings of the court, or may adjourn the trial on such terms as justice may require. 5

Discretion not
reviewable.

(2) A discretion that is exercised under subsection (1) by a judge is not reviewable.

Proceeding on
Sunday, etc.,
not invalid.

561. The taking of the verdict of a jury is not invalid by reason only that it is done on Sunday or on a holiday. 10

EVIDENCE ON TRIAL.

Admissions
at trial.

562. Where an accused is on trial for an indictable offence he or his counsel may admit any fact alleged against him for the purpose of dispensing with proof thereof.

Evidence
of stealing
ores or
minerals.

563. In any proceeding in respect of theft of ores or 15 minerals, the possession, contrary to any law in that behalf, of smelted gold or silver, gold-bearing quartz, or unsmelted or unmanufactured gold or silver, by an operator, workman or labourer actively engaged in or on a mine, is *prima facie* evidence that the gold, silver or quartz was stolen by him. 20

Use in
evidence of
statement
by accused.

564. A statement made by an accused under subsection (2) of section 454 and purporting to be signed by the justice before whom it was made may be given in evidence against the accused at his trial without proof of the signature of the justice, unless it is proved that the justice by whom the 25 statement purports to be signed did not sign it.

CHILDREN AND YOUNG PERSONS.

Proof
of age.

565. (1) In any proceedings to which this Act applies an entry or record of an incorporated society or its officers who have had the control or care of a child or young person at or about the time the child or young person was brought 30 to Canada is *prima facie* evidence of the age of the child or young person if the entry or record was made before the time when the offence is alleged to have been committed.

Inference
from
appearance.

(2) In the absence of other evidence, or by way of corroboration of other evidence, a jury, judge, justice or 35 magistrate, as the case may be, may infer the age of a child or young person from his appearance.

560. Section 960.

561. Section 961.

562. Section 978.

563. Section 988.

564. Section 1001.

565. Section 984.

CORROBORATION.

Unsworn
evidence
of child.

566. No person shall be convicted of an offence upon the unsworn evidence of a child unless the evidence of the child is corroborated in a material particular by evidence that implicates the accused.

VERDICTS.

Full offence
charged, full
attempt
proved.

567. Where the complete commission of an offence charged is not proved but the evidence establishes an attempt to commit the offence, the accused may be convicted of the attempt. 5

Attempt
charged, full
offence
proved.

568. (1) Where an attempt to commit an offence is charged but the evidence establishes the commission of the complete offence, the accused is not entitled to be acquitted, but the jury may convict him of the attempt unless the judge presiding at the trial, in his discretion, discharges the jury from giving a verdict and directs that the accused be indicted for the complete offence. 10 15

Conviction a
bar.

(2) An accused who is convicted under this section is not liable to be tried again for the offence that he was charged with attempting to commit.

Offence
charged, part
only proved.

569. (1) A count in an indictment is divisible and where the commission of the offence charged, as described in the enactment creating it or as charged in the count, includes the commission of another offence, whether punishable by indictment or on summary conviction, the accused may be convicted 20

(a) of an offence so included that is proved, notwithstanding that the whole offence that is charged is not proved, or 25

(b) of an attempt to commit an offence so included.

Conviction
for infanticide
or man-
slaughter on
charge of
murder.

(2) Subject to subsection (3), where a count charges murder and the evidence proves manslaughter or infanticide but does not prove murder, the jury may find the accused not guilty of murder but guilty of manslaughter or infanticide, but shall not on that count find the accused guilty of any other offence. 30

Conviction
for con-
cealing body
of child
where
murder or
infanticide
charged.

(3) Where a count charges the murder of a child or infanticide and the evidence proves the commission of an offence under section 215 but does not prove murder or infanticide, the jury may find the accused not guilty of murder or infanticide, as the case may be, but guilty of an offence under section 215. 35 40

566. Section 1003 (2).

567. Section 949.

568. Section 950.

569. Sections 951 (1) and (2) and 952.

No acquittal unless act or omission not wilful.

(4) Where a female person is charged with infanticide and the evidence establishes that she caused the death of her child but does not establish that, at the time of the act or omission by which she caused the death of the child,
 (a) she was not fully recovered from the effects of giving birth to the child or from the effect of lactation consequent on the birth of the child, and
 (b) the balance of her mind was, at that time, disturbed by reason of the effect of giving birth to the child or of the effect of lactation consequent on the birth of the child,

she may be convicted unless the evidence establishes that the act or omission was not wilful.

Theft charged, false pretences proved.

570. (1) Where an accused is charged with theft of anything, and it is established that he obtained it by false pretences, he may be convicted of obtaining by false pretences.

False pretences charged, theft proved.

(2) Where an accused is charged with obtaining anything by false pretences, and it is established that he stole it, he may be convicted of theft.

PREVIOUS CONVICTIONS.

No reference to previous conviction.

571. No indictment in respect of an offence for which, by reason of previous convictions, a greater punishment may be imposed shall contain any reference to previous convictions.

Previous conviction.

572. (1) Where an accused is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, no greater punishment shall be imposed upon him by reason thereof unless the prosecutor satisfies the court that the accused, before making his plea, was notified that a greater punishment would be sought by reason thereof.

Procedure where previous conviction alleged.

(2) Where an accused is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, the court shall, upon application by the prosecutor and upon being satisfied that the accused was notified in accordance with subsection (1), ask the accused whether he was previously convicted and, if he does not admit that he was previously convicted, evidence of previous convictions may be adduced.

Where hearing *ex parte*.

(3) Where, pursuant to section 531, the court proceeds with the trial of an accused corporation that has not appeared and pleaded to an indictment, the court may, if the accused

is convicted, shall indorse with respect to previous convictions whether or not the accused was bonded that a greater punishment would be sought by reason thereof.

573. Where, at a trial, the accused adduces evidence of his good character the prosecutor may, in answer thereto, before a verdict is returned, adduce evidence of the previous conviction of the accused for any offence, including any previous conviction by reason of which a greater punishment may be imposed.

574. In any proceedings (a) a certificate setting out with reasonable particularity the conviction of an accused for an indictable offence, purporting to be signed by the person who made the conviction or by the clerk of the court to which it was returned, (b) a copy of the summary conviction of an accused, purporting to be signed by the person who made the conviction or by the clerk of the court to which it was returned, (c) upon proof of the identity of the accused, prima facie evidence of the conviction of the accused without proof of the signature or official character of the person by whom it purports to be signed.

570. New.

571. New.

575. Where a jury finds an accused guilty or where an accused pleads guilty, the judge who presides at the trial shall, before sentence is passed upon him, put an objection to comply with this section does not affect the validity of the proceedings.

572. Sections 851 and 963 and new in part.

576. Where one sentence is passed upon a verdict of guilty on two or more counts of an indictment, the sentence in good if any of the counts would have satisfied the sentence.

577. (1) A female person who is sentenced to death may have in arrest of execution on the ground that she is pregnant. (2) Where a notice is made under subsection (1), the court shall direct one or more registered medical practitioners to be sworn to examine the female person together or successively and to determine whether or not she is pregnant.

(3) Where, from the report of a medical practitioner sworn under subsection (2), it appears to the court that a female person to whom this section applies is pregnant,

is convicted, make inquiries with respect to previous convictions whether or not the accused was notified that a greater punishment would be sought by reason thereof.

Evidence
of character.

573. Where, at a trial, the accused adduces evidence of his good character the prosecutor may, in answer thereto, before a verdict is returned, adduce evidence of the previous conviction of the accused for any offences, including any previous conviction by reason of which a greater punishment may be imposed. 5

Proof of
previous
conviction.

574. In any proceedings, 10

(a) a certificate setting out with reasonable particularity the conviction of an accused for an indictable offence, purporting to be signed by the person who made the conviction or by the clerk of the court, or

(b) a copy of the summary conviction of an accused, purporting to be signed by the person who made the conviction or by the clerk of the court to which it was returned, 15

is, upon proof of the identity of the accused, *prima facie* evidence of the conviction of the accused without proof of the signature or official character of the person by whom it purports to be signed. 20

SENTENCE.

Accused
found guilty
may speak
to sentence.

575. Where a jury finds an accused guilty, or where an accused pleads guilty, the judge who presides at the trial shall ask the accused whether he has anything to say before sentence is passed upon him, but an omission to comply with this section does not affect the validity of the proceedings. 25

Saving.

Sentence
justified
by any count.

576. Where one sentence is passed upon a verdict of guilty on two or more counts of an indictment, the sentence is good if any of the counts would have justified the sentence. 30

Woman
sentenced
to death
while
pregnant.
Inquiry
as to
pregnancy.

577. (1) A female person who is sentenced to death may move in arrest of execution on the ground that she is pregnant.

(2) Where a motion is made under subsection (1), the court shall direct one or more registered medical practitioners to be sworn to examine the female person together or successively and to determine whether or not she is pregnant.

Arresting
execution.

(3) Where, from the report of a medical practitioner sworn under subsection (2), it appears to the court that a female person to whom this section applies is pregnant, 40

execution shall be arrested until she is delivered of the child or until it is no longer possible in the course of nature that she should be so delivered.

573. Section 964.

573. Judgment shall not be stayed or reversed after verdict upon an indictment (a) by reason of any irregularity in the summoning or empanelling of the jury, or

judgment
and to be
reversed or
renewed
thereof.

574. Section 982.

(b) because a person who served as a juror by a special or other order returned as a juror by a special or other order.

judgment
and to be
reversed or
renewed
thereof.

574. No omission to observe the provisions contained in any Act with respect to the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists or the drafting or panels from the jury lists, is a ground for impeaching or quashing a verdict rendered in criminal proceedings.

575. Nothing in this Act shall affect the power of any court or authority that a court or judge and immediately before the coming into force of this Act, or any practice or form that existed immediately before the coming into force of this Act, with respect to trials by jury, jury process, jury or juror, except where the power or authority, practice or form is expressly altered by this Act.

having
power
of court.

575. Section 1004.

576. Section 1005.

577. Sections 1008 and 1009.

execution shall be arrested until she is delivered of the child or until it is no longer possible in the course of nature that she should be so delivered.

FORMAL DEFECTS IN JURY PROCESS.

Judgment
not to be
stayed on
certain
grounds.

578. Judgment shall not be stayed or reversed after verdict upon an indictment 5
(a) by reason of any irregularity in the summoning or empanelling of the jury, or
(b) because a person who served upon the jury was not returned as a juror by a sheriff or other officer.

Directions
as to jury
or jurors
directory.

579. No omission to observe the directions contained 10
in any Act with respect to the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists, or the drafting of panels from the jury lists, is a ground for impeaching or quashing a verdict rendered in criminal proceedings. 15

Saving
powers
of court.

580. Nothing in this Act alters, abridges or affects any power or authority that a court or judge had immediately before the coming into force of this Act, or any practice or form that existed immediately before the coming into force of this Act, with respect to trials by jury, jury process, 20
juries or jurors, except where the power or authority, practice or form is expressly altered by or is inconsistent with this Act.

XVIII

APPEALS—INDICTABLE OFFENCES

578. Section 1010.

579. Section 1011.

580. Section 965.

581. In this Part, (a) "court of appeal" means the court of appeal as defined by paragraph (b) of section 965; or (b) "indictment" includes an information or charge in respect of which a person has been tried for an indictable offence under Part XVI;

582. No proceedings other than those mentioned in this Part and Part XXIII shall be taken by way of appeal in proceedings in respect of indictable offences.

583. A person who is convicted by a trial court in proceedings by indictment may appeal to the court of 20 appeal (a) against his conviction (i) on any ground of appeal that involves a question of law alone, (ii) on any ground of appeal that involves a question of fact alone or a question of mixed law and fact, with leave of the court of appeal or upon the certificate of the trial judge that the case is a proper case for appeal; or (iii) on any ground of appeal not mentioned in sub-paragraph (i) or (ii) that appears to the court of appeal to be a sufficient ground of appeal, with leave of the court of appeal; or (b) against the sentence passed by the trial court, with leave of the court of appeal or a judge thereof unless 35 that sentence is one fixed by law.

584. (1) The Attorney General or counsel instructed by him for the purpose may appeal to the court of appeal (a) against a judgment or verdict of acquittal at a trial court in proceedings by indictment on any ground of 40 appeal that involves a question of law alone, or

XVIII.

APPEALS—INDICTABLE OFFENCES.

- 581.** In this Part,
- “Court of Appeal.” (a) “court of appeal” means the court of appeal, as defined by paragraph (9) of section 2, for the province or territory in which the trial of a person by indictment is held; 5
- “Indictment.” (b) “indictment” includes an information or charge in respect of which a person has been tried for an indictable offence under Part XVI; 10
- “Registrar.” (c) “registrar” means the registrar or clerk of the court of appeal; 15
- “Sentence.” (d) “sentence” includes an order made under section 628, 629 or 630 and a direction made under section 638; and
- “Trial court.” (e) “trial court” means the court by which an accused was tried and includes a judge or a magistrate acting under Part XVI. 15
- Procedure abolished. **582.** No proceedings other than those authorized by this Part and Part XXIII shall be taken by way of appeal in proceedings in respect of indictable offences.
- Right of appeal of person convicted. **583.** A person who is convicted by a trial court in proceedings by indictment may appeal to the court of 20 appeal
- (a) against his conviction
- (i) on any ground of appeal that involves a question of law alone,
- (ii) on any ground of appeal that involves a question 25 of fact alone or a question of mixed law and fact, with leave of the court of appeal or upon the certificate of the trial judge that the case is a proper case for appeal, or
- (iii) on any ground of appeal not mentioned in sub- 30 paragraph (i) or (ii) that appears to the court of appeal to be a sufficient ground of appeal, with leave of the court of appeal; or
- (b) against the sentence passed by the trial court, with leave of the court of appeal or a judge thereof unless 35 that sentence is one fixed by law.
- Right of Attorney General to appeal. **584.** (1) The Attorney General or counsel instructed by him for the purpose may appeal to the court of appeal
- (a) against a judgment or verdict of acquittal of a trial court in proceedings by indictment on any ground of 40 appeal that involves a question of law alone, or

(4) with leave of the court of appeal or a judge thereof against the sentence passed by a trial court in proceeding by indictment, unless that sentence is one fixed by law.

(3) For the purpose of this section a judgment or verdict

581. Section 1012.

of appeal includes an acquittal in a criminal case where the accused has been convicted of an offense included in the principal offense.

582. Where an appeal is dismissed by the court of appeal and a judge of that court expresses an opinion dissenting from the judgment of the court, the formal judgment of the court shall specify any grounds in law upon which the dissent, in whole or in part, is based.

PROCEDURE ON APPEALS

583. (1) An applicant who proposes to appeal to a court of appeal or to obtain the leave of that court to appeal shall give notice of appeal or notice of his application for leave to appeal, in the manner and within the period after the final of the judgment, order or decision appealed from, as may be directed by the court of appeal or a judge thereof.

582. Section 1013 (3).

(3) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal is given.

583. Section 1013 (1) and (2).

notice of an application for leave to appeal shall be given to the respondent, and this subsection does not apply to an application for leave to appeal in a criminal case where the accused has been convicted of an offense included in the principal offense.

(3) Where, pursuant to a conviction, a sentence of death or whipping has been imposed,

(4) the sentence shall not be executed until after the expiration of the time within which notice of appeal or notice of an application for leave to appeal may be given under this section; and

(5) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(6) the determination of the application, where an application for leave to appeal is finally refused, or (7) the determination of the appeal.

(8) The production of a certificate of conviction or a certificate of acquittal shall be sufficient evidence of the conviction or acquittal.

(9) From the time that notice of appeal or notice of an application for leave to appeal has been given or

584. Section 1013 (2), (4) and (5).

(2) From the time that notice of appeal or notice of an application for leave to appeal has been given or from the time that the appeal is finally refused, or from the time that the appeal is determined, the power of the court of appeal or a judge thereof shall be deemed to be suspended until the execution of a sentence of death or whipping, as the case may be, and where pursuant to such suspension a new time is required to be fixed for execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge who might have held or sat in the same court.

(b) with leave of the court of appeal or a judge thereof, against the sentence passed by a trial court in proceedings by indictment, unless that sentence is one fixed by law.

Acquittal.

(2) For the purposes of this section a judgment or verdict of acquittal includes an acquittal in respect of a principal offence where the accused has been convicted of an offence included in the principal offence. 5

Specifying grounds of dissent.

585. Where an appeal is dismissed by the court of appeal and a judge of that court expresses an opinion dissenting from the judgment of the court, the formal judgment of the court shall specify any grounds in law upon which the dissent, in whole or in part, is based. 10

PROCEDURE ON APPEALS.

Notice of appeal.

586. (1) An appellant who proposes to appeal to the court of appeal or to obtain the leave of that court to appeal shall give notice of appeal or notice of his application for leave to appeal, in the manner and within the period after the time of the acquittal, conviction or sentence, as the case may be, as may be directed by rules of court. 15

Extension of time.

(2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given, but this subsection does not apply where a sentence of death has been imposed pursuant to a conviction. 20

Delay in execution of sentence of death or whipping.

(3) Where, pursuant to a conviction, a sentence of death or whipping has been imposed, 25

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and 30

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or 35

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or 40

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of death or whipping, as the case may be, and where, pursuant to such suspension, a new time is required to be fixed for execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge who might have held or sat in the same court. 45

585. Section 1013 (6).
The court of appeal or a judge of that court to be designated by the chief justice or acting chief justice may admit an applicant to had pending the determination of his appeal.

Bill

586. Section 1018.
When, under this Act, an appeal is taken or an application for leave to appeal is made, the judge or magistrate who presided at the trial shall furnish to the court of appeal, in accordance with rules of court, a report giving his opinion upon the case.

Parliamentary
Judicial

(1) A copy of transcript of the evidence taken at the trial, the charges to the jury, if any, and the reasons for judgment, if any, shall be furnished by the applicant to the court of appeal, except in so far as it is dispensed with by a judge of that court.

Transcript
of evidence

(2) A copy of the charge to the jury, if any, and any objections that were made to it shall, before the copy or transcript is transmitted to the court of appeal pursuant to subsection (1), be submitted to the judge who presided at the trial, and if the judge refuses to certify that the charge and objections are accurate, he shall immediately certify to the court of appeal:

Notice
of evidence

(a) the reasons for his refusal; and
(b) the charge that was given to the jury, if any, and any objections that were made to it.

(3) The Minister of Justice is entitled, upon request, to receive a copy or transcript of any material that is prepared under subsections (1) and (2).

Transcript
of evidence
Parliamentary

(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (1) and (2).

Copy for
Minister
of Justice

(5) For the purpose of an appeal under this Act the court of appeal may, where it considers it necessary or expedient in the interests of justice:

Court may
order

(a) order the production of any writing, exhibit, or other thing connected with the proceedings;

Production
of documents
or witnesses

(b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial, to attend and be examined before the court of appeal, or

Witnesses
to attend
and be examined

- Bail.** **587.** The chief justice or the acting chief justice of the court of appeal or a judge of that court to be designated by the chief justice or acting chief justice may admit an appellant to bail pending the determination of his appeal.
- Report by judge.** **588.** (1) Where, under this Part, an appeal is taken 5
or an application for leave to appeal is made, the judge or magistrate who presided at the trial shall furnish to the court of appeal, in accordance with rules of court, a report giving his opinion upon the case or upon any matter relating thereto. 10
- Transcript of evidence.** (2) A copy or transcript of
(a) the evidence taken at the trial,
(b) the charge to the jury, if any, and
(c) the reasons for judgment, if any,
shall be furnished by the appellant to the court of appeal, 15
except in so far as it is dispensed with by order of a judge of that court.
- Notes of proceedings.** (3) A copy of the charge to the jury, if any, and any objections that were made to it shall, before the copy or transcript is transmitted to the court of appeal pursuant 20
to subsection (2), be submitted to the judge who presided at the trial, and if the judge refuses to certify that the charge and objections are accurately set out, he shall immediately certify to the court of appeal
(a) the reasons for his refusal, and 25
(b) the charge that was given to the jury, if any, and any objections that were made to it.
- Copies for interested parties.** (4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under 30
subsections (2) and (3).
- Copy for Minister of Justice.** (5) The Minister of Justice is entitled, upon request, to receive a copy or transcript of any material that is prepared under subsections (2) and (3).
- Court may order.** **589.** (1) For the purposes of an appeal under this 35
Part the court of appeal may, where it considers it necessary or expedient in the interests of justice,
(a) order the production of any writing, exhibit, or other thing connected with the proceedings;
(b) order any witness who would have been a compellable 40
witness at the trial, whether or not he was called at the trial,
(i) to attend and be examined before the court of appeal, or
(ii) to be examined in the manner provided by 45
rules of court before a judge of the court of appeal,
- Production of documents. Attendance of witnesses.**

587. Section 1019.

588. Section 1020 (1) to (4).

589. Section 1021 (1) and (8).

	or before any officer of the court of appeal or justice of the peace or other person appointed by the court of appeal for the purpose;	
Admission of evidence.	(c) admit, as evidence, an examination that is taken under subparagraph (ii) of paragraph (b);	5
Reception of evidence.	(d) receive the evidence, if tendered, of any witness, including the appellant, who is a competent but not compellable witness;	
Reference to commissioner.	(e) order that any question arising on the appeal that (i) involves prolonged examination of writings or accounts, or scientific or local investigation, and (ii) cannot in the opinion of the court of appeal conveniently be inquired into before the court of appeal,	10
	be referred for inquiry and report, in the manner provided by rules of court, to a special commissioner appointed by the court of appeal; and	15
Acceptance of report.	(f) act upon the report of a commissioner who is appointed under paragraph (e) in so far as the court of appeal thinks fit to do so.	20
Other powers.	(2) A court of appeal may exercise in relation to proceedings in the court any powers not mentioned in subsection (1) that may be exercised by the court on appeals in civil matters, and may issue any process that is necessary to enforce the orders or sentences of the court but no costs shall be allowed to the appellant or respondent on the hearing and determination of an appeal or on any proceedings preliminary or incidental thereto.	25
Execution of process.	(3) Any process that is issued by the court of appeal under this section may be executed anywhere in Canada.	30
Legal assistance for appellant.	590. A court of appeal or a judge of that court may, at any time, assign counsel to act on behalf of an accused who is a party to an appeal or to proceedings preliminary or incidental to an appeal where, in the opinion of the court or judge, it appears desirable in the interests of justice that the accused should have legal aid and where it appears that the accused has not sufficient means to obtain that aid.	35
Summary determination of frivolous appeals.	591. Where it appears to the registrar that a notice of an appeal against a conviction, which purports to be on a ground of appeal that involves a question of law alone, does not show a substantial ground of appeal, the registrar may refer the appeal to the court of appeal for summary determination, and, where an appeal is referred under this section, the court of appeal may, if it considers that the appeal is frivolous or vexatious and can be determined without being adjourned for a full hearing, dismiss the appeal summarily, without calling on any person to attend the hearing or to appear for the respondent on the hearing.	40 45

POWERS OF THE COURT OF APPEAL.

592. (1) On the hearing of an appeal against a conviction, the court of appeal

Allowance
of appeal
against
conviction.

- (a) may allow the appeal where it is of the opinion that
- (i) the verdict should be set aside on the ground that it is unreasonable or cannot be supported by the evidence, 5
 - (ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or
 - (iii) on any ground there was a miscarriage of justice; 10

Dismissal.

- (b) may dismiss the appeal where
- (i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of the indictment, was properly convicted on another count or part of the indictment, 15
 - (ii) the court is of the opinion that the appellant could on the indictment have been found guilty of an offence other than that of which he was convicted, and that the court, judge or magistrate must have been satisfied of facts that proved the appellant guilty of that other offence, 20
 - (iii) the appeal is not decided in favour of the appellant on any ground mentioned in paragraph (a), or 25
 - (iv) notwithstanding that the court is of the opinion that on any ground mentioned in paragraph (a) the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred; 30

Wrong
conclusion
on special
verdict.

- (c) may refuse to allow the appeal where it is of the opinion that the trial court arrived at a wrong conclusion as to the effect of a special verdict, and may order the conclusion to be recorded that appears to the court to be required by the verdict, and may pass a sentence that is warranted in law in substitution for the sentence passed by the trial court; or 35

Insanity.

- (d) may quash a sentence and order the appellant to be kept in safe custody to await the pleasure of the Lieutenant-Governor where it is of the opinion that, although the appellant committed the act or made the omission charged against him, he was insane at the time the act was committed or the omission was made, so that he was not criminally responsible for his conduct. 40
45

592. Sections 1013 (5) in part, 1014 and 1016.

5	(2) Where a court of appeal allows an appeal under paragraph (a) of subsection (1), it shall quash the conviction and order a new trial.	Order to quash conviction
10	(3) Where a court of appeal allows an appeal under paragraph (b) of subsection (1) of subsection (1), it may order the verdict that is in question should have been found and return the sentence passed by the court of appeal or a sentence that is warranted in law.	Substitution of verdict and sentence
15	(4) Where an appeal is from an appeal the court of appeal may order a new trial.	Appeal from appeal
20	(5) Where an appeal is taken in respect of proceedings under this Act and the court of appeal orders a new trial under this Act, the new trial shall, without further election by the accused, be held before a judge or magistrate, as the case may be, and shall be held at the same place as the trial to which the appeal relates, and the accused in the new trial shall be held to be the accused in the trial to which the appeal relates.	Appeal from trial
25	(6) Where a court of appeal exercises any of the powers conferred by subsection (2) or (3) it may make any order in relation to the proceedings.	Appeal from trial
30	(7) Where an appeal is taken in respect of proceedings under this Act and the court of appeal orders a new trial under this Act, the new trial shall, without further election by the accused, be held before a judge or magistrate, as the case may be, and shall be held at the same place as the trial to which the appeal relates, and the accused in the new trial shall be held to be the accused in the trial to which the appeal relates.	Appeal from trial
35	(8) Where a court of appeal exercises any of the powers conferred by subsection (2) or (3) it may make any order in relation to the proceedings.	Appeal from trial
40	(9) Where a court of appeal exercises any of the powers conferred by subsection (2) or (3) it may make any order in relation to the proceedings.	Appeal from trial
45	(10) Where a court of appeal exercises any of the powers conferred by subsection (2) or (3) it may make any order in relation to the proceedings.	Appeal from trial

- Order to be made. (2) Where a court of appeal allows an appeal under paragraph (a) of subsection (1), it shall quash the conviction and
- (a) direct a judgment or verdict of acquittal to be entered, or 5
- (b) order a new trial.
- Substituting verdict. (3) Where a court of appeal dismisses an appeal under subparagraph (i) or (ii) of paragraph (b) of subsection (1), it may substitute the verdict that in its opinion should have been found and affirm the sentence passed by the trial court or impose a sentence that is warranted in law. 10
- Appeal from acquittal. Dismissal. Allowance. (4) Where an appeal is from an acquittal the court of appeal may
- (a) dismiss the appeal; or
- (b) allow the appeal, set aside the verdict and 15
- (i) enter a verdict of guilty with respect to the offence of which, in its opinion, the accused should have been found guilty but for the error in law, and pass a sentence that is warranted in law, or
- (ii) order a new trial. 20
- New trial under Part XVI. (5) Where an appeal is taken in respect of proceedings under Part XVI and the court of appeal orders a new trial under this Part, the new trial shall, without further election by the accused, be held before a judge or magistrate, as the case may be, acting under that part, other than the judge or magistrate who tried the accused in the first instance, unless the court of appeal directs that the new trial be held before the judge or magistrate who tried the accused in the first instance. 25
- Additional powers. (6) Where a court of appeal exercises any of the powers conferred by subsection (2) or (4) it may make any order, in addition, that justice requires. 30
- Powers of court on appeal against sentence. **593.** (1) Where an appeal is taken against sentence the court of appeal shall, unless the sentence is one fixed by law, consider the fitness of the sentence appealed against, and may upon such evidence, if any, as it thinks fit to require or to receive, 35
- (a) vary the sentence within the limits prescribed by law for the offence of which the accused was convicted, or
- (b) dismiss the appeal. 40
- Effect of judgment. (2) A judgment of a court of appeal that varies the sentence of an accused who was convicted has the same force and effect as if it were a sentence passed by the trial court. 45

253. (1) Where an order for compensation or for the restoration of property is made by the trial court under section 533, 539 or 540, the expiration of the order is

(a) until the expiration of the period prescribed by rules of court for the filing of notice of appeal or of notice of application for leave to appeal, unless the appellant or applicant for leave to appeal writes an appeal, and

(b) until the appeal or application for leave to appeal has been determined, where an appeal is taken or application for leave to appeal is made.

(2) The court of appeal may by order vary or set aside any order made by the trial court with respect to the restoration of property within the limits prescribed by the provision under which the order was made by the trial court, whether or not the conviction is quashed.

(3) The Minister of Justice may, upon an application for the name of the Crown by or on behalf of a person who has been convicted in proceedings by indictment

(a) direct, by order in writing, a new trial before any court that he thinks proper, if after inquiry he is satisfied that in the circumstances a new trial should be directed;

(b) refer the matter at any time to the court of appeal for hearing and determination by that court if it is of the opinion that the conviction is unsafe or that the appellant or applicant for leave to appeal is entitled to be present at the hearing of the appeal, where the appeal is on a ground involving a question of law alone.

(4) An appellant who is in custody and who is represented by counsel is not entitled to be present at the hearing of the appeal.

(5) A convicted person who is an appellant may present his case on appeal and his argument in writing instead of orally, and the court of appeal shall consider any case or argument so presented.

(6) The power of a court of appeal to impose sentences may be exercised notwithstanding that the appellant is not present.

(7) Where an order for compensation or for the restoration of property is made by the trial court under section 533, 539 or 540, the expiration of the order is

(a) until the expiration of the period prescribed by rules of court for the filing of notice of appeal or of notice of application for leave to appeal, unless the appellant or applicant for leave to appeal writes an appeal, and

(b) until the appeal or application for leave to appeal has been determined, where an appeal is taken or application for leave to appeal is made.

(2) The court of appeal may by order vary or set aside any order made by the trial court with respect to the restoration of property within the limits prescribed by the provision under which the order was made by the trial court, whether or not the conviction is quashed.

(3) The Minister of Justice may, upon an application for the name of the Crown by or on behalf of a person who has been convicted in proceedings by indictment

(a) direct, by order in writing, a new trial before any court that he thinks proper, if after inquiry he is satisfied that in the circumstances a new trial should be directed;

(b) refer the matter at any time to the court of appeal for hearing and determination by that court if it is of the opinion that the conviction is unsafe or that the appellant or applicant for leave to appeal is entitled to be present at the hearing of the appeal, where the appeal is on a ground involving a question of law alone.

(4) An appellant who is in custody and who is represented by counsel is not entitled to be present at the hearing of the appeal.

(5) A convicted person who is an appellant may present his case on appeal and his argument in writing instead of orally, and the court of appeal shall consider any case or argument so presented.

(6) The power of a court of appeal to impose sentences may be exercised notwithstanding that the appellant is not present.

(7) Where an order for compensation or for the restoration of property is made by the trial court under section 533, 539 or 540, the expiration of the order is

(a) until the expiration of the period prescribed by rules of court for the filing of notice of appeal or of notice of application for leave to appeal, unless the appellant or applicant for leave to appeal writes an appeal, and

(b) until the appeal or application for leave to appeal has been determined, where an appeal is taken or application for leave to appeal is made.

593. Section 1015.

Section 1015

Right of
appellant
to attend.

594. (1) Subject to subsection (2), an appellant who is in custody is entitled, if he desires, to be present at the hearing of the appeal.

Appellant
represented
by counsel.

(2) An appellant who is in custody and who is represented by counsel is not entitled to be present

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(a) at the hearing of the appeal, where the appeal is on a ground involving a question of law alone,

(b) on an application for leave to appeal, or

(c) on any proceedings that are preliminary or incidental to an appeal,

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unless rules of court provide that he is entitled to be present or the court of appeal or a judge thereof gives him leave to be present.

Argument
may be
oral or in
writing.

(3) A convicted person who is an appellant may present his case on appeal and his argument in writing instead of orally, and the court of appeal shall consider any case or argument so presented.

15

Sentence in
absence of
appellant.

(4) The power of a court of appeal to impose sentence may be exercised notwithstanding that the appellant is not present.

20

Restitution
of property.

595. (1) Where an order for compensation or for the restitution of property is made by the trial court under section 628, 629 or 630, the operation of the order is suspended

(a) until the expiration of the period prescribed by rules of court for the giving of notice of appeal or of notice of application for leave to appeal, unless the accused waives an appeal, and

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(b) until the appeal or application for leave to appeal has been determined, where an appeal is taken or application for leave to appeal is made.

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Annulling
or varying
order.

(2) The court of appeal may by order annul or vary an order made by the trial court with respect to compensation or the restitution of property within the limits prescribed by the provision under which the order was made by the trial court, whether or not the conviction is quashed.

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POWERS OF MINISTER OF JUSTICE.

Powers of
Minister of
Justice.

596. The Minister of Justice may, upon an application for the mercy of the Crown by or on behalf of a person who has been convicted in proceedings by indictment,

(a) direct, by order in writing, a new trial before any court that he thinks proper, if after inquiry he is satisfied that in the circumstances a new trial should be directed;

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(b) refer the matter at any time to the court of appeal for hearing and determination by that court as if it were an appeal by the convicted person; or

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594. Sections 1018 (1) in part, 1021 (6) and 1021 (7).

595. Section 1017.

596. Section 1022 (2).

APPEALS TO THE SUPREME COURT OF CANADA

2	1018 (1) in part, 1021 (6) and 1021 (7)	1018 (1) in part, 1021 (6) and 1021 (7)
5	1017	1017
10	1017	1017
15	1017	1017
20	1017	1017
25	1017	1017
30	1017	1017
35	1017	1017
40	1022 (2)	1022 (2)
45	1022 (2)	1022 (2)

(c) refer to the court of appeal at any time, for its opinion, any question upon which he desires the assistance of that court, and the court shall furnish its opinion accordingly.

APPEALS TO THE SUPREME COURT OF CANADA.

- Appeal from conviction. **597.** (1) A person who is convicted of an indictable offence whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada 5
- In case of dissent. (a) on any question of law on which a judge of the court of appeal dissents, or
- On question of law with leave. (b) on any question of law, if leave to appeal is granted 10
by a judge of the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the judge may, for special reasons, allow.
- Appeal where acquittal set aside. Where joint trial. (2) A person 15
(a) who is acquitted of an indictable offence and whose acquittal is set aside by the court of appeal, or
(b) who is tried jointly with a person referred to in paragraph (a) and is convicted and whose conviction is sustained by the court of appeal, 20
may appeal to the Supreme Court of Canada on a question of law.
- Appeal by Attorney General. **598.** (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under paragraph (a) of section 583 or dismisses an appeal taken 25
pursuant to paragraph (a) of section 584, the Attorney General may appeal to the Supreme Court of Canada
- In case of dissent. (a) on any question of law on which a judge of the court of appeal dissents, or
- On question of law with leave. (b) on any question of law, if leave to appeal is granted 30
by a judge of the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the judge may, for special reasons, allow.
- Terms. (2) Where leave to appeal is granted under paragraph 35
(b) of subsection (1), the judge may impose such terms as he sees fit.
- Notice of appeal. **599.** No appeal lies to the Supreme Court of Canada unless notice of appeal in writing is served by the appellant upon the respondent within fifteen days 40
(a) after the judgment of the court of appeal is pronounced where the appeal may be taken without leave, or
(b) after leave to appeal is granted, where leave is re- 45
quired.

597. Sections 1023 (1) and (2) and 1025 (1) in part.

598. Sections 1023 (3) and 1025 (1) in part.

599. Sections 1023 (4) and 1025 (2).

unless further time is allowed by the Supreme Court of Canada or a judge thereof.

Order of
Supreme
Court of
Canada.

600. (1) The Supreme Court of Canada may, on an appeal under this Part, make any order that the court of appeal might have made and may make any rule or order that is necessary to give effect to its judgment. 5

Hearing
of appeal.

(2) An appeal to the Supreme Court of Canada that is not brought on for hearing by the appellant at the session of that court during which the judgment appealed from is pronounced by the court of appeal, or during the next session thereof, shall be deemed to be abandoned, unless otherwise ordered by the Supreme Court of Canada or a judge thereof. 10

Abandon-
ment.

APPEALS BY ATTORNEY GENERAL OF CANADA.

Right of
Attorney
General of
Canada
to appeal.

601. The Attorney General of Canada has the same rights of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of that government as the Attorney General of a province has under this Part. 15

PART XIII.

600. Section 1024.

600. Except where otherwise provided, this Part applies where a person is required to attend to give evidence in a proceeding to which this Act applies.

601. (1) Where a person is likely to give material evidence in a proceeding to which this Act applies, a subpoena may be issued in accordance with this Part requiring that person to attend to give evidence.

(2) Where it is made to appear that a person who is likely to give material evidence

601. New.

(a) will not attend in response to a subpoena issued or

(b) is evading service of a subpoena,

a court, justice or magistrate having power to issue a subpoena may issue the attendance warrant in Form 12 to cause that person to be arrested and to be brought to give evidence.

(3) Except where paragraph (4) of subsection (2) applies, a warrant in Form 12 shall not be issued unless a subpoena has first been issued.

602. (1) Where a person is required to attend to give evidence before a superior court or criminal jurisdiction other than a magistrate acting under Part XVII, the subpoena directed to that person shall be issued out of the court below which the attendance of that person is required.

(2) Where a person is required to attend to give evidence before a magistrate acting under Part XVI or a summary conviction court under Part XXIV or in proceedings other than a justice has forbidden a subpoena directed to that person shall be issued

(a) by a justice or magistrate, as the case may be, where the person whose attendance is required is within the province in which the proceeding was instituted or

(b) out of a superior court of criminal jurisdiction or a county or district court of the province in which the proceedings were instituted, where the person whose attendance is required is not within the province.

PART XIX.

PROCURING ATTENDANCE OF WITNESSES.

APPLICATION.

Application. **602.** Except where section 446 applies, this Part applies where a person is required to attend to give evidence in a proceeding to which this Act applies.

PROCESS.

Subpoena. **603.** (1) Where a person is likely to give material evidence in a proceeding to which this Act applies, a subpoena may be issued in accordance with this Part requiring that person to attend to give evidence. 5

Warrant in Form 12. (2) Where it is made to appear that a person who is likely to give material evidence

(a) will not attend in response to a subpoena if a subpoena is issued, or

(b) is evading service of a subpoena, a court, justice or magistrate having power to issue a subpoena to require the attendance of that person to give evidence may issue a warrant in Form 12 to cause that person to be arrested and to be brought to give evidence. 15

Subpoena to be issued in first instance.

(3) Except where paragraph (a) of subsection (2) applies, a warrant in Form 12 shall not be issued unless a subpoena has first been issued.

How subpoena issued.

604. (1) Where a person is required to attend to give evidence before a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI, the subpoena directed to that person shall be issued out of the court before which the attendance of that person is required. 25

Who may issue.

(2) Where a person is required to attend to give evidence before a magistrate acting under Part XVI, or a summary conviction court under Part XXIV or in proceedings over which a justice has jurisdiction, a subpoena directed to that person shall be issued 30

(a) by a justice or magistrate, as the case may be, where the person whose attendance is required is within the province in which the proceedings were instituted, or

(b) out of a superior court of criminal jurisdiction or a county or district court of the province in which the proceedings were instituted, where the person whose attendance is required is not within the province. 35

This Part is derived from the following sections of the present *Criminal Code*:—

604A, 655 (3), 663 (in part), 671 to 677, 693, 711 to 713, 716, 788, 789, 841, 842, 971 to 976, 995 to 1000.

EXAMINATION OF DEFENDERS OR WITNESSES

604 (1) Subject to subsection (2), a subpoena shall be served in accordance with subsection (3) of section 441.

(2) A subpoena that is served pursuant to paragraph (b) of subsection (3) of section 441 shall be served personally upon the person to whom it is directed.

(3) Service of a subpoena may be proved by the affidavit of the person who effected service.

687 (1) A subpoena that is issued out of a superior court of criminal jurisdiction or a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI has effect anywhere in Canada according to its terms.

(2) A subpoena that is issued by a justice or magistrate has effect anywhere in the province in which it is issued.

688 (1) A warrant that is issued out of a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI may be executed anywhere in Canada.

(2) Subject to subsection (3) of section 411, a warrant that is issued by a justice or magistrate may be executed anywhere in the province in which it is issued.

- Order of judge. (3) A subpoena shall not be issued pursuant to paragraph (b) of subsection (2), except pursuant to an order of a judge of the court made upon application by a party to the proceedings.
- Seal. (4) A subpoena or warrant that is issued by a court under this Part shall be under the seal of the court and shall be signed by a judge of the court or by the clerk of the court. 5
- Signature. (5) A subpoena or warrant that is issued by a justice or magistrate under this Part shall be signed by the justice or magistrate. 10
- Form. (6) A subpoena issued under this Part may be in Form 11.
- Contents of subpoena. **605.** (1) A subpoena shall require the person to whom it is directed to attend, at a time and place to be stated in the subpoena, to give evidence and, if required, to bring with him any writings that he has in his possession or under his control relating to the subject matter of the proceedings. 15
- Witness to appear and remain. (2) A person who is served with a subpoena issued under this Part shall attend and shall remain in attendance throughout the proceedings unless he is excused by the presiding judge, justice or magistrate. 20

EXECUTION OR SERVICE OF PROCESS.

- Service. **606.** (1) Subject to subsection (2), a subpoena shall be served in accordance with subsection (3) of section 441.
- Personal service. (2) A subpoena that is issued pursuant to paragraph (b) of subsection (2) of section 604 shall be served personally upon the person to whom it is directed. 25
- Proof of service. (3) Service of a subpoena may be proved by the affidavit of the person who effected service.
- Subpoena effective throughout Canada. **607.** (1) A subpoena that is issued out of a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI has effect anywhere in Canada according to its terms. 30
- Subpoena effective throughout province. (2) A subpoena that is issued by a justice or magistrate has effect anywhere in the province in which it is issued. 35
- Warrant effective throughout Canada. **608.** (1) A warrant that is issued out of a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI may be executed anywhere in Canada.
- Warrant effective throughout province. (2) Subject to subsection (3) of section 610, a warrant that is issued by a justice or magistrate may be executed anywhere in the province in which it is issued. 40

Deportation or Accusation Warrants

609. (1) Where a person is bound by recognizance to give evidence in any proceeding, a justice who is satisfied upon information being made before him in writing and under oath that the person is about to abscond or has absconded, may issue his warrant in Form 13 directing a peace officer to arrest that person and to bring him before the court, judge, justice or magistrate before whom he is bound to appear.

Warrant for arrest

(2) Section 417 applies, with such modifications, to a warrant issued under this section.

Warrant for arrest

(3) A person who is arrested under this section is entitled, upon request, to receive a copy of the information upon which the warrant for his arrest was issued.

Copy of information

610. (1) Where a person who has been served with a subpoena to give evidence in a proceeding does not attend in person or remains in attendance, the court, judge, justice or magistrate before whom that person was required to attend may, if it is established

Warrant when not attended

(a) that the subpoena has been served in accordance with this Part, and

(b) that the person is likely to give material evidence, issue or cause to be issued a warrant in Form 13 for the arrest of that person.

(2) Where a person who has been bound by a recognizance to attend to give evidence in any proceeding does not attend or does not remain in attendance, the court, judge, justice or magistrate before whom that person was bound to attend may, upon being or cause to be issued a warrant in Form 13 for the arrest of that person.

Warrant when bound by recognizance

(3) A warrant that is issued by a justice or magistrate pursuant to subsection (1) or (2) may be executed anywhere in Canada.

Warrant for arrest

611. Where a person is brought before a court, judge, justice or magistrate under a warrant issued pursuant to subsection (1) of section 609, or pursuant to section 609 or 610, the court, judge, justice or magistrate may order that the person

Order when arrested

(a) be detained in custody, or

(b) be released on recognizance in Form 25, with or without caution.

to appear and give evidence when required.

612. (1) A person who being required by law to attend or remain in attendance for the purpose of giving evidence fails without lawful excuse to attend or remain in attendance accordingly is guilty of contempt of court.

Contempt

DEFAULTING OR ABSCONDING WITNESS.

Warrant for
absconding
witness.

609. (1) Where a person is bound by recognizance to give evidence in any proceedings, a justice who is satisfied upon information being made before him in writing and under oath that the person is about to abscond or has absconded, may issue his warrant in Form 13 directing a peace officer to arrest that person and to bring him before the court, judge, justice or magistrate before whom he is bound to appear. 5

Endorsement
of warrant.

(2) Section 447 applies, *mutatis mutandis*, to a warrant issued under this section. 10

Copy of
information.

(3) A person who is arrested under this section is entitled, upon request, to receive a copy of the information upon which the warrant for his arrest was issued.

Warrant
when
witness
does not
attend.

610. (1) Where a person who has been served with a subpoena to give evidence in a proceeding does not attend or remain in attendance, the court, judge, justice or magistrate before whom that person was required to attend may, if it is established 15

(a) that the subpoena has been served in accordance with this Part, and 20

(b) that the person is likely to give material evidence, issue or cause to be issued a warrant in Form 12 for the arrest of that person.

Warrant
where
witness
bound by
recognizance.

(2) Where a person who has been bound by a recognizance to attend to give evidence in any proceeding does not attend or does not remain in attendance, the court, judge, justice or magistrate before whom that person was bound to attend may issue or cause to be issued a warrant in Form 12 for the arrest of that person. 25

Warrant
effective
throughout
Canada.

(3) A warrant that is issued by a justice or magistrate pursuant to subsection (1) or (2) may be executed anywhere in Canada. 30

Order
where
witness
arrested
under
warrant.

611. Where a person is brought before a court, judge, justice or magistrate under a warrant issued pursuant to subsection (2) of section 603, or pursuant to section 609 or 610, the court, judge, justice or magistrate may order that the person 35

(a) be detained in custody, or

(b) be released on recognizance in Form 28, with or without sureties,

to appear and give evidence when required. 40

Contempt.

612. (1) A person who, being required by law to attend or remain in attendance for the purpose of giving evidence fails, without lawful excuse, to attend or remain in attendance accordingly is guilty of contempt of court.

- Punishment.** (2) A court, judge, justice or magistrate may deal summarily with a person who is guilty of contempt of court under this section and that person is liable to a fine of one hundred dollars or to imprisonment for ninety days or to both, and may be ordered to pay the costs that are incident to the service of any process under this Part and to his detention, if any. 5
- Form.** (3) A conviction under this section may be in Form 34 and a warrant of committal in respect of a conviction under this section may be in Form 22. 10

EVIDENCE ON COMMISSION.

- Order for, when witness ill or out of Canada.** **613.** A party to a proceeding to which this Act applies may apply for an order appointing a commissioner to take the evidence of a witness who
- Application for order when witness ill.** (a) is, by reason of
- (i) physical disability arising out of illness, or 15
- (ii) some other good and sufficient cause, not likely to be able to attend at the time the trial is held, or
- (b) is out of Canada.
- Application where witness is ill.** **614.** (1) An application under paragraph (a) of section 20 613 shall be made
- (a) to a judge of a superior court of the province, or
- (b) to a judge of a county or district court in the territorial division where the proceedings are taken.
- Evidence of medical practitioner.** (2) An application under subparagraph (i) of paragraph 25 (a) of section 613 may be granted on the evidence of a registered medical practitioner.
- Reading evidence of witness who is ill.** **615.** Where the evidence of a witness mentioned in subparagraph (i) of paragraph (a) of section 613 is taken by a commissioner appointed under section 614, it may be read 30 in evidence in the proceedings if
- (a) it is proved by oral evidence or by affidavit that the witness is, by reason of death or physical disability arising out of illness, unable to attend,
- (b) the transcript of the evidence is signed by the 35 commissioner by or before whom it purports to have been taken, and
- (c) it is proved to the satisfaction of the court that reasonable notice of the time for taking the evidence was given to the other party, and that the accused or his 40 counsel, or the prosecutor or his counsel, as the case may be, had or might have had full opportunity to cross-examine the witness.

Application for order when witness out of Canada.

616. (1) An application that is made under paragraph (b) of section 613 shall be made

(a) to a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction before which the accused is to be tried, or

(b) to a magistrate acting under Part XVI, where the accused is to be tried by a magistrate acting under that Part.

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Reading evidence of witness out of Canada.

(2) Where the evidence of a witness is taken by a commissioner appointed under this section, it may be read in evidence in the proceedings.

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Reading evidence to grand jury.

(3) Subject to section 618, evidence that is taken by a commissioner appointed under this section may, where the presiding judge directs, be read in evidence before a grand jury.

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Providing for presence of accused counsel.

617. (1) A judge or magistrate who appoints a commissioner may make provision in the order to enable an accused to be present or represented by counsel when the evidence is taken, but failure of the accused to be present or to be represented by counsel in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this Part.

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Return of evidence.

(2) An order for the taking of evidence by commission shall indicate the officer of the court to whom the evidence that is taken under the order shall be returned.

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Rules and practice same as in civil cases.

618. Except where otherwise provided by this Part or by rules of court, the practice and procedure in connection with the appointment of commissioners under this Part, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the superior court of the province in which the proceedings are taken.

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EVIDENCE PREVIOUSLY TAKEN.

Evidence on preliminary inquiry may be read on trial in certain cases.

619. (1) Where, at the trial of an accused, a person whose evidence was given at a previous trial upon the same charge, or whose evidence was taken in the investigation of the charge against the accused or upon the preliminary inquiry into the charge, refuses to be sworn or to give evidence, or if facts are proved upon oath from which it can be inferred reasonably that the person

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(a) is dead,

- (b) has since become and is insane,
 (c) is so ill that he is unable to travel, or
 (d) is absent from Canada,

and where it is proved that his evidence was taken in the presence of the accused, it may be read as evidence in the proceedings without further proof, if the evidence purports to be signed by the judge or justice before whom it purports to have been taken, unless the accused proves that it was not in fact signed by that judge or justice or that he did not have full opportunity to cross-examine the witness. 5 10

Idem.

(2) Evidence that has been taken on the preliminary inquiry or other investigation of a charge against an accused may be read as evidence in the prosecution of the accused for any other offence upon the same proof and in the same manner in all respects, as it might, according to law, be read in the prosecution of the offence with which the accused was charged when the evidence was taken. 15

PART XX.

PUNISHMENTS, FINES, FORFEITURES, COSTS
AND RESTITUTION OF PROPERTY.

PUNISHMENT GENERALLY.

- “Court.”** **620.** In this Part, except as provided in section 640, “court” means a court, judge, justice or magistrate and includes a person who is authorized to exercise the powers of a court, judge, justice or magistrate to impose punishment. 5
- Degrees of punishment.** **621.** (1) Where an enactment prescribes different degrees or kinds of punishment in respect of an offence, the punishment to be imposed is, subject to the limitations prescribed in the enactment, in the discretion of the court that convicts a person who commits the offence. 10
- Discretion as to punishment.** (2) Where an enactment prescribes a punishment in respect of an offence, the punishment to be imposed is, subject to the limitations prescribed in the enactment, in the discretion of the court that convicts a person who commits the offence, but no punishment is a minimum punishment unless it is declared to be a minimum punishment. 15
- Imprisonment in default where term not specified.** (3) Where an accused is convicted of an offence punishable with both fine and imprisonment and a term of imprisonment in default of payment of the fine is not specified in the enactment that prescribed the punishment to be imposed, the imprisonment that may be imposed in default of payment shall not exceed the term of imprisonment that is prescribed in respect of the offence. 20
- Cumulative punishments.** (4) Where an accused 25
 (a) is convicted while under sentence for an offence, and a term of imprisonment, whether in default of payment of a fine or otherwise, is imposed;
 (b) is convicted of an offence punishable with both fine and imprisonment, and both are imposed with a direction that, in default of payment of the fine, the accused shall be imprisoned for a term certain; or 30
 (c) is convicted of more offences than one before the same court at the same sittings, and
 (i) more than one fine is imposed with a direction in respect of each of them that, in default of payment thereof, the accused shall be imprisoned for a term certain, 35

(1) terms of imprisonment for the respective offenses
 its subject, or
 (2) A term of imprisonment is imposed in respect
 of one offense and a fine is imposed in respect of
 another offense with a direction that, in default
 of payment, the accused shall be imprisoned for
 a term certain
 the court has ordered the accused may direct that the
 term of imprisonment shall be served one after the other

620. New.

620. (1) An accused who is convicted of an offence
 of one particular kind and is liable to be imprisoned
 for a term exceeding five years or to be fined
 more than five hundred rupees or to be imprisoned
 for a term exceeding five years and to be fined
 more than five hundred rupees, but an accused shall not be liable
 to be imprisoned for a term exceeding five years
 and to be fined more than five hundred rupees if the
 court has ordered that the accused may direct that the
 term of imprisonment shall be served one after the other

621. Sections 740, 746, 1028, 1029, 1035 (4), 1054, 1055 and new.

(2) An accused who is convicted of an offence
 punishable with imprisonment for more than five years
 may be fined in addition to or in lieu of any other
 punishment that is authorised

(3) Where a fine is imposed under this section, a term of
 imprisonment may be imposed in default of payment of
 the fine, but no such term shall exceed

(a) two years, where the term of imprisonment that
 may be imposed for the offence is less than five years;
 (b) five years, where the term of imprisonment that may
 be imposed for the offence is five years or more

621. (1) Notwithstanding subsection (2) of section 620,
 a corporation that is convicted of an offence is liable
 in lieu of any punishment that is provided as punishment
 for that offence

(c) to be fined in an amount that is in the discretion of
 the court, where the offence is an indictable offence,
 or
 (d) to be fined in an amount not exceeding one thousand
 dollars, where the offence is a summary conviction offence

(2) Where a fine that is imposed under subsection (1) is
 not paid forthwith the prosecutor may, in filling the case
 against the accused, enter as a judgment the amount of the fine and
 state if any in the report of the court of the process in which
 the fine was levied, and that judgment is enforceable against
 the accused in the same manner as if it were a judgment
 rendered against the accused in that court in civil
 proceedings

621. (1) A sentence commencing with imprisonment shall
 extend where a relevant enactment otherwise provides or
 the court otherwise orders

(2) The fine during which a convicted person
 (a) is at large on bail or
 (b) is confined in a prison or other place of confinement
 pending the determination of an appeal for that person

- (ii) terms of imprisonment for the respective offences are imposed, or
- (iii) a term of imprisonment is imposed in respect of one offence and a fine is imposed in respect of another offence with a direction that, in default of payment, the accused shall be imprisoned for a term certain,

the court that convicts the accused may direct that the terms of imprisonment shall be served one after the other.

Fine in lieu of other punishment.

622. (1) An accused who is convicted of an indictable offence punishable with imprisonment for five years or less may be fined in addition to or in lieu of any other punishment that is authorized, but an accused shall not be fined in lieu of imprisonment where the offence of which he is convicted is punishable by a minimum term of imprisonment.

Fine in addition to other punishment.

(2) An accused who is convicted of an indictable offence punishable with imprisonment for more than five years may be fined in addition to, but not in lieu of, any other punishment that is authorized.

Imprisonment in default of payment.

(3) Where a fine is imposed under this section, a term of imprisonment may be imposed in default of payment of the fine, but no such term shall exceed

(a) two years, where the term of imprisonment that may be imposed for the offence is less than five years, or

(b) five years, where the term of imprisonment that may be imposed for the offence is five years or more.

Fines on corporations.

623. (1) Notwithstanding subsection (2) of section 621, a corporation that is convicted of an offence is liable, in lieu of any imprisonment that is prescribed as punishment for that offence,

(a) to be fined in an amount that is in the discretion of the court, where the offence is an indictable offence, or

(b) to be fined in an amount not exceeding one thousand dollars, where the offence is a summary conviction offence.

Enforcement.

(2) Where a fine that is imposed under subsection (1) is not paid forthwith the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs, if any, in the superior court of the province in which the trial was held, and that judgment is enforceable against the accused in the same manner as if it were a judgment rendered against the accused in that court in civil proceedings.

Commencement of sentence.

624. (1) A sentence commences when it is imposed, except where a relevant enactment otherwise provides or the court otherwise orders.

Time pending appeal.

(2) The time during which a convicted person

(a) is at large on bail, or

(b) is confined in a prison or other place of confinement, pending the determination of an appeal by that person,

does not count as part of any term of imprisonment imposed pursuant to his conviction, but paragraph (b) is subject to any directions that the court appealed to may give.

When time begins to run.

(3) Notwithstanding subsection (1), a term of imprisonment, whether imposed by a trial court or by the court appealed to, commences or shall be deemed to be resumed, as the case requires, 5

(a) on the day on which the appeal is determined, where the convicted person is then in custody, and

(b) on the day on which the convicted person is arrested and taken into custody under the sentence, where he is not in custody, 10

but paragraph (a) is subject to any directions that the court appealed to may give.

Where fine imposed.

(4) Notwithstanding subsection (1), where the sentence that is imposed is a fine with a term of imprisonment in default of payment, no time prior to the day of execution of the warrant of committal counts as part of the term of imprisonment. 15

Application for leave to appeal.

(5) An application for leave to appeal is an appeal for the purposes of this section. 20

Reduction of imprisonment on part payment.

625. (1) Where a term of imprisonment is imposed in default of payment of a penalty, the term shall, upon payment of a part of the penalty, be reduced by the number of days that bears the same proportion to the number of days in the term as the part paid bears to the total penalty. 25

Minimum which can be accepted.

(2) No amount offered in part payment of a penalty shall be accepted unless it is sufficient to secure reduction of sentence of one day, or some multiple thereof, and where a warrant of committal has been issued, no part payment shall be accepted until any fee that is payable in respect of the warrant or its execution has been paid. 30

To whom payment made.

(3) Payment may be made under this section to the person who has lawful custody of the prisoner or to such other person as the Attorney General directs. 35

Application of money paid.

(4) A payment under this section shall, unless the order imposing the penalty otherwise provides, be applied to the payment in full of costs and charges, and thereafter to payment in full of compensation or damages that are included in the penalty, and finally to payment in full of any part of the penalty that remains unpaid. 40

"Penalty."

(5) In this section, "penalty" means all the sums of money, including fines, in default of payment of which a term of imprisonment is imposed and includes the costs and charges of committing the defaulter and of conveying him to prison. 45

Fines and penalties go to provincial treasurer.

626. (1) Where a fine, penalty or forfeiture is imposed or a recognizance is forfeited and no provision, other than this section, is made by law for the application of the proceeds thereof, the proceeds belong to Her Majesty in right of the province in which the fine, penalty or forfeiture 50

was imposed or the proceedings were continued, and shall be paid by the person who levies them to the full extent of their property.

(2) Where a fine, penalty or forfeiture is imposed

(a) in respect of a violation of a revenue law of Canada

(b) in respect of a breach of duty or malfeasance in office by an officer or employee of the Government of Canada, or

(c) in respect of any proceedings instituted as the instigation of the Government of Canada in which that Government bears the cost of proceedings;

(3) a person in connection with proceedings mentioned in paragraph (2) is liable

the proceeds of the fine, penalty, forfeiture or forfeiture belong to Her Majesty in right of Canada and shall be paid by the person who levies them to the Receiver General of Canada

(4) Where a provincial, municipal or local authority bears, in whole or in part, the expense of administering the law under which a fine, penalty, forfeiture or forfeiture is levied, the proceeds shall be paid to that authority.

625. Section 1035A.

(1) The Lieutenant-Governor in Council may from time to time direct that the proceeds of a fine, penalty, forfeiture or forfeiture that belong to Her Majesty in right of the province shall be paid to that authority.

(2) The Governor in Council may from time to time direct that the proceeds of a fine, penalty, forfeiture or forfeiture that belong to Her Majesty in right of Canada shall be paid to that authority.

(3) Where the proceeds of a fine, penalty, forfeiture or forfeiture belong to the Province of Ontario, the Receiver General of Ontario shall, in whole or in part, bear the expense of administering the law under which the fine, penalty or forfeiture was imposed or the proceedings were instituted, the proceeds shall, notwithstanding anything in this section, be paid to that authority.

(4) If a fine, penalty, forfeiture or forfeiture is imposed by law and a other costs are prescribed for the recovery thereof, the fine, penalty, forfeiture or forfeiture shall be levied as if it were a debt due to the Receiver General of Ontario, but in no other event.

(5) The proceeds under subsection (1) shall be paid into the Consolidated Revenue Fund of Ontario when the case of such a fine, penalty, forfeiture or forfeiture is referred to the Receiver General of Ontario in respect of which the fine, penalty, forfeiture or forfeiture was imposed.

was imposed or the recognizance was forfeited, and shall be paid by the person who receives them to the treasurer of that province.

Exception.

(2) Where

(a) a fine, penalty or forfeiture is imposed 5

(i) in respect of a violation of a revenue law of Canada,

(ii) in respect of a breach of duty or malfeasance in office by an officer or employee of the Government of Canada, or 10

(iii) in respect of any proceedings instituted at the instance of the Government of Canada in which that government bears the costs of prosecution; or

(b) a recognizance in connection with proceedings 15 mentioned in paragraph (a) is forfeited,

the proceeds of the fine, penalty, forfeiture or recognizance belong to Her Majesty in right of Canada and shall be paid by the person who receives them to the Receiver General of Canada. 20

Direction for payment to municipality.

(3) Where a provincial, municipal or local authority bears, in whole or in part, the expense of administering the law under which a fine, penalty or forfeiture is imposed or under which proceedings are taken in which a recognizance is forfeited, 25

By Lieutenant-Governor.

(a) the Lieutenant-Governor in Council may, from time to time, direct that the proceeds of a fine, penalty, forfeiture or recognizance that belongs to Her Majesty in right of the province shall be paid to that authority, and 30

By Governor in Council.

(b) the Governor in Council may, from time to time, direct that the proceeds of a fine, penalty, forfeiture or recognizance that belongs to Her Majesty in right of Canada shall be paid to that authority.

Province of Ontario

(4) Where the proceeds of a fine, penalty, forfeiture or 35 recognizance belong, by virtue of this section, to Her Majesty in right of the Province of Ontario, but a municipal or local authority in that province bears, in whole or in part, the expense of administering the law under which the fine, penalty or forfeiture was imposed or the recognizance was 40 forfeited, the proceeds shall, notwithstanding anything in this section, be paid to that authority.

Recovery of penalties.

627. (1) Where a fine, pecuniary penalty or forfeiture is imposed by law and no other mode is prescribed for the recovery thereof, the fine, pecuniary penalty or forfeiture 45 is recoverable or enforceable in civil proceedings by Her Majesty, but by no other person.

Limitation.

(2) No proceedings under subsection (1) shall be instituted more than two years after the time when the cause of action arose or the offence was committed in respect of 50 which the fine, pecuniary penalty or forfeiture was imposed.

Compensation
for loss of
property.

628. A court that convicts an accused of an indictable offence may, by order, upon the application of a person aggrieved, at the time sentence is imposed, award out of moneys found in the possession of the accused at the time of his arrest, an amount by way of satisfaction or compensation for loss of or damage to property suffered by the applicant as a result of the commission of the offence of which the accused is convicted. 5

Compensation to
bona fide
purchasers.

629. Where an accused is convicted of an indictable offence and any property obtained as a result of the commission of the offence has been sold to an innocent purchaser, the court may by order, upon the application of the purchaser after restitution of the property to its owner, award to the purchaser, out of moneys found in the possession of the accused at the time of his arrest, an amount not exceeding the amount paid by the purchaser for the property. 15

Order for
restitution
of property.

630. (1) Where an accused is convicted of an indictable offence the court shall order that any property obtained by the commission of the offence shall be restored to the person entitled to it, if at the time of the trial the property is before the court or has been detained so that it can be immediately restored to that person under the order. 20

Where no
conviction.

(2) Where an accused is tried for an indictable offence but is not convicted, and the court finds that an indictable offence has been committed, the court may order that any property obtained by the commission of the offence shall be restored to the person entitled to it, if at the time of the trial the property is before the court or has been detained, so that it can be immediately restored to that person under the order. 30

When order
not to be
made.

(3) An order shall not be made under this section in respect of

- (a) property to which an innocent purchaser for value has acquired lawful title,
- (b) a valuable security that has been paid or discharged in good faith by a person who was liable to pay or discharge it, or 35
- (c) a negotiable instrument that has, in good faith, been taken or received by transfer or delivery for valuable consideration by a person who had no notice and no reasonable cause to suspect that an indictable offence had been committed. 40

By whom
order
executed.

(4) An order made under this section shall be executed by the peace officers by whom the process of the court is ordinarily executed. 45

Saving.

(5) This section does not apply to proceedings against a trustee, banker, merchant, attorney, factor, broker or

628. Section 1048.

other agent authorized with the documents of title to goods for the purpose of selling or otherwise disposing of the goods.

481. Where judgment is given for the recovery of a debt or damages by a plaintiff for the breach of a contract, the amount of the costs to be paid by the defendant shall be ascertained in the same manner as if it were a judgment rendered against him in that court in civil proceedings.

629. Section 1049.

482. Where costs are paid under section 481 and the amount of the costs by which the costs in the superior court of the province in which the trial was held and the judgment is entered is exceeded, the plaintiff shall be liable to pay the excess of the costs in civil proceedings.

630. Sections 1050 and 795.

483. Where any act is done in violation of an obligation or duty which an individual is generally bound to observe in his ordinary life, the person who has done the act shall be liable to punishment for that act.

484. (1) Where a person is sentenced to imprisonment for a term of two years or more, the sentence shall be suspended for the period of two years or more, if the person is not a habitual offender, or if he is a habitual offender, if he is not a habitual offender of the second or third class.

485. A person who is sentenced to imprisonment for a term of less than two years shall be liable to punishment for that act.

486. Where a person is sentenced to imprisonment for a term of less than two years, the sentence shall be suspended for the period of two years or more, if the person is not a habitual offender, or if he is a habitual offender, if he is not a habitual offender of the second or third class.

487. Where a person is sentenced to imprisonment for a term of less than two years, the sentence shall be suspended for the period of two years or more, if the person is not a habitual offender, or if he is a habitual offender, if he is not a habitual offender of the second or third class.

other agent entrusted with the possession of goods or documents of title to goods, for an offence under section 276, 277, 278 or 282.

Costs to defendant in case of libel.

631. Where judgment is given for the accused in proceedings by indictment for the publication of a defamatory libel, the accused is entitled to recover from the prosecutor costs in a reasonable amount to be fixed by order of the court. 5

How recovered.

632. Where costs that are fixed under section 631 are not paid forthwith the accused may enter judgment for the amount of the costs by filing the order in the superior court of the province in which the trial was held, and that judgment is enforceable against the prosecutor in the same manner as if it were a judgment rendered against him in that court in civil proceedings. 10 15

IMPRISONMENT.

Imprisonment when no other provision.

633. Every one who is convicted of an indictable offence for which no punishment is specially provided is liable to imprisonment for five years.

Imprisonment for life or more than two years.

634. (1) Except where otherwise provided, a person who is sentenced to imprisonment for life or for a term of two years or more shall be sentenced to the penitentiary designated by or under the *Penitentiary Act* as the penitentiary for the province, territory or district in which he is convicted. 20

Imprisonment for term less than two years.

(2) A person who is sentenced to imprisonment 25
(a) for a term of less than two years, or
(b) for two or more terms of less than two years each, to be served one after the other,

shall, unless a special prison is prescribed by law, be sentenced to imprisonment in a prison or place of confinement within the province in which he is convicted, other than a penitentiary, in which the sentence of imprisonment may be lawfully executed. 30

Term less than two years.

(3) Where a person who is sentenced to imprisonment in a penitentiary is, before the expiration of that sentence, sentenced to imprisonment for a term of less than two years, he may be sentenced to serve that term in the same penitentiary, and if he is sentenced accordingly, he shall serve that term in that penitentiary, but if the previous sentence of imprisonment in the penitentiary is set aside, he shall 40 serve that term in accordance with subsection (2).

631. Section 1045.

632. New.

633. Section 1052 (1).

634. Sections 1006 and 1056.

Sentence to penitentiary of person serving sentence elsewhere.

(4) Where a person is sentenced to imprisonment in a penitentiary while he is lawfully imprisoned in a place other than a penitentiary he shall, except where otherwise provided, be sent immediately to the penitentiary and shall serve in the penitentiary the unexpired portion of the term of imprisonment that he was serving when he was sentenced to the penitentiary as well as the term of imprisonment for which he was sentenced to the penitentiary. 5

Exception.

(5) For the purposes of this section, "penitentiary" does not, until January 1, 1954, include the penitentiary 10 mentioned in section 37 of the *Statute Law Amendment (Newfoundland) Act*, chapter 6 of the Statutes of Canada, 1949, (First Session).

Sentence served according to regulations.

635. (1) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern 15 the institution to which the prisoner is sentenced, and a reference to hard labour in a conviction or sentence shall be deemed to be a reference to the employment of prisoners that is provided for in the enactments or rules.

Hard labour improperly ordered.

(2) A conviction or sentence that imposes hard labour 20 shall not be quashed or set aside on the ground only that the enactment that creates the offence does not authorize the imposition of hard labour, but shall be amended accordingly.

DELIVERY OF ACCUSED TO KEEPER OF PRISON.

Execution of warrant of committal.

636. A peace officer or other person to whom a war- 25 rant of committal authorized by this Act or any other Act of the Parliament of Canada is directed shall convey the person named or described therein to the prison mentioned in the warrant and deliver him, together with the warrant, to the keeper of the prison who shall thereupon give to 30 the peace officer or other person who delivers the prisoner a receipt in Form 39 setting out the state and condition of the prisoner when delivered into his custody.

RECOGNIZANCES TO KEEP THE PEACE.

Binding over person convicted.

637. (1) Where a person is convicted of an offence, 35 the court may
 (a) in addition to any sentence that is imposed upon him, in the case of an indictable offence, or
 (b) in addition to or in lieu of sentence, in the case of an offence punishable on summary conviction,
 order that the person shall, at a time to be fixed by the court, 40 enter into a recognizance, with or without sureties, to keep the peace and be of good behaviour for a term that does not

exceed two years, and in default may, by warrant in Form 30, commit him to prison until the recognizance is entered into or the security is given.

(2) A recognizance under this section may be in Form 28.

(3) Where a person who has been ordered to enter into a recognizance under subsection (1) has remained in prison for two weeks because of his default, he may apply to a judge for review of the order of committal.

(4) A judge who receives an application under subsection (3) may order the discharge of the person referred to in the application or at a subsequent time, upon notice to such persons as he considers proper or may make any other order that he considers proper in the circumstances.

(5) Where a person is committed to prison under subsection (1) and the court or judge who committed him to prison is of the opinion that the person is not a fit and proper person to be committed to prison, he may order the discharge of the person referred to in the application or at a subsequent time, upon notice to such persons as he considers proper or may make any other order that he considers proper in the circumstances.

(6) In this section, "judge" means a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction for the territorial division in which the person whose name is mentioned is situated.

635. New.

(1) Where an accused is committed to prison under section 748 and no previous conviction is proved against him, and it appears to the court that the accused is of good character and age, and that he is not a danger to the public, the court may order that he be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(2) It is expected that the accused be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(3) Where a person is committed to prison under section 748 and no previous conviction is proved against him, and it appears to the court that the accused is of good character and age, and that he is not a danger to the public, the court may order that he be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

636. Section 704.

(1) Where a person is committed to prison under section 748 and no previous conviction is proved against him, and it appears to the court that the accused is of good character and age, and that he is not a danger to the public, the court may order that he be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(2) It is expected that the accused be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(3) Where a person is committed to prison under section 748 and no previous conviction is proved against him, and it appears to the court that the accused is of good character and age, and that he is not a danger to the public, the court may order that he be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(4) It is expected that the accused be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(5) Where a person is committed to prison under section 748 and no previous conviction is proved against him, and it appears to the court that the accused is of good character and age, and that he is not a danger to the public, the court may order that he be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(6) It is expected that the accused be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

637. Sections 748 (1), 1058 and 1059.

(1) Where a person is committed to prison under section 748 and no previous conviction is proved against him, and it appears to the court that the accused is of good character and age, and that he is not a danger to the public, the court may order that he be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

(2) It is expected that the accused be released on probation for a period not exceeding two years, subject to the conditions of the probation order.

exceed two years, and in default may, by warrant in Form 20, commit him to prison until the recognizance is entered into or the security is given.

Form.

(2) A recognizance under this section may be in Form 28.

Proceedings
when in prison
two weeks.

(3) Where a person who has been ordered to enter into a recognizance under subsection (1) has remained in prison for two weeks because of his default, he may apply to a judge for review of the order of committal. 5

Procedure
when
brought
before court.

(4) A judge who receives an application under subsection (3) may order the discharge of the person referred to, forthwith or at a subsequent time, upon notice to such persons as he considers proper, or may make any other order that he considers proper in the circumstances with respect to the number of sureties to be required, the amounts in which they are to be bound and the period during which the person and the sureties are to be bound. 10 15

"Judge."

(5) In this section, "judge" means a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction for the territorial division in which the prison where the person is confined is situated. 20

SUSPENDED SENTENCE AND PROBATION.

Suspension
of sentence.

638. (1) Where an accused is convicted of an offence and no previous conviction is proved against him, and it appears to the court that convicts him or that hears an appeal that, having regard to his age, character and antecedents, to the nature of the offence and to any extenuating circumstances surrounding the commission of the offence, it is expedient that the accused be released on probation, the court may, except where a minimum punishment is prescribed by law, instead of sentencing him to punishment, suspend the passing of sentence and direct that he be released upon entering into a recognizance in Form 28, with or without sureties, 25 30

(a) to keep the peace and be of good behaviour during any period that is fixed by the court, and

(b) to appear and to receive sentence when called upon to do so during the period fixed under paragraph (a), upon breach of his recognizance. 35

Conditions.

(2) A court that suspends the passing of sentence may prescribe as conditions of the recognizance that

(a) the accused shall pay the costs of prosecution or some portion thereof within such period and by such instalments as it may direct, 40

(b) the accused shall make restitution and reparation to any person aggrieved or injured for the actual loss or damage caused by the commission of the offence, and 45

(c) the accused shall provide for the support of his wife and any other dependents whom he is liable to support, and the court may impose such further conditions as it considers desirable in the circumstances and may from time to time change the conditions and increase or decrease the period of the recognizance, but no such recognizance shall be kept in force for more than two years. 5

Requiring person to report.

(3) A court that suspends the passing of sentence may require as a condition of the recognizance that the accused shall report from time to time, as it may prescribe, to a person designated by the court, and the accused shall be under the supervision of that person during the prescribed period. 10

Report by designated person.

(4) The person designated by the court under subsection (3) shall report to the court if the accused does not carry out the terms on which the passing of sentence was suspended, and the court may order that the accused be brought before it to be sentenced. 15

Suspending sentence of person previously convicted.

(5) Where one previous conviction and no more is proved against an accused who is convicted, but the previous conviction took place more than five years before the time of the commission of the offence of which he is convicted, or was for an offence that is not related in character to the offence of which he is convicted, the court may, notwithstanding subsection (1), suspend the passing of sentence and make the direction mentioned in subsection (1). 20 25

Summons or warrant when recognizance not observed.

639. (1) A court that has suspended the passing of sentence or a justice having jurisdiction in the territorial division in which a recognizance was taken under section 638 may, upon being satisfied by information on oath that the accused has failed to observe a condition of the recognizance, issue a summons to compel his appearance or a warrant for his arrest. 30

Return.

(2) A summons under subsection (1) is returnable before the court and an accused who is arrested under a warrant issued under subsection (1) shall be brought before the court or a justice. 35

Remand for judgment.

(3) A justice before whom a warrant under subsection (1) is returned may remand the accused to appear before the court or admit him to bail upon recognizance, with or without sureties, conditioned upon such appearance. 40

Sentence.

(4) The court may, upon the appearance of the accused pursuant to this section or subsection (4) of section 638 and upon being satisfied that the accused has failed to observe a condition of his recognizance, sentence him for the offence of which he was convicted. 45

Magistrate unable to act.

(5) Where the passing of sentence is suspended by a magistrate acting under Part XVI or Part XXIV or by a judge, and thereafter he dies or is for any reason unable

to act, his powers under this section may be exercised by any other magistrate or judge, or the case may be, who has equivalent jurisdiction in the same territorial division.

- (a) For the purposes of sections 528 and 529, "court" means
 - (i) a superior court of criminal jurisdiction;
 - (ii) a court of criminal jurisdiction;
 - (iii) a magistrate acting as a summary conviction court under Part XXIV, or
 - (iv) a court that hears an appeal.

Whipping

- 541. (1) Where a person is liable to be sentenced to be whipped, the court may sentence him to be whipped one or two or three occasions within the limits of the prison in which he is confined.
 - (2) A sentence of whipping shall specify the number of strokes to be administered on each occasion.
 - (3) Every sentence of whipping shall be carried out in accordance with regulations to be made by the Governor in Council.
 - (4) No female person shall be whipped.

639. Section 1083 and new.

542. The sentence to be pronounced against a person who is sentenced to death shall be that he shall be hanged by the neck until he is dead.

543. (1) A judge who sentences a person to death shall appoint a day for the execution of the sentence and in appointing that day shall allow a period of time that in his opinion is sufficient to enable the Governor in Council to signify his pleasure before that day, and shall forthwith make a report of the case to the Secretary of State for the Colonies of the Government of the United Kingdom.

- (2) Where a judge who sentences a person to death convicts that the person should be recommended for the royal pardon or
 - (3) that for any reason it is necessary to delay the execution of the sentence
- the judge or any judge who might have had or set in the same court may, at any time before the person for any period that is necessary for the purpose.

to act, his powers under this section may be exercised by any other magistrate or judge, as the case may be, who has equivalent jurisdiction in the same territorial division.

"Court."	640. For the purposes of sections 638 and 639, "court" means	5
	(a) a superior court of criminal jurisdiction,	
	(b) a court of criminal jurisdiction,	
	(c) a magistrate acting as a summary conviction court under Part XXIV, or	
	(d) a court that hears an appeal.	10

WHIPPING.

Execution of sentence by whipping.	641. (1) Where a person is liable to be sentenced to be whipped, the court may sentence him to be whipped on one, two or three occasions within the limits of the prison in which he is confined.	
Number of strokes to be specified.	(2) A sentence of whipping shall specify the number of 15 strokes to be administered on each occasion.	
How to be executed.	(3) Every sentence of whipping shall be carried out in accordance with regulations to be made by the Governor in Council.	
Female not to be whipped.	(4) No female person shall be whipped.	20

CAPITAL PUNISHMENT.

Form of sentence.	642. The sentence to be pronounced against a person who is sentenced to death shall be that he shall be hanged by the neck until he is dead.	
Sentence of death to be reported to Secretary of State.	643. (1) A judge who sentences a person to death shall appoint a day for the execution of the sentence, and in appointing that day shall allow a period of time that, in his opinion is sufficient to enable the Governor General to signify his pleasure before that day, and shall forthwith make a report of the case to the Secretary of State for the information of the Governor General.	25 30
When judge may grant reprieve.	(2) Where a judge who sentences a person to death considers	
	(a) that the person should be recommended for the royal mercy, or	
	(b) that, for any reason, it is necessary to delay the execution of the sentence,	35
	the judge or any judge who might have held or sat in the same court may, at any time, reprieve the person for any period that is necessary for the purpose.	

637. (1) A judge who sentences a person to death in the permanent penitentiary or in the Utah Territorial Prison shall appoint a day for the execution of the sentence in accordance with subsection (2), which forward to the secretary of state for filing.

640. Section 1026.

638. (1) A person who is sentenced to death shall be confined in a cell place within a penitentiary or other institution. (2) No person other than the keeper of the prison and his assistants, the prison doctor and a physician or minister shall have access to a person who is sentenced to death unless permission is given in writing by a judge of the court by which the sentence was imposed or by the sheriff.

641. Section 1060.

639. (1) A sentence of death shall be executed within the walls of a prison. (2) The sheriff, the keeper of the prison, the prison doctor and any other persons named by the sheriff shall be present at the execution of a sentence of death. (3) A chaplain or minister who desires to attend and any other person whom the sheriff considers it proper to admit may attend the execution of a sentence of death.

642. Section 1062.

640. (1) The prison doctor shall, as soon as possible after a sentence of death has been pronounced, examine the body of the executed person, and deliver to the sheriff a certificate of death and sign and deliver to the sheriff a certificate of death.

643. Section 1063.

(2) The sheriff, the keeper of the prison and any other persons who are present at the execution of a sentence of death shall, if required by the sheriff, sign a declaration of death.

641. Any day that is required upon a sentence of the prison or penitentiary shall be a public day, and in his absence shall be performed by the acting deputy or assistant, or by the officer or person who ordinarily acts for him or within.

642. (1) A corpse of a person who is sentenced to death in the permanent penitentiary or in the Utah Territorial Prison shall, within twenty-four hours after the execution of the sentence, hold an inquest as to the body of the executed person.

Sentence of death in N.W.T. and Yukon.

(3) A judge who sentences a person to death in the Northwest Territories or in the Yukon Territory shall, after appointing a day for the execution of the sentence, in accordance with subsection (1), forthwith forward to the Secretary of State full notes of the evidence taken at the trial and his report upon the case, and the execution of the sentence shall be suspended until the report is received and the pleasure of the Governor General is signified, and where, pursuant to such suspension, a new time is required to be fixed for execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge having equivalent jurisdiction.

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Prisoner to be confined apart.

644. (1) A person who is sentenced to death shall be confined in a safe place within a prison apart from all other prisoners.

Who to have access.

(2) No person other than the keeper of the prison and his servants, the prison doctor and a clergyman or minister shall have access to a person who is sentenced to death unless permission is given in writing by a judge of the court by which the sentence was imposed or by the sheriff.

Place of execution.

645. (1) A sentence of death shall be executed within the walls of a prison.

Who shall attend.

(2) The sheriff, the keeper of the prison, the prison doctor and any other persons required by the sheriff shall be present at the execution of a sentence of death.

Who may attend.

(3) A clergyman or minister who desires to attend and any other person whom the sheriff considers it proper to admit may attend the execution of a sentence of death.

Certificate of death.

646. (1) The prison doctor shall, as soon as possible after a sentence of death has been executed, examine the body of the executed person, ascertain the fact of death, and sign and deliver to the sheriff a certificate in Form 40.

Form.

Declaration by sheriff and keeper.

(2) The sheriff, the keeper of the prison and any other persons who are present at the execution of a sentence of death shall, if required by the sheriff, sign a declaration in Form 41.

Form.

Deputies may act.

647. Any duty that is imposed upon a sheriff, keeper of the prison or prison doctor by section 645 may, and in his absence shall, be performed by his lawful deputy or assistant, or by the officer or person who ordinarily acts for him or with him.

Coroner's inquest.

648. (1) A coroner of a district, county or place where a sentence of death is executed shall, within twenty-four hours after the execution of the sentence, hold an inquest on the body of the executed person.

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17. The jury shall at the inquest related to in subsection (1) inquire into and ascertain the identity of the body of the executed person, and whether sentence of death was duly executed.

(2) The coroner shall prepare the inquisition in duplicate and shall deliver one to the sheriff.

(3) No officer of a prison in which a sentence of death is executed and no prisoner confined therein shall be a juror on an inquest related to its execution.

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10. 644. Section 1064.

11. 645. Sections 1065, 1066 and 1067.

12. 646. Section 1068.

13. 647. Section 1069.

14. 648. Section 1070.

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15. 649. Section 1071.

16. 650. Section 1072.

17. 651. Section 1073.

18. 652. Section 1074.

19. 653. Section 1075.

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21. 655. Section 1077.

22. 656. Section 1078.

23. 657. Section 1079.

24. 658. Section 1080.

25. 659. Section 1081.

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26. 660. Section 1082.

27. 661. Section 1083.

28. 662. Section 1084.

29. 663. Section 1085.

30. 664. Section 1086.

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31. 665. Section 1087.

32. 666. Section 1088.

33. 667. Section 1089.

34. 668. Section 1090.

35. 669. Section 1091.

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36. 670. Section 1092.

37. 671. Section 1093.

38. 672. Section 1094.

39. 673. Section 1095.

40. 674. Section 1096.

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41. 675. Section 1097.

42. 676. Section 1098.

43. 677. Section 1099.

44. 678. Section 1100.

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- Identity and death. (2) The jury shall, at the inquest referred to in subsection (1), inquire into and ascertain the identity of the body of the executed person, and whether sentence of death was duly executed.
- Inquisition in duplicate. (3) The coroner shall prepare the inquisition in duplicate and shall deliver one to the sheriff. 5
- Jurors. (4) No officer of a prison in which a sentence of death is executed and no prisoner confined therein shall be a juror on an inquest referred to in subsection (1).
- Documents to be sent to Secretary of State. **649.** Where a sentence of death is executed, the sheriff shall, as soon as possible, send the certificates mentioned in section 646 and the inquisition referred to in subsection (3) of section 648 to the Secretary of State or to the person who, from time to time, is appointed by the Governor in Council to receive them. 10 15
- Place of burial. **650.** The body of a person who is executed pursuant to a sentence of death shall be buried within the prison in which the sentence was executed, unless the Lieutenant-Governor in Council, the Commissioner of the Yukon Territory or the Commissioner of the Northwest Territories, as the case may be, otherwise orders. 20
- Saving. **651.** Failure to comply with sections 643 to 649 does not make the execution of a sentence of death illegal where the execution would otherwise have been legal.
- Procedure under other Acts not affected. **652.** Sections 643 to 650 do not apply in so far as they are inconsistent with any other Act of the Parliament of Canada that provides for the imposition and execution of a sentence of death. 25
- Regulations. **653.** The Governor in Council may make regulations not inconsistent with this Act with respect to the execution of sentences of death. 30

DISABILITIES.

- Conviction of person holding public office vacates office. **654.** (1) Where a person is convicted of treason or of an indictable offence for which he is sentenced to death or to imprisonment for a term exceeding five years and holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant. 35
- When disability ceases. (2) A person to whom subsection (1) applies is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage. 40 45

(3) No person who is convicted of an offence under section 103, 105 or 201 has also that conviction, capacity to contract with Her Majesty or to receive any benefit under a contract between Her Majesty and any other person or to hold office under Her Majesty.

(4) Where conviction is set aside by competent authority any disability imposed by this section is removed.

Parole

649. Section 1072.

650. Section 1071.

651. Section 1073.

652. Section 1074.

653. Section 1075.

654. Sections 159, 162 (part), 434 (3) and 1034.

Disability to contract.

(3) No person who is convicted of an offence under section 102, 105 or 361 has, after that conviction, capacity to contract with Her Majesty or to receive any benefit under a contract between Her Majesty and any other person or to hold office under Her Majesty.

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Removal of disability.

(4) Where a conviction is set aside by competent authority any disability imposed by this section is removed.

PARDON.

To whom pardon may be granted.

655. (1) Her Majesty may extend the royal mercy to a person who is sentenced to imprisonment under the authority of an Act of the Parliament of Canada, even if the person is imprisoned for failure to pay money to another person.

Free or conditional pardon.

(2) The Governor in Council may grant a free pardon or a conditional pardon to any person who has been convicted of an offence.

Effect of free pardon.

(3) Where the Governor in Council grants a free pardon to a person, that person shall be deemed thereafter never to have committed the offence in respect of which the pardon is granted.

Punishment for subsequent offence not affected.

(4) No free pardon or conditional pardon prevents or mitigates the punishment to which the person might otherwise be lawfully sentenced on a subsequent conviction for an offence other than that for which the pardon was granted.

Commutation of sentence.

656. (1) The Governor in Council may commute a sentence of death to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in a prison other than a penitentiary for a period of less than two years.

Notice to authorities.

(2) A copy of an instrument duly certified by the Clerk of the Privy Council or a writing under the hand of the Secretary of State or Under-Secretary of State declaring that a sentence of death is commuted is sufficient notice to and authority for all persons having control over the prisoner to do all things necessary to give effect to the commutation.

Remission by Governor in Council.

657. (1) The Governor in Council may order the remission, in whole or in part, of a pecuniary penalty, fine or forfeiture imposed under an Act of the Parliament of Canada, whoever the person may be to whom it is payable or however it may be recoverable.

Terms of remission.

(2) An order for remission under subsection (1) may include the remission of costs incurred in the proceedings, but no costs to which a private prosecutor is entitled shall be remitted.

Royal prerogative.

658. Nothing in this Act in any manner limits or affects Her Majesty's royal prerogative of mercy.

PART XXI

PREVENTIVE DETENTION

INTERPRETATION

655. In this part,

(a) "court" means

(i) a superior court of criminal jurisdiction;

(ii) a court of criminal jurisdiction, means a person who

(b) "criminal sexual intercourse" means a person who

by a course of conduct in actual contact with another person and who

a lack of power to control his sexual impulses and who

of a habit is likely to affect or otherwise injure, or

or other evil on any person, and

(c) "preventive detention" means detention in a penitentiary for an indeterminate period.

(d) "preventive detention" means detention in a penitentiary for an indeterminate period.

(e) "preventive detention" means detention in a penitentiary for an indeterminate period.

(f) "preventive detention" means detention in a penitentiary for an indeterminate period.

(g) "preventive detention" means detention in a penitentiary for an indeterminate period.

(h) "preventive detention" means detention in a penitentiary for an indeterminate period.

(i) "preventive detention" means detention in a penitentiary for an indeterminate period.

(j) "preventive detention" means detention in a penitentiary for an indeterminate period.

(k) "preventive detention" means detention in a penitentiary for an indeterminate period.

(l) "preventive detention" means detention in a penitentiary for an indeterminate period.

(m) "preventive detention" means detention in a penitentiary for an indeterminate period.

(n) "preventive detention" means detention in a penitentiary for an indeterminate period.

(o) "preventive detention" means detention in a penitentiary for an indeterminate period.

(p) "preventive detention" means detention in a penitentiary for an indeterminate period.

(q) "preventive detention" means detention in a penitentiary for an indeterminate period.

(r) "preventive detention" means detention in a penitentiary for an indeterminate period.

(s) "preventive detention" means detention in a penitentiary for an indeterminate period.

(t) "preventive detention" means detention in a penitentiary for an indeterminate period.

655. Section 1076.

656. Section 1077.

657. Section 1080.

658. Sections 1084 and 1085.

PART XXI.
PREVENTIVE DETENTION.

INTERPRETATION.

- 659.** In this Part,
- “Court.” (a) “court” means
- (i) a superior court of criminal jurisdiction, or
- (ii) a court of criminal jurisdiction;
- “Criminal sexual psychopath.” (b) “criminal sexual psychopath” means a person who, 5
by a course of misconduct in sexual matters, has shown a lack of power to control his sexual impulses and who as a result is likely to attack or otherwise inflict injury, pain or other evil on any person, and
- “Preventive detention.” (c) “preventive detention” means detention in a peni- 10
tentiary for an indeterminate period.

HABITUAL CRIMINALS.

- Application for preventive detention. **660.** (1) Where an accused is convicted of an indictable offence the court may, upon application, impose a sentence of preventive detention in addition to any sentence that is 15 imposed for the offence of which he is convicted if
- (a) the accused is found to be an habitual criminal, and
- (b) the court is of the opinion that because the accused is an habitual criminal, it is expedient for the protection of the public to sentence him to preventive 20 detention.
- Who is habitual criminal. (2) For the purposes of subsection (1), an accused is an habitual criminal if
- (a) he has previously, since attaining the age of eighteen years, on at least three separate and independent 25 occasions been convicted of an indictable offence for which he was liable to imprisonment for five years or more and is leading persistently a criminal life, or
- (b) he has been previously sentenced to preventive detention. 30

CRIMINAL SEXUAL PSYCHOPATHS.

- Evidence. **661.** (1) Where an accused is convicted of
- Rape. Carnal knowledge. Indecent assault on female. Buggery or bestiality. Indecent assault on male. Gross indecency. (a) an offence under
- (i) section 136,
- (ii) section 138,
- (iii) section 141,
- (iv) section 147,
- (v) section 148, or
- (vi) section 149; or 35

659. Sections 575A and 1054A (8).

660. Sections 575B and 575c (1).

661. Section 1054A (1), (2), (3) and (5).

(b) an attempt to commit an offence under a provision mentioned in paragraph (a), the court may, upon application, before passing sentence hear evidence as to whether the accused is a criminal sexual psychopath. 5

Evidence of psychiatrists.

(2) On the hearing of an application under subsection (1) the court may hear any evidence that it considers necessary, but shall hear the evidence of at least two psychiatrists, one of whom shall be nominated by the Attorney General. 10

Sentence of preventive detention.

(3) Where the court finds that the accused is a criminal sexual psychopath it shall, notwithstanding anything in this Act or any other Act of the Parliament of Canada, sentence the accused to a term of imprisonment of not less than two years in respect of the offence of which he was convicted and, in addition, impose a sentence of preventive detention. 15

GENERAL.

Notice of application.

662. (1) The following provisions apply with respect to applications under this Part, namely,

(a) an application under subsection (1) of section 660 shall not be heard unless 20

(i) the Attorney General of the province in which the accused is to be tried consents,

(ii) seven clear days' notice has been given to the accused by the prosecutor specifying the previous convictions and the other circumstances, if any, upon which it is intended to found the application, and 25

(iii) a copy of the notice has been filed with the clerk of the court or the magistrate, as the case may be; and 30

(b) an application under subsection (1) of section 661 shall not be heard unless seven clear days' notice thereof has been given to the accused by the prosecutor and a copy of the notice has been filed with the clerk of the court or with the magistrate, where the magistrate is acting under Part XVI. 35

Hearing of application.

(2) An application under this Part shall be heard and determined before sentence is passed for the offence of which the accused is convicted and shall be heard by the court without a jury. 40

When proof unnecessary.

(3) For the purposes of section 660, where the accused admits the allegations contained in the notice referred to in paragraph (b) of subsection (1), no proof of those allegations is required. 45

Evidence of
character
and repute.

663. Without prejudice to the right of the accused to tender evidence as to his character and repute, evidence of character and repute may, where the court thinks fit, be admitted on the question whether the accused is or is not persistently leading a criminal life or is or is not a criminal sexual psychopath, as the case may be. 5

Commence-
ment of
sentence.

664. A sentence of preventive detention shall commence immediately upon the determination of the sentence imposed upon the accused for the offence of which he was convicted, but the Governor in Council may, at any time, 10
commute that sentence to a sentence of preventive detention.

Commuta-
tion.

Where to
be served.

665. (1) Notwithstanding anything in this Act or any other Act of the Parliament of Canada an accused who is sentenced to preventive detention shall serve in a penitentiary the sentence for the offence of which he was con- 15
victed as well as the sentence of preventive detention.

Prison set
apart.

(2) An accused who is sentenced to preventive detention may be confined in a penitentiary or part of a penitentiary set apart for that purpose and shall be subject to such disciplinary and reformative treatment as may be pre- 20
scribed by law.

Review by
Minister of
Justice.

666. Where a person is in custody under a sentence of preventive detention, the Minister of Justice shall, at least once in every three years, review the condition, history and circumstances of that person for the purpose 25
of determining whether he should be permitted to be at large on licence, and if so, on what conditions.

Appeal.

667. (1) A person who is sentenced to preventive detention under this Part may appeal to the court of appeal against that sentence. 30

Appeal by
Attorney
General.

(2) The Attorney General may appeal to the court of appeal against the dismissal of an application for an order under this Part.

Part XVIII
applies *re*
appeals.

(3) The provisions of Part XVIII with respect to procedure on appeals apply, *mutatis mutandis*, to appeals under 35
this section.

663. Section 575D.

664. Sections 575F, 575G (1) and 1054A (4).

665. (1) New.

(2) Section 575G (2) and (3).

666. Sections 575H and 1054A (7).

667. Section 575E.

PART XXII.

EFFECT AND ENFORCEMENT OF
RECOGNIZANCES.

Applications
for forfeiture
of re-
cognizances.

668. (1) Applications for the forfeiture of recognizances shall be made to the courts, designated in Column II of the Schedule, of the respective provinces designated in Column I of the Schedule.

"Clerk of
the Court."

(2) In this Part,

(a) "clerk of the court" means the officer designated in Column III of the Schedule in respect of the court designated in Column II of the Schedule, and

"Schedule."

(b) "Schedule" means the schedule to this Part.

Recognizance
binding.

669. Where a person is bound by recognizance to appear before a court, justice or magistrate for any purpose and the session or sittings of that court or the proceedings are adjourned or an order is made changing the place of trial, that person and his sureties continue to be bound by the recognizance in like manner as if it had been entered into with relation to the resumed proceedings or the trial at the time and place at which the proceedings are ordered to be resumed or the trial is ordered to be held.

Respon-
sibility of
sureties.

670. (1) Where an accused is bound by recognizance to appear for trial, his arraignment or conviction does not discharge the recognizance, but it continues to bind him and his sureties, if any, for his appearance until he is discharged or sentenced, as the case may be.

Committal
or new
sureties.

(2) Notwithstanding subsection (1), the court, justice or magistrate may commit an accused to prison or may require him to furnish new or additional sureties for his appearance until he is discharged or sentenced, as the case may be.

Effect of
committal.

(3) The sureties of an accused who is bound by recognizance to appear for trial are discharged if he is committed to prison pursuant to subsection (2).

Effect of
subsequent
arrest.

671. Where an accused is bound by recognizance to appear for trial, his arrest upon another charge does not vacate the recognizance, but it continues to bind him and his sureties, if any, for his appearance until he is discharged or sentenced, as the case may be, in respect of the offence to which the recognizance relates.

Render of
accused by
sureties.

672. (1) A surety for a person who is bound by recognizance to appear may, by an application in writing to a court, justice or magistrate apply to be relieved of his obligation under the recognizance, and the court, justice or magistrate shall thereupon issue an order in writing for

...of that person to the person nearest to the place where he was under the recognition bond to appear.

This Part is derived from the provisions of sections 1086 to 1119 and 886 (2) of the present *Criminal Code*.

...shall receive and impound and shall be discharged according to law.

...where a judge, justice or magistrate who issues an order under subsection (1) receives from the sheriff a certificate that the person named in the order has been committed to prison pursuant to subsection (3), he shall order an entry of the committal to be endorsed on the recognition bond.

(4) An endorsement under subsection (3) varies the liability and discharges the surety.

27.3. A surety for a person who is bound by recognition to appear may bring that person into the court at which he is required to appear at any time during the sitting thereof and before the trial and the court may discharge him either in whole or in part under the recognition by giving that person into the custody of the court, and the court shall thereupon commit that person to prison until he is discharged according to law.

27.4. Nothing in this Part binds or restricts any right that a surety has of taking and giving into custody any person for whom, under a recognition, he is a surety.

27.5. Where a surety for a person has rendered him into custody and that person has been committed to prison, he may apply to the court, justice or magistrate before whom he was required to appear to be admitted again to bail, and the court, justice or magistrate may

(a) refuse the application, or
(b) allow the application and make any order with respect to the number of sureties and the amount of the bail that is considered proper in the circumstances.

27.6. (1) Where in proceedings to which this Act applies a person who is bound by recognition does not comply with a condition of the recognition, a court, justice or magistrate having knowledge of the facts shall endorse or cause to be endorsed on the back of the recognition a certificate in Form 29 setting out

- (a) the nature of the default,
- (b) the reason for the default, if it is known,
- (c) whether the ends of justice have been defeated or delayed by reason of the default, and
- (d) the name and address of the principal and sureties.

- committal of that person to the prison nearest to the place where he was, under the recognizance, bound to appear.
- Arrest.** (2) An order under subsection (1) shall be given to the surety and upon receipt thereof he or any peace officer may arrest the person named in the order and deliver him with the order to the keeper of the prison named therein, and the keeper shall receive and imprison him until he is discharged according to law. 5
- Certificate and entry of render.** (3) Where a judge, justice or magistrate who issues an order under subsection (1) receives from the sheriff a certificate that the person named in the order has been committed to prison pursuant to subsection (2), he shall order an entry of the committal to be endorsed on the recognizance. 10
- Discharge of sureties.** (4) An endorsement under subsection (3) vacates the recognizance and discharges the sureties. 15
- Render of accused in court by sureties.** **673.** A surety for a person who is bound by recognizance to appear may bring that person into the court at which he is required to appear at any time during the sittings thereof and before his trial and the surety may discharge his obligation under the recognizance by giving that person into the custody of the court, and the court shall thereupon commit that person to prison until he is discharged according to law. 20
- Rights of surety preserved.** **674.** Nothing in this Part limits or restricts any right that a surety has of taking and giving into custody any person for whom, under a recognizance, he is a surety. 25
- Application for bail after render.** **675.** Where a surety for a person has rendered him into custody and that person has been committed to prison, he may apply to the court, justice or magistrate before whom he was required to appear to be admitted again to bail, and the court, justice or magistrate may
 (a) refuse the application, or
 (b) allow the application and make any order with respect to the number of sureties and the amount of the bail that is considered proper in the circumstances. 30 35
- Default to be endorsed.** **676.** (1) Where, in proceedings to which this Act applies, a person who is bound by recognizance does not comply with a condition of the recognizance, a court, justice or magistrate having knowledge of the facts shall endorse or cause to be endorsed on the back of the recognizance a certificate in Form 29 setting out
 (a) the nature of the default,
 (b) the reason for the default, if it is known,
 (c) whether the ends of justice have been defeated or delayed by reason of the default, and
 (d) the names and addresses of the principal and sureties. 40 45

(2) A recognizance that has been endorsed pursuant to subsection (1) shall be sent to the clerk of the court and shall be kept by him with the records of the court.

(3) A certificate that has been endorsed on a recognizance pursuant to subsection (1) is prima facie evidence of the details to which it relates.

(4) Where, in proceedings to which this section applies, the principal or surety has deposited money as security for the performance of a condition of a recognizance, that money shall be sent to the clerk of the court with the endorsed recognizance, to be dealt with in accordance with this Part.

Recognizance
 Endorsed
 Certificate
 Principal or surety
 Deposited money
 Condition of a recognizance

477 (1) Where a recognizance has been endorsed with a certificate pursuant to section 476 and has been removed by the clerk of the court pursuant to that section, (a) a judge of the court shall, upon the request of the clerk of the court or the Attorney General or counsel acting on his behalf, fix a time and place for the hearing of an application for the forfeiture of the recognizance.

Recognizance
 Certificate
 Removed by the clerk of the court
 Judge of the court
 Clerk of the court
 Attorney General or counsel acting on his behalf
 Hearing of an application for the forfeiture of the recognizance

(b) the clerk of the court shall, not less than ten days before the time fixed under paragraph (a) for the hearing, send by registered mail to each principal and surety named in the certificate a notice requiring him to appear at the time and place fixed by the judge to show cause why the recognizance should not be forfeited.

Clerk of the court
 Registered mail
 Principal and surety named in the certificate
 Notice requiring him to appear at the time and place fixed by the judge to show cause why the recognizance should not be forfeited

(2) Where subsection (1) has been complied with, the judge may, after giving the parties an opportunity to be heard, in his discretion grant or refuse the application and make any order with respect to the forfeiture of the recognizance that he considers proper.

Judge may, after giving the parties an opportunity to be heard, in his discretion grant or refuse the application and make any order with respect to the forfeiture of the recognizance that he considers proper

(3) Where, pursuant to subsection (2), the judge orders forfeiture of the recognizance, the principal and the amount become judgment debts of the Crown, each in the amount that he has pledged himself to pay, and the clerk of the court or, in the province of Quebec, the prothonotary, shall issue a writ of fieri facias in Form 30 and deliver it to the sheriff of the territorial division in which the order was made.

Judge orders forfeiture of the recognizance, the principal and the amount become judgment debts of the Crown, each in the amount that he has pledged himself to pay, and the clerk of the court or, in the province of Quebec, the prothonotary, shall issue a writ of fieri facias in Form 30 and deliver it to the sheriff of the territorial division in which the order was made

(4) Where a deposit has been made by a person against whom an order for forfeiture of a recognizance has been made, no writ of fieri facias shall issue, but the amount of the deposit shall be transferred by the person who has custody of it to the person who is entitled by law to receive it.

Where a deposit has been made by a person against whom an order for forfeiture of a recognizance has been made, no writ of fieri facias shall issue, but the amount of the deposit shall be transferred by the person who has custody of it to the person who is entitled by law to receive it

Transmission
to clerk of
court.

(2) A recognizance that has been endorsed pursuant to subsection (1) shall be sent to the clerk of the court and shall be kept by him with the records of the court.

Prima facie
evidence.

(3) A certificate that has been endorsed on a recognizance pursuant to subsection (1) is *prima facie* evidence of the default to which it relates. 5

Transmission
of deposit.

(4) Where, in proceedings to which this section applies, the principal or surety has deposited money as security for the performance of a condition of a recognizance, that money shall be sent to the clerk of the court with the defaulted recognizance, to be dealt with in accordance with this Part. 10

Proceedings
in case of
default.

677. (1) Where a recognizance has been endorsed with a certificate pursuant to section 676 and has been received by the clerk of the court pursuant to that section, 15

Judge to fix
time for
hearing.

(a) a judge of the court shall, upon the request of the clerk of the court or the Attorney General or counsel acting on his behalf, fix a time and place for the hearing of an application for the forfeiture of the recognizance, and 20

Notice of
hearing.

(b) the clerk of the court shall, not less than ten days before the time fixed under paragraph (a) for the hearing, send by registered mail to each principal and surety named in the recognizance, directed to him at the address set out in the certificate, a notice requiring him to appear at the time and place fixed by the judge to show cause why the recognizance should not be forfeited. 25

Order of
judge.

(2) Where subsection (1) has been complied with, the judge may, after giving the parties an opportunity to be heard, in his discretion grant or refuse the application and make any order with respect to the forfeiture of the recognizance that he considers proper. 30

Fieri facias
to issue.

(3) Where, pursuant to subsection (2), the judge orders forfeiture of the recognizance, the principal and his sureties become judgment debtors of the Crown, each in the amount that he has pledged himself to pay, and the clerk of the court or, in the province of Quebec, the prothonotary, shall issue a writ of *fieri facias* in Form 30 and deliver it to the sheriff of the territorial division in which the order was made. 35 40

Transfer of
deposit.

(4) Where a deposit has been made by a person against whom an order for forfeiture of a recognizance has been made, no writ of *fieri facias* shall issue, but the amount of the deposit shall be transferred by the person who has custody of it to the person who is entitled by law to receive it. 45

674. (1) Where a writ of *habeas corpus* is issued pursuant to section 673, the sheriff to whom it is delivered shall execute the writ and deal with the proceeds thereof in the same manner as which he is authorized to execute and deal with the proceeds of writs of *habeas corpus* issued out of superior courts in the province in civil proceedings.

(2) Where this section applies the Crown is entitled to the costs of execution and of proceedings incidental thereto that are fixed in the province in respect of any writ applicable to the Superior Court in civil proceedings, and in any other province by any writ applicable in the superior court of the province in civil proceedings, as the judge may direct.

Section 674

Section 675

Section 676

Section 677

Section 678

Section 679

Section 680

675. (1) Where a writ of *habeas corpus* has been issued under this Part and it appears from a certificate in a return made by the sheriff that sufficient goods and chattels, lands and tenements cannot be found to satisfy the writ or that the proceeds of the execution of the writ are not sufficient to satisfy it, a judge of the court may, upon the application of the Attorney General or counsel acting on his behalf, direct the issue of a warrant of commitment to Part 24.

(2) A warrant issued pursuant to subsection (1) authorizes the sheriff to take into custody the person in respect of whom the warrant was issued and to confine them in a prison in the territorial division in which the writ was issued or in the prison nearest to the court, until satisfaction is made or until the court makes a further order pursuant to subsection (4).

(3) The warrant of commitment issued under this section shall be returned by the sheriff at the time when it is made returnable and the sheriff shall state in his return what has been done in execution of the warrant.

(4) Where a person has been taken into custody under a warrant of commitment issued under this section, a judge of the court, on petition of that person, of which notice shall be given to the Attorney General or counsel acting on his behalf, may inquire into the circumstances of the case and may, in his discretion,

(a) order the discharge of the amount for which that person is liable, or

(b) make any order with respect to that person and to his imprisonment that he considers proper in the circumstances.

(5) In this section and in section 677, "Attorney General" means, where subsection (2) of section 638 applies, the Attorney General of Canada.

Levy under writ.

678. (1) Where a writ of *feri facias* is issued pursuant to section 677, the sheriff to whom it is delivered shall execute the writ and deal with the proceeds thereof in the same manner in which he is authorized to execute and deal with the proceeds of writs of *feri facias* issued out of superior courts in the province in civil proceedings. 5

Costs.

(2) Where this section applies the Crown is entitled to the costs of execution and of proceedings incidental thereto that are fixed, in the province of Quebec, by any tariff applicable in the Superior Court in civil proceedings, and in any other province, by any tariff applicable in the superior court of the province in civil proceedings, as the judge may direct. 10

Committal when writ not satisfied.

679. (1) Where a writ of *feri facias* has been issued under this Part and it appears from a certificate in a return made by the sheriff that sufficient goods and chattels, lands and tenements cannot be found to satisfy the writ, or that the proceeds of the execution of the writ are not sufficient to satisfy it, a judge of the court may, upon the application of the Attorney General or counsel acting on his behalf, direct the issue of a warrant of committal in Form 24. 15

Confinement.

(2) A warrant issued pursuant to subsection (1) authorizes the sheriff to take into custody the persons in respect of whom the warrant was issued and to confine them in a prison in the territorial division in which the writ was issued or in the prison nearest to the court, until satisfaction is made or until the court makes a further order pursuant to subsection (4). 20

Return to warrant.

(3) The warrant of committal issued under this section shall be returned by the sheriff at the time when it is made returnable and the sheriff shall state in his return what has been done in execution of the warrant. 30

Petition and proceedings thereon.

(4) Where a person has been taken into custody under a warrant of committal issued under this section, a judge of the court, on petition of that person, of which notice shall be given to the Attorney General or counsel acting on his behalf, may inquire into the circumstances of the case and may, in his discretion, 35

(a) order the discharge of the amount for which that person is liable, or 40

(b) make any order with respect to that person and to his imprisonment that he considers proper in the circumstances.

"Attorney General."

(5) In this section and in section 677, "Attorney General" means, where subsection (2) of section 626 applies, the Attorney General of Canada. 45

INDEX

Chapter I	.....	1
Chapter II	.....	10
Chapter III	.....	20
Chapter IV	.....	30
Chapter V	.....	40
Chapter VI	.....	50
Chapter VII	.....	60
Chapter VIII	.....	70
Chapter IX	.....	80
Chapter X	.....	90
Chapter XI	.....	100
Chapter XII	.....	110
Chapter XIII	.....	120
Chapter XIV	.....	130
Chapter XV	.....	140
Chapter XVI	.....	150
Chapter XVII	.....	160
Chapter XVIII	.....	170
Chapter XIX	.....	180
Chapter XX	.....	190
Chapter XXI	.....	200

SCHEDULE

Column I.	Column II.	Column III.
Ontario.....	The Supreme Court, in respect of a recognizance for the appearance of a person before that court. A judge of the Court of Appeal in respect of a recognizance for the appearance of a person before that court. A Court of the General Sessions of the Peace in respect of a recognizance for the appearance of a person before that court, a judge acting under Part XVI, a justice or a magistrate.	The Registrar or Local Registrar of the Supreme Court. The Registrar of the Supreme Court. Clerk of the Peace.
Quebec.....	The Superior Court, exercising civil jurisdiction.	The Clerk of the Peace.
Nova Scotia.....	A judge of the Supreme Court in respect of a recognizance for the appearance of a person before the Supreme Court <i>in banco</i> . A judge of the County Court in respect of a recognizance for the appearance of a person before a judge of the Supreme Court, a judge of the County Court, a judge acting under Part XVI, a justice or a magistrate.	The Prothonotary at Halifax. The Clerk of the County Court.
New Brunswick.....	The Supreme Court.....	The Registrar of the Supreme Court.
Manitoba.....	The Court of Queen's Bench.....	The Clerk or Deputy Clerk of the Crown and Pleas.
British Columbia.....	The Supreme Court in respect of a recognizance for the appearance of a person before that court or the Court of Appeal. A County Court in respect of a recognizance for the appearance of a person before that court, a judge acting under Part XVI, a justice or a magistrate.	The District Registrar of the Supreme Court. The Clerk of the County Court.
Prince Edward Island.	The Supreme Court of Judicature.....	The Prothonotary.
Saskatchewan.....	The Court of Queen's Bench in respect of a recognizance for the appearance of a person before that Court or the Court of Appeal. A District Court in respect of a recognizance for the appearance of a person before that Court, a judge acting under Part XVI, a justice or a magistrate.	The Local Registrar of the Court of Queen's Bench. The Clerk of the District Court.
Alberta.....	The Supreme Court in respect of a recognizance for the appearance of a person before that Court or the Court of Appeal, A District Court in respect of a recognizance for the appearance of a person before that Court, a judge acting under Part XVI, a justice or a magistrate.	The Clerk of the Supreme Court. The Clerk of the District Court.
Newfoundland.....	The Supreme Court.....	The Registrar of the Supreme Court.
Yukon Territory.....	The Territorial Court.....	The Clerk of the Court
Northwest Territories..	The Territorial Court.....	The Clerk of the Court.

PART XXII

EXTRAORDINARY REMEDIES.

480. This Part applies to proceedings in criminal matters by way of certiorari, habeas corpus, mandamus and prohibition.

481. Where a person being in custody by reason that he is charged with or has been convicted of an offence has obtained a writ of habeas corpus, the court may, if it is satisfied that the person has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

482. Where a person being in custody by reason that he is charged with or has been convicted of an offence has obtained a writ of habeas corpus, the court may, if it is satisfied that the person has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

483. The provisions of this Part shall be deemed to apply to a person who is in custody by reason that he is charged with or has been convicted of an offence.

484. Where an appeal was taken, whether or not the appellant has obtained a conviction or acquittal, and the appellant has obtained a writ of habeas corpus, the court may, if it is satisfied that the appellant has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

485. (1) A conviction, order or warrant for a conviction or order shall, on being removed by certiorari, be null and void as from the date of its removal, unless the court orders otherwise.

(2) Where a conviction, order or warrant for a conviction or order is removed by certiorari, the court may, if it is satisfied that the appellant has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

486. The court of judges has the same power to deal with proceedings in the manner that he considers proper that are commenced in a court to which an appeal might have been taken.

480. This Part applies to proceedings in criminal matters by way of certiorari, habeas corpus, mandamus and prohibition.

481. Where a person being in custody by reason that he is charged with or has been convicted of an offence has obtained a writ of habeas corpus, the court may, if it is satisfied that the person has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

482. Where a person being in custody by reason that he is charged with or has been convicted of an offence has obtained a writ of habeas corpus, the court may, if it is satisfied that the person has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

483. The provisions of this Part shall be deemed to apply to a person who is in custody by reason that he is charged with or has been convicted of an offence.

484. Where an appeal was taken, whether or not the appellant has obtained a conviction or acquittal, and the appellant has obtained a writ of habeas corpus, the court may, if it is satisfied that the appellant has been wrongfully detained, order that he be released, and may also order that he be compensated in respect of any loss or damage sustained by him.

486. The court of judges has the same power to deal with proceedings in the manner that he considers proper that are commenced in a court to which an appeal might have been taken.

PART XXIII.

EXTRAORDINARY REMEDIES.

Application
of Part.

680. This Part applies to proceedings in criminal matters by way of *certiorari*, *habeas corpus*, *mandamus* and prohibition.

Detention of
prisoner on
inquiry
as to legality
of imprison-
ment.

681. Where a person, being in custody by reason that he is charged with or has been convicted of an indictable offence, has instituted proceedings to which this Part applies, before a judge or court having jurisdiction, to have the legality of his imprisonment determined, the judge or court may, without determining the question, make an order for the further detention of that person and direct the judge, justice or magistrate under whose warrant he is in custody, or any other judge, justice or magistrate to take any proceedings, hear such evidence or do any other thing that, in the opinion of the judge or court, will best further the ends of justice.

Where
conviction
or order
not
reviewable.

682. No conviction or order shall be removed by *certiorari*

(a) where an appeal was taken, whether or not the appeal has been carried to a conclusion, or

(b) where the defendant appeared and pleaded and the merits were tried, and an appeal might have been taken, but the defendant did not appeal.

Conviction or
order remedi-
able, when.

683. (1) No conviction, order or warrant for enforcing a conviction or order shall, on being removed by *certiorari*, be held to be invalid by reason of any irregularity, informality or insufficiency therein, where the court before which or the judge before whom the question is raised, upon perusal of the evidence, is satisfied

- (a) that an offence of the nature described in the conviction, order or warrant, as the case may be, was committed,
- (b) that there was jurisdiction to make the conviction or order or issue the warrant, as the case may be, and
- (c) that the punishment imposed, if any, was not in excess of the punishment that might lawfully have been imposed,

but the court or judge has the same powers to deal with the proceedings in the manner that he considers proper that are conferred upon a court to which an appeal might have been taken.

(1) Where in proceedings in which subsection (1) applies, the court or judge is satisfied that a person was properly convicted of an offence but the punishment that was imposed is greater than the punishment that might lawfully have been imposed, the court or judge (a) shall correct the sentence.

680. New.

(b) Where the punishment is a fine by law, the court or judge may correct the sentence if it is satisfied that the amount of the fine is greater than might lawfully have been imposed.

681. Section 1120.

(1) Where the punishment is a fine by law, the court or judge may correct the sentence if it is satisfied that the amount of the fine is greater than might lawfully have been imposed, the court or judge (a) shall correct the sentence.

(b) Where the punishment is a fine and imprisonment, the court or judge may correct the sentence if it is satisfied that the amount of the fine is greater than might lawfully have been imposed, the court or judge (a) shall correct the sentence.

682. Sections 1121, 1122 and 1129.

(1) Where an adjudication is varied pursuant to subsection (1) or (2), the conviction and witness or committal shall be amended to conform with the adjudication as varied.

(2) Any statement that appears in a conviction and is required for the purpose of the conviction, and which is not required for the purpose of an indictment, shall be amended in the proceedings in which it appears in the proceedings.

683. Section 1124.

(1) Without prejudice to the generality of section 682, that section shall be deemed to apply where (a) the statement of the adjudicator or of any other person or thing is in the past tense instead of in the present tense.

(b) the punishment imposed is less than the punishment that might by law have been imposed for the offence that appears by the evidence to have been committed.

(c) there has been an omission to negative circumstances the existence of which would make the act complained of lawful, whether those circumstances are stated by way of exception or otherwise in the provision under which the offence is charged, or are stated in another provision.

- Correcting punishment. (2) Where, in proceedings to which subsection (1) applies, the court or judge is satisfied that a person was properly convicted of an offence but the punishment that was imposed is greater than the punishment that might lawfully have been imposed, the court or judge 5
- In case of fine. (a) shall correct the sentence,
 (i) where the punishment is a fine, by imposing a fine that does not exceed the maximum fine that might lawfully have been imposed,
- In case of imprisonment. (ii) where the punishment is imprisonment, and the person has not served a term of imprisonment under the sentence that is equal to or greater than the term of imprisonment that might lawfully have been imposed, by imposing a term of imprisonment that does not exceed the maximum 15 term of imprisonment that might lawfully have been imposed, or
- Where both are imposed. (iii) where the punishment is a fine and imprisonment, by imposing a punishment in accordance with subparagraph (i) or (ii), as the case requires, 20 or
- Remitting matter to justice. (b) shall remit the matter to the judge, justice or magistrate and direct him to impose a punishment that is not greater than the punishment that may be lawfully imposed. 25
- Amendment. (3) Where an adjudication is varied pursuant to subsection (1) or (2), the conviction and warrant of committal, if any, shall be amended to conform with the adjudication as varied.
- Sufficiency of statement. (4) Any statement that appears in a conviction and is 30 sufficient for the purpose of the conviction is sufficient for the purposes of an information, summons, order or warrant in which it appears in the proceedings.
- Irregularities within section 683. **684.** Without restricting the generality of section 683, that section shall be deemed to apply where 35
 (a) the statement of the adjudication or of any other matter or thing is in the past tense instead of in the present tense,
 (b) the punishment imposed is less than the punishment that might by law have been imposed for the offence 40 that appears by the evidence to have been committed, or
 (c) there has been an omission to negative circumstances, the existence of which would make the act complained of lawful, whether those circumstances are stated by 45 way of exception or otherwise in the provision under which the offence is charged, or are stated in another provision.

General order for security by recognizance.

685. (1) A court that has authority to quash a conviction, order or other proceeding on *certiorari* may prescribe by general order that no motion to quash any such conviction, order or other proceeding removed to the court by *certiorari*, shall be heard unless the defendant has entered into a recognizance with one or more sufficient sureties, before one or more justices of the territorial division in which the conviction or order was made, or before a judge or other officer, or has made a deposit to be prescribed with a condition that the defendant will prosecute the writ of *certiorari* at his own expense, without wilful delay, and, if ordered, will pay to the person in whose favour the conviction, order or other proceeding is affirmed, his full costs and charges to be taxed according to the practice of the court where the conviction, order or proceeding is affirmed. 5 10 15

Provisions for forfeiture of recognizance apply.

(2) The provisions of Part XXII relating to forfeiture of recognizances apply to a recognizance entered into under this section.

Effect of order dismissing application to quash.

686. Where a motion to quash a conviction, order or other proceeding is refused, the order of the court refusing the application is sufficient authority for the clerk of the court forthwith to return the conviction, order or proceeding to the court from which or the person from whom it was removed, and for proceedings to be taken with respect thereto for the enforcement thereof. 20 25

Conviction, etc., not set aside for want of proof of order in council.

687. (1) No order, conviction or other proceeding shall be quashed or set aside, and no defendant shall be discharged, by reason only that evidence has not been given of a proclamation or order of the Governor in Council, or of rules, regulations or by-laws made by the Governor in Council under an Act of the Parliament of Canada, or of the publication in the *Canada Gazette* of a proclamation, order, rule, regulation or by-law. 30

Judicial notice.

(2) Proclamations, orders, rules, regulations and by-laws mentioned in subsection (1) and the publication thereof shall be judicially noticed. 35

Warrant of commitment not void for defect in form.

688. No warrant of committal shall, on *certiorari* or *habeas corpus*, be held to be void by reason only of any defect therein, where 40
 (a) it is alleged in the warrant that the defendant was convicted, and
 (b) there is a valid conviction to sustain the warrant.

685. Section 1126.

686. Section 1127.

687. Section 1128.

688. Section 1130.

No action
against official
when
conviction,
etc., quashed.

689. Where an application is made to quash a conviction, order or other proceeding made or held by a magistrate acting under Part XVI or a justice on the ground that he exceeded his jurisdiction, the court to which or the judge to whom the application is made may make it a condition of quashing the conviction, order or other proceeding that no civil proceedings shall be taken against the justice or magistrate or against any officer who acted under the conviction, order or other proceeding or under any warrant issued to enforce it. 5 10

Successive
applications
for *habeas
corpus* not to
be made.

690. (1) Where proceedings have been taken in respect of any person by way of *habeas corpus* arising out of a criminal matter and the relief sought has been refused, no further proceedings by way of *habeas corpus* arising out of that matter shall be taken in respect of that person before that judge or any other judge. 15

Saving.

(2) Nothing in this section limits or affects any provision of the *Supreme Court Act* that relates to writs of *habeas corpus* arising out of criminal matters.

Appeal in
habeas corpus,
etc.

691. (1) An appeal lies to the court of appeal from a decision granting or refusing the relief sought in proceedings by way of *habeas corpus*, *mandamus*, *certiorari* or prohibition. 20

Part XVIII
applies.

(2) The provisions of Part XVIII apply, *mutatis mutandis*, to appeals under this section. 25

PART XXIV.
SUMMARY CONVICTIONS.

INTERPRETATION.

- 692.** In this Part,
- “Informant.”
“Information.” (a) “informant” means a person who lays an information; 5
(b) “information” includes
(i) a count in an information, and
(ii) a complaint in respect of which a justice is authorized by an Act of the Parliament of Canada or an enactment made thereunder to make an order; 5
- “Order.” (c) “order” means any order, including an order for the payment of money; 10
- “Proceedings.” (d) “proceedings” means
(i) proceedings in respect of offences that are declared by an Act of the Parliament of Canada or an enactment made thereunder to be punishable on summary conviction, and 15
(ii) proceedings where a justice is authorized by an Act of the Parliament of Canada or an enactment made thereunder to make an order;
- “Prosecutor.” (e) “prosecutor” means an informant or the Attorney-General or their respective counsel or agents; 20
- “Sentence.” (f) “sentence” includes a direction made under section 638;
- “Summary conviction court.” (g) “summary conviction court” means a person who has jurisdiction in the territorial division where the subject matter of the proceedings is alleged to have arisen and who 25
(i) is given jurisdiction over the proceedings by the enactment under which the proceedings are taken,
(ii) is a justice or magistrate, where the enactment under which the proceedings are taken does not expressly give jurisdiction to any person or class of persons, or 30
(iii) is a magistrate, where the enactment under which the proceedings are taken gives jurisdiction in respect thereof to two or more justices; and 35
- “Trial.” (h) “trial” includes the hearing of a complaint.
- Application of part. **693.** (1) Except where otherwise provided by law, this Part applies to proceedings as defined in this Part.
- Limitation. (2) No proceedings shall be instituted more than six months after the time when the subject matter of the proceedings arose. 40

PUNISHMENT.

- General penalty. **694.** (1) Except where otherwise expressly provided by law, every one who is convicted of an offence punishable on summary conviction is liable to a fine of not more than

692. Sections 705, 706, 707, 708 (5) and new.

INFORMATION

692. (1) Proceedings under this Part shall be commenced by laying an information in writing before a justice, and justice may be laid before or to be tried by two or more justices, and justice may... (2) Where two or more justices... (3) Where two or more justices...

693. (1) In proceedings to which this Part applies... (2) Where two or more justices... (3) Where two or more justices...

693. (1) Section 706.

(2) Section 1142.

694. (1) Section 1052 (2).

five hundred dollars or to imprisonment for six months or to both.

Imprisonment in default where not otherwise specified.

(2) Where the imposition of a fine or the making of an order for the payment of money is authorized by law, but the law does not provide that imprisonment may be imposed in default of payment of the fine or compliance with the order, the court may order that in default of payment of the fine or compliance with the order, as the case may be, the defendant shall be imprisoned for a period of not more than six months. 5 10

Time for payment.

(3) A summary conviction court may direct that any fine, pecuniary penalty or sum of money adjudged to be paid shall be paid forthwith or at a time to be fixed by the summary conviction court.

INFORMATION.

Commencement of proceedings. One justice may act before the trial.

695. (1) Proceedings under this Part shall be commenced by laying an information in Form 2. 15
 (2) Notwithstanding any other law that requires an information to be laid before or to be tried by two or more justices, one justice may
 (a) receive the information,
 (b) issue a summons or warrant with respect to the information, and 20
 (c) do all other things preliminary to the trial.

Formalities of information.

696. (1) In proceedings to which this Part applies, the information
 (a) shall be in writing and under oath, and 25
 (b) may charge more than one offence or relate to more than one matter of complaint, but where more than one offence is charged or the information relates to more than one matter of complaint, each offence or matter of complaint, as the case may be, shall be set out in a separate count. 30

No reference to previous conviction.

(2) No information in respect of an offence for which, by reason of previous convictions, a greater punishment may be imposed shall contain any reference to previous convictions. 35

Any justice may act before and after trial.

697. (1) Nothing in this Act or any other law shall be deemed to require a justice before whom proceedings are commenced or who issues process before or after the trial, to be the justice or one of the justices before whom the trial is held. 40

Two or more justices.

(2) Where two or more justices have jurisdiction with respect to proceedings they shall be present and act together at the trial, but one justice may thereafter do anything that is required or is authorized to be done in connection with the proceedings. 45

(2) and (3). Section 739.

695. Sections 708 (1) and 710 (in part).

696. Section 710 (in part) and new.

697. Section 708 (2), (3) and (4).

Adjournment. (3) Subject to section 698, in proceedings under this Part no summary conviction court other than the summary conviction court by which the plea of an accused is taken has jurisdiction for the purposes of the hearing and adjudication, but any justice may

(a) adjourn the proceedings at any time before the plea of the accused is taken, or

(b) adjourn the proceedings at any time after the plea of the accused is taken for the purpose of enabling the proceedings to be continued before the summary conviction court by which the plea was taken.

Inability of justice to continue. **698.** (1) Where a trial under this Part is commenced before a summary conviction court and a justice who is or is a member of that summary conviction court dies or is, for any reason, unable to continue the trial, another justice who is authorized to be, or to be a member of, a summary conviction court for the same territorial division may act in the place of the justice before whom the trial was commenced.

Continuing trial. (2) A justice who, pursuant to subsection (1), acts in the place of a justice before whom a trial was commenced

(a) shall, if an adjudication has been made by the summary conviction court, impose the punishment or make the order that, in the circumstances, is authorized by law, or

(b) shall, if an adjudication has not been made by the summary conviction court, commence the trial again as a trial *de novo*.

Duty of court where common assault is charged. **699.** Where a defendant is charged with common assault and, before the defendant enters upon his defence, the summary conviction court is, from the evidence, of the opinion

(a) that the assault complained of was accompanied by an attempt to commit an indictable offence other than common assault or was committed in the course of the commission of an indictable offence other than common assault, or

(b) that the defendant should, for any reason, be prosecuted by indictment,

the summary conviction court shall not adjudicate thereon, but the proceedings shall be continued as for an indictable offence and the defendant shall be informed accordingly.

SUMMONS AND WARRANT.

Compelling appearance. **700.** (1) The provisions of Parts XIV and XV with respect to compelling the appearance of an accused before a justice apply, *mutatis mutandis*, to proceedings under this Part.

Copy of warrant to be served. (2) Where a warrant is issued in the first instance for the arrest of a defendant, a copy thereof shall be served on the person who is arrested thereunder.

STATUTES AND ORDINANCES

698. New.

701. (1) Sections 492 and 493 apply to information in relation to information in respect of proceedings as defined in this Part.

(2) The summary conviction court may, if it is satisfied that it is necessary for a fair trial, order that a particular further disclosure may be made relevant to the proceedings be furnished to the defendant.

702. (1) No exception, exemption, privilege or qualification prescribed by law is required to be set out or particularized in the case may be in an information.

(2) The burden of proving that an exception, exemption, privilege or qualification prescribed by law operates in favour of the defendant is on the defendant and the prosecutor is not required to prove that the exception, exemption, privilege or qualification does not operate in favour of the defendant, whether or not it is set out in the information.

699. Sections 709 and 732.

703. No information, summons, warrant, order or process shall be taken to be valid or enforceable unless it is signed by the clerk or other person authorized to sign the same.

(1) in different modes or

(2) in respect of one or more of several articles, either collectively or

700. Section 711.

704. (1) An order in an information as to the question on the fact shall be taken by motion to quash the information before the defendant has pleaded, and thereafter only by leave of the summary conviction court before which the trial takes place.

(2) A summary conviction court may, upon the trial of an information, amend the information or a particular that is furnished under section 701, to make the information or particular conform to the evidence if there appears to be a variance between the evidence and

(a) the charge in the information or

(b) the charge in the information as amended, or

(c) as it would have been if with any particular that pursuant to section 701.

(3) A summary conviction court may, at any stage of the trial, amend the information as may be necessary if it appears

(a) that the information has been laid

DEFECTS AND OBJECTIONS.

Proceedings
not objection-
able on
certain
grounds.
Particulars.

701. (1) Sections 492 and 493 apply, *mutatis mutandis*, to informations in respect of proceedings as defined in this Part.

(2) The summary conviction court may, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. 5

Prosecutor
need not
negative
exception, etc.

702. (1) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information. 10

Burden
of proving
exception, etc.,
on defendant.

(2) The burden of proving that an exception, exemption, proviso, excuse or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required to prove that the exception, exemption, proviso, excuse or qualification does not operate in favour of the defendant, whether or not it is set out in the information. 15

Process
not objection-
able on
certain other
grounds.

703. No information, summons, conviction, order or process shall be deemed to charge two offences or to be uncertain by reason only that it states that the alleged offence was committed 20

(a) in different modes, or

(b) in respect of one or other of several articles, either conjunctively or disjunctively.

Amending
defective
information.

704. (1) An objection to an information for a defect apparent on its face shall be taken by motion to quash the information before the defendant has pleaded, and thereafter only by leave of the summary conviction court before which the trial takes place. 25

Amendment
where
variance.

(2) A summary conviction court may, upon the trial of an information, amend the information or a particular that is furnished under section 701, to make the information or particular conform to the evidence if there appears to be a variance between the evidence and 30

(a) the charge in the information, or

(b) the charge in the information

(i) as amended, or

(ii) as it would have been if amended in conformity with any particular that has been furnished pursuant to section 701. 40

(3) A summary conviction court may, at any stage of the trial, amend the information as may be necessary if it appears

Information
under wrong
Act.

(a) that the information has been laid

701. Section 723.

702. Section 717.

703. Section 725.

704. Section 724.

Indicative
Provision
Exempt
Provision

Exempt
Provision
Indicative
Provision

Exempt
Provision

Indicative
Provision

Indicative
Provision

Indicative
Provision

	(i) under another Act of the Parliament of Canada instead of this Act, or	
	(ii) under this Act instead of another Act of the Parliament of Canada; or	
	(b) that the information	5
Defective statement.	(i) fails to state or states defectively anything that is requisite to constitute the offence,	
Exception not negatived.	(ii) does not negative an exception that should be negatived,	
Defect in substance.	(iii) is in any way defective in substance,	10
	and the matters to be alleged in the proposed amendment are disclosed by the evidence taken on the trial; or	
Defect in form.	(c) that the information is in any way defective in form.	15
Variance not material	(4) A variance between the information and the evidence taken on the trial is not material with respect to	
As to time.	(a) the time when the offence is alleged to have been committed, if it is proved that the information was laid within the prescribed period of limitation, or	20
As to place.	(b) the place where the subject matter of the proceedings is alleged to have arisen, if it is proved that it arose within the territorial jurisdiction of the summary conviction court that holds the trial.	
What to be considered.	(5) The summary conviction court shall, in considering whether or not an amendment should be made, consider	25
	(a) the evidence taken on the trial, if any,	
	(b) the circumstances of the case,	
	(c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission mentioned in subsection (2) or (3), and	30
	(d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.	
Adjournment if defendant prejudiced.	(6) Where in the opinion of the summary conviction court the defendant has been misled or prejudiced in his defence by an error or omission in the information, the summary conviction court may adjourn the trial and may make such an order with respect to the payment of costs resulting from the necessity of amendment as it considers desirable.	35 40

TRIAL.

Jurisdiction.	705. Every summary conviction court has jurisdiction to try, determine and adjudge proceedings to which this Part applies in the territorial division over which the person who constitutes that court has jurisdiction.	45
Non-appearance of prosecutor	706. Where, in proceedings to which this Part applies, the defendant appears for the trial and the prosecutor,	

having had due notice, does not appear, the summary conviction court may dismiss the information or may adjourn the trial to some other time upon such terms as it considers proper.

707. (1) Where the prosecutor and defendant appear, the summary conviction court shall proceed to hold the trial.

(2) A defendant may appear personally or by counsel or agent, but the summary conviction court may require the defendant to appear personally and may, if it thinks fit, issue a warrant in Part V for the arrest of the defendant and require the trial to await his appearance pursuant thereto.

(3) Where the defendant is a corporation it shall appear by counsel or agent, and if it does not appear, the summary conviction court may, upon notice or service of the summons, proceed as near to hold the trial.

708. (1) Where the defendant appears, the information shall be stated in full, and he shall be asked

(a) whether he pleads guilty or not guilty to the information, when the proceedings are in respect of an offence that is punishable on summary conviction; or

(b) whether he has cause to show why an order should not be made against him, or proceedings should be discontinued, if he is charged with an offence that is punishable by law to make an order.

(2) Where the defendant pleads guilty or does not show otherwise cause why an order should not be made against him, as the case may be, the summary conviction court shall proceed to make an order against him accordingly.

(3) Where the defendant pleads not guilty or states that he has cause to show why an order should not be made against him, as the case may be, the summary conviction court shall proceed with the trial, and shall take the evidence of witnesses for the prosecutor and the defendant in accordance with the provisions of Part XV, relating to preliminary hearings, but it is not necessary for the witness to give their deposition.

(4) The summary conviction court may, before or during the trial, where it is satisfied that the ends of justice require it, direct that the defendant be tried separately upon one or more of the counts in the information.

(5) A defendant may admit any part of the information for the purpose of depending

705. Section 707.

709. (1) The prosecutor shall personally or by counsel or agent, and the defendant is entitled to make his full defence and defence.

706. Section 719.

having had due notice, does not appear, the summary conviction court may dismiss the information or may adjourn the trial to some other time upon such terms as it considers proper.

- 707.** (1) Where the prosecutor and defendant appear, the summary conviction court shall proceed to hold the trial. 5
- When both parties appear.
- (2) A defendant may appear personally or by counsel or agent, but the summary conviction court may require the defendant to appear personally and may, if it thinks fit, issue a warrant in Form 7 for the arrest of the defendant, and adjourn the trial to await his appearance pursuant thereto. 10
- Counsel or agent.
- (3) Where the defendant is a corporation it shall appear by counsel or agent, and if it does not appear, the summary conviction court may, upon proof of service of the summons, proceed *ex parte* to hold the trial. 15
- Appearance by corporation.
- 708.** (1) Where the defendant appears the substance of the information shall be stated to him, and he shall be asked, 20
- Arraignment.
- (a) whether he pleads guilty or not guilty to the information, where the proceedings are in respect of an offence that is punishable on summary conviction, or
- (b) whether he has cause to show why an order should not be made against him, in proceedings where a justice is authorized by law to make an order. 25
- (2) Where the defendant pleads guilty or does not show sufficient cause why an order should not be made against him, as the case may be, the summary conviction court shall convict him or make an order against him accordingly. 30
- Conviction or order if charge admitted.
- (3) Where the defendant pleads not guilty or states that he has cause to show why an order should not be made against him, as the case may be, the summary conviction court shall proceed with the trial, and shall take the evidence of witnesses for the prosecutor and the defendant in accordance with the provisions of Part XV relating to preliminary inquiries, but it is not necessary for the witnesses to sign their depositions. 35
- Procedure if charge not admitted.
- (4) The summary conviction court may, before or during the trial, where it is satisfied that the ends of justice require it, direct that the defendant be tried separately upon one or more of the counts in the information. 40
- Separating trial of counts.
- (5) A defendant may admit any fact alleged against him for the purpose of dispensing with proof thereof. 45
- Admission by defendant.
- 709.** (1) The prosecutor is entitled personally to conduct his case, and the defendant is entitled to make his full answer and defence. 45
- Right to make full answer and defence.

(2) The procedure or details as the case may be
any manner and may examine witnesses personally
by contract or agent.
(3) Every witness at a trial in proceedings in which the
Part 800 shall be examined under oath.

707. Section 720.

710. (1) The primary condition for the
discovery, before or during the trial, of the trial to
a time and place to be appointed and stated in the presence
of the parties or their respective counsel or agents, but as
such appointment shall comply with the amount of both 10
parties to the trial in each case.

708. Section 721.

(1) Where the defendant is to be at large
(2) Where the primary condition shall require a
trial to be held at a place and time to be appointed
by the court or by agreement between the parties or
by agreement between the parties and the court.

709. Sections 715 and 716 (1).

715. When the primary condition shall require
the presence of defendant and witness it shall also be

- Examination of witnesses. (2) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses personally or by counsel or agent.
- On oath. (3) Every witness at a trial in proceedings to which this Part applies shall be examined under oath. 5
- Adjournment. **710.** (1) The summary conviction court may, in its discretion, before or during the trial, adjourn the trial to a time and place to be appointed and stated in the presence of the parties or their respective counsel or agents, but no such adjournment shall, except with the consent of both 10 parties, be for more than eight days.
- Security for appearance of defendant. (2) Where the summary conviction court adjourns a trial it may
- (a) permit the defendant to be at large,
 - (b) commit him by warrant in Form 14 to a prison 15 within the territorial division for which the summary conviction court has jurisdiction or to such other safe custody as the summary conviction court thinks fit, or
 - (c) discharge the defendant upon his recognizance in 20 Form 28,
 - (i) with or without sureties, or
 - (ii) upon depositing such sum of money as the court directs,
 conditioned for his appearance at the time and place 25 fixed for resumption of the trial.
- Non-appearance of defendant. (3) Where the defendant does not appear at the time and place appointed for the trial, and service of the summons within a reasonable period before the appearance was required is proved, or does not appear for the resumption 30 of a trial that has been adjourned in accordance with subsection (1), the summary conviction court
- Proceeding *ex parte*. (a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant as fully and effectually as if the defendant had appeared, or 35
- Warrant. (b) may, if it thinks fit, issue a warrant in Form 8 or 9, as the case may be, for the arrest of the defendant, and adjourn the trial to await his appearance pursuant thereto.
- Non-appearance of prosecutor. (4) Where the prosecutor does not appear at the time 40 and place appointed for the resumption of an adjourned trial, the summary conviction court may dismiss the information with or without costs.

ADJUDICATION.

- Conviction, order or dismissal. **711.** When the summary conviction court has heard the prosecutor, defendant and witnesses it shall, after 45

considering the matter, convict the defendant or make an order against him or dismiss the information, as the case may be.

Previous conviction.

712. (1) Where a defendant is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, no greater punishment shall be imposed upon him by reason thereof unless the prosecutor satisfies the summary conviction court that the defendant, before making his plea, was notified that a greater punishment would be sought by reason thereof. 5 10

Procedure where previous conviction charged.

(2) Where a defendant is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, the summary conviction court shall, upon application by the prosecutor, and upon being satisfied that the defendant was notified in accordance with subsection (1), ask the defendant whether he was previously convicted, and if he does not admit that he was previously convicted, evidence of previous convictions may be adduced. 15

Where hearing *ex parte*.

(3) A summary conviction court that holds a trial pursuant to subsection (3) of section 710 may, if it convicts the defendant, make inquiries with respect to previous convictions, whether or not the defendant was notified that a greater punishment would be sought by reason thereof. 20

Proof of previous conviction.

(4) For the purposes of this section, a previous conviction may be proved in the manner prescribed by section 574. 25

Memo. of conviction or order.

713. (1) Where a defendant is convicted or where an order is made against him, a minute or memorandum of the conviction or order may be made, without fee, but whether or not a minute or memorandum is made, the conviction or order shall be drawn up by the summary conviction court in Form 31 or 32, as the case may be. 30

Forms.

Warrant of committal.

(2) Where a defendant is convicted or an order is made against him, the summary conviction court shall issue a warrant of committal in Form 18 or 19, and section 447 applies in respect of a warrant of committal issued under this subsection. 35

Disposal of penalties when joint offenders.

714. Where several persons join in committing the same offence and upon conviction each is adjudged to pay an amount to a person aggrieved, no more shall be paid to that person than an amount equal to the value of the property destroyed or injured or the amount of the injury done, together with costs, if any, and the residue of the amount adjudged to be paid shall be applied in the manner in which other penalties imposed by law are directed to be applied. 40 45

Order of dismissal.

715. (1) Where the summary conviction court dismisses an information it may, if requested by the defendant,

712. Sections 721A and 753.

713. Section 727.

714. Section 728.

715. Section 730.

- Forms. draw up an order of dismissal, and shall give to the defendant a certified copy of the order of dismissal.
- Effect of certificate. (2) A copy of an order of dismissal, certified in accordance with subsection (1) is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. 5
- Costs. **716.** (1) The summary conviction court may in its discretion award and order such costs as it considers reasonable and not inconsistent with the fees established by section 744, to be paid 10
- To informant. (a) to the informant by the defendant, where the summary conviction court convicts or makes an order against the defendant, or
- To defendant. (b) to the defendant by the informant, where the summary conviction court dismisses an information. 15
- To be set out. (2) An order under subsection (1) shall be set out in the conviction, order or order of dismissal, as the case may be.
- Costs are part of fine. (3) Where a fine or sum of money or both are adjudged to be paid by a defendant, and a term of imprisonment in default of payment is imposed, the defendant is, in default of payment, liable to serve the term of imprisonment imposed, and for the purposes of this subsection, any costs that are awarded against the defendant shall be deemed to be part of the fine or sum of money adjudged to be paid. 20
- Where no fine imposed. (4) Where no fine or sum of money is adjudged to be paid by a defendant, but costs are awarded against the defendant or informant, the person who is liable to pay them is, in default of payment, liable to imprisonment for one month. 25
- Definition. (5) In this section, "costs" includes the costs and charges, after they have been ascertained, of committing and conveying to prison the person against whom costs have been awarded. 30

SURETIES TO KEEP THE PEACE.

- Where injury or damage feared. **717.** (1) Any person who fears that another person will cause personal injury to him or his wife or child or will damage his property may lay an information before a justice. 35
- Duty of justice. (2) A justice who receives an information under subsection (1) shall cause the parties to appear before him or before a summary conviction court having jurisdiction in the same territorial division. 40
- Adjudication. (3) The justice or the summary conviction court before which the parties appear may, if satisfied by the evidence adduced that the informant has reasonable grounds for his fears, 45

(c) order that the defendant enter into a recognizance with or without sureties to keep the peace and to be good behaviour for any period that does not exceed twelve months or

(d) commit the defendant to prison for a term not exceeding twelve months if he fails or refuses to enter into the recognizance.

716. Sections 735 to 738.

(4) A recognizance and order under subsection (3) may be in Form 38 and 39 respectively.

(5) The provisions of this Part apply, with necessary modifications, to proceedings under this section.

717. A person bound by a recognizance under section 716 who commits an offence of which the recognizance is a condition of an offence is liable on summary conviction

719.

For the purpose of sections 530 to 535, "court" means

(a) in the Province of Prince Edward Island and Newfoundland, the Supreme Court;

(b) in the Province of Nova Scotia, New Brunswick and Manitoba, the county court of the district or county where the cause of the proceedings arose;

(c) in the Province of Quebec, the Superior Court;

(d) in the Province of Ontario, the county court of the district or county or group of counties where the cause of the proceedings arose;

(e) in the Province of Saskatchewan and Alberta, the district court of the judicial district or sub-judicial district in which the cause of the proceedings arose;

(f) in the Province of British Columbia, the county court of the county in which the cause of the proceedings arose;

717. Section 748 (2) to (5).

720. Except where otherwise provided by law, (a) the defendant is proceeding under this Part may appeal to the appeal court

(i) from a conviction or other order against him, or (ii) against a sentence passed upon him; and

(b) the defendant or the Attorney General in proceedings under this Part may appeal to the appeal court

(i) from an order dismissing an indictment or (ii) against a sentence passed upon a defendant

- Recognizance. (a) order that the defendant enter into a recognizance, with or without sureties, to keep the peace and be of good behaviour for any period that does not exceed twelve months, or
- Committal in default. (b) commit the defendant to prison for a term not exceeding twelve months if he fails or refuses to enter into the recognizance. 5
- Forms. (4) A recognizance and committal to prison in default of recognizance under subsection (3) may be in Forms 28 and 20, respectively. 10
- Procedure. (5) The provisions of this Part apply, *mutatis mutandis*, to proceedings under this section.
- Breach of recognizance. **718.** A person bound by recognizance under section 717 who commits a breach of the recognizance is guilty of an offence punishable on summary conviction. 15

APPEAL.

719. For the purposes of sections 720 to 732, "appeal court" means

- P.E. Island, Newfoundland, Nova Scotia, New Brunswick, Manitoba, Quebec, Ontario.
- (a) in the Provinces of Prince Edward Island and Newfoundland, the Supreme Court,
- (b) in the Provinces of Nova Scotia, New Brunswick 20 and Manitoba, the county court of the district or county where the cause of the proceedings arose,
- (c) in the Province of Quebec, the Superior Court,
- (d) in the Province of Ontario, the county court of the district or county or group of counties where the 25 cause of the proceedings arose,
- Saskatchewan, Alberta.
- (e) in the Provinces of Saskatchewan and Alberta, the district court of the judicial district or sub-judicial district in which the cause of the proceedings arose,
- British Columbia.
- (f) in the Province of British Columbia, the county 30 court of the county in which the cause of the proceedings arose, and
- Territories.
- (g) in the Yukon Territory and Northwest Territories, a judge of the Territorial Court.

- Appeal. **720.** Except where otherwise provided by law, 35
- By defendant. (a) the defendant in proceedings under this Part may appeal to the appeal court
- (i) from a conviction or order made against him, or
- (ii) against a sentence passed upon him; and
- By informant or Attorney General. (b) the informant or the Attorney General in proceedings 40 under this Part may appeal to the appeal court
- (i) from an order dismissing an information, or
- (ii) against a sentence passed upon a defendant,

and the Attorney General of Canada has the same right of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of the Attorney General of a province has under this paragraph.

717. (1) In the province of British Columbia, an appeal under section 710 shall be heard at the place where the appeal is made and at the place where the appeal is made.

718. New.

719. Section 749 (1).

720. Section 749 (1).

(1) Where an appeal is made under section 710, the appellant shall

(a) prepare a notice of appeal in writing setting forth

(b) with reasonable certainty the conviction or order appealed from or the sentence appealed against

(c) the grounds of appeal

(d) state the order of appeal to be served upon

(e) the primary conviction court that made the conviction or order to be appealed

(f) the respondent

(g) within thirty days after the conviction or order was made or the sentence was imposed, and

(h) file in the office of the clerk of the appeal court a copy of the notice of appeal referred to in paragraph (a) and

(i) an affidavit of service of the notice of appeal not later than seven days after the last day for service of the notice of appeal upon the respondent and the primary conviction court.

(2) In the Northwest Territories and Yukon Territory, the appellant shall, in addition to the requirements of paragraph (1), file a further affidavit not exceeding thirty days after which service and filing may be effected.

(3) Where the respondent is a person sentenced in contravention of the law when the conviction or order was made or the sentence was imposed, the appeal court may direct that a copy of the notice of appeal referred to in

and the Attorney General of Canada has the same rights of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of that government as the Attorney General of a province has under this paragraph.

5

British
Columbia.

721. (1) In the province of British Columbia, an appeal under section 720 shall be heard at the sittings of the appeal court that is held nearest to the place where the cause of the proceedings arose.

Alberta,
Saskat-
chewan.

(2) In the provinces of Alberta and Saskatchewan an appeal under section 720 shall be heard at the sittings of the appeal court that is held nearest to the place where the cause of the proceedings arose, but the judge of the appeal court may, on the application of one of the parties, appoint a place for the hearing of the appeal.

Yukon,
N. W.
Territories.

(3) In the Yukon Territory and the Northwest Territories, an appeal under section 720 shall be heard at the place where the cause of the proceedings arose or at the place nearest thereto where a court is appointed to be held.

Notice of
appeal.

722. (1) Where an appeal is taken under section 720, the appellant shall

Contents.

(a) prepare a notice of appeal in writing setting forth
(i) with reasonable certainty the conviction or order appealed from or the sentence appealed against, and

Service.

(ii) the grounds of appeal;
(b) cause the notice of appeal to be served upon
(i) the summary conviction court that made the conviction or order or imposed the sentence, and
(ii) the respondent,
within thirty days after the conviction or order was made or the sentence was imposed; and

Filing.

(c) file in the office of the clerk of the appeal court
(i) the notice of appeal referred to in paragraph (a), and
(ii) an affidavit of service of the notice of appeal, not later than seven days after the last day for service of the notice of appeal upon the respondent and the summary conviction court.

Time for
service and
filing.

(2) In the Northwest Territories, the appeal court may fix, before or after the expiration of the periods fixed by paragraphs (b) and (c) of subsection (1), a further period not exceeding thirty days within which service and filing may be effected.

Alternative
service.

(3) Where the respondent is a person engaged in enforcement of the law under which the conviction or order was made or the sentence was imposed, the appeal court may direct that a copy of the notice of appeal referred to in

721. Section 749 (1).

722. Section 750 (b).

subsection (1) be served upon a person other than the respondent, and where the appeal court so directs, that service shall, for the purposes of this section and section 723, be deemed to be service upon the respondent.

Setting
down appeal.

723. (1) Where an appellant has complied with section 722, the appeal court shall set down the appeal for hearing at a regular or special sittings thereof and the clerk of the appeal court shall post, in a conspicuous place in his office, a notice of every appeal that has been set down for hearing and notice of the time when it will be heard. 5 10

Exception.

(2) No appeal shall be set down for hearing at a time that is less than ten days after the time when service was effected upon the respondent of the notice referred to in paragraph (b) of subsection (1) of section 722, unless the parties or their counsel or agents otherwise agree in writing. 15

SECURITY BY APPELLANT.

Where
appeal from
conviction
imposing
imprison-
ment.

724. (1) The following provisions apply in respect of appeals to the appeal court, namely,

(a) where an appeal is from a conviction imposing imprisonment without alternative punishment the appellant shall

- (i) remain in custody until the appeal is heard, or 20
- (ii) enter into a recognizance;

Where
appeal from
conviction
adjudging
imprisonment
in default.

(b) where an appeal is from a conviction or order adjudging that a fine or sum of money be paid and imposing a term of imprisonment in default of payment, the appellant shall 25

- (i) remain in custody until the appeal is heard,
- (ii) enter into a recognizance, or
- (iii) deposit with the summary conviction court the amount of the fine or the sum of money to be paid and an additional amount that, in the opinion 30 of the summary conviction court, is sufficient to cover the costs of the appeal;

Where appeal
from conviction
adjudging
fine but not
imprisonment.

(c) where an appeal is from a conviction or order adjudging that a fine or sum of money be paid but not imposing a term of imprisonment in default of payment, the appellant shall comply with subparagraph (ii) or (iii) of paragraph (b); and 35

Where
appeal from
dismissal
of com-
plaint.

(d) where an appeal is from an order other than an order for the payment of money or is from an order dismissing an information, the appellant shall, unless he is the 40 Attorney General of Canada or of a province, enter into a recognizance in an amount, or deposit with the summary conviction court an amount that, in the opinion of that court, is sufficient to cover the costs of the appeal. 45

(1) A respondent under this section shall be in Form 22.

(2) It shall be entered into before a judge of the county or district court, or a justice having jurisdiction in the particular division in which the case is pending.

(3) It may be required to be entered into with one or more affidavits and

(4) It may, where it is not entered into by two or more parties, be required to be accompanied by a deposit of 10 per cent of costs as the summary conviction court may require the conviction or order to be satisfied.

(5) The condition of a respondent under this section shall be that

723. New.

(a) the appellant, if he was the defendant in the proceedings before the summary conviction court, will appear personally at the sitting of the appeal court at which the appeal is to be heard.

724. Section 750 (c).

(a) the appellant, if he was the defendant in the proceedings before the summary conviction court, will appear personally or by counsel at the sitting of the appeal court at which the appeal is to be heard.

(b) the appellant will abide the judgment of the appeal court on the appeal and

(c) the appellant will pay any costs that are awarded against him.

(4) An appeal court may with respect to a respondent that appears to it to be insufficiently solvent or insolvent, the court powers that a superior court has under subsection (2) of section 123.

(3) Where an appellant is in custody on order in discharge of Form 22 shall, when a recognizance is entered into under this section, be taken by the person who takes the recognizance.

725. (1) A person does not waive the right to appeal under section 120 by reason only that he pays the fine imposed upon conviction, without in any way indicating an intention to appeal or to pay the fine in instalments.

(2) A conviction, order or sentence shall be deemed not to have been appealed against until the contrary is shown.

726. (1) Where a summary conviction court is seized with a copy of the notice referred to in paragraph (2) of sub-section (1) of section 124, that court shall transmit the notice, order or other document and all other material in its possession in connection with the proceedings to the appeal court before the time when the appeal is to be heard, and the material shall be kept by the clerk of the court with the records of the appeal court.

Formalities
of recogniz-
ance.

- (2) A recognizance under this section
 (a) shall be in Form 28,
 (b) shall be entered into before a judge of the county
 or district court, or a justice having jurisdiction in
 the territorial division in which the conviction or order 5
 was made,
 (c) may be required to be entered into with one or more
 sureties, and
 (d) may, where it is not entered into by one or more
 sureties, be required to be accompanied by a deposit of 10
 such sum of money as the summary conviction court
 that made the conviction or order has directed.

Conditions.

- (3) The condition of a recognizance under this section
 shall be that
 (a) the appellant, if he was the defendant in the pro- 15
 ceedings before the summary conviction court, will
 appear personally at the sittings of the appeal court
 at which the appeal is to be heard,
 (b) the appellant, if he was the prosecutor in the pro-
 ceedings before the summary conviction court, will 20
 appear personally or by counsel at the sittings of the
 appeal court at which the appeal is to be heard,
 (c) the appellant will abide the judgment of the appeal
 court on the appeal, and
 (d) the appellant will pay any costs that are awarded 25
 against him.

New recog-
nizance.

- (4) An appeal court has, with respect to a recognizance
 that appears to it to be insufficient, defective or invalid,
 the same powers that a superior court has under subsection 30
 (5) of section 735.

Release of
appellant.

- (5) Where an appellant is in custody an order for dis-
 charge in Form 35 shall, when a recognizance is entered into
 under this section, be issued by the person who takes the
 recognizance.

Payment of
fine not a
waiver of
appeal.

- 725.** (1) A person does not waive his right of appeal 35
 under section 720 by reason only that he pays the fine
 imposed upon conviction, without in any way indicating an
 intention to appeal or reserving the right to appeal.

Presumption.

- (2) A conviction, order or sentence shall be deemed not
 to have been appealed against until the contrary is shown. 40

PROCEDURE ON APPEAL.

Transmission
of conviction,
etc.

- 726.** (1) Where a summary conviction court is served
 with a copy of the notice referred to in paragraph (b) of
 subsection (1) of section 722, that court shall transmit the
 conviction, order or order of dismissal and all other material 45
 in its possession in connection with the proceedings to the
 appeal court before the time when the appeal is to be heard,
 or within such further time as the appeal court may direct,
 and the material shall be kept by the clerk of the court
 with the records of the appeal court.

(b) An appeal shall not be dismissed by the respondent if he can only show that some person other than the respondent failed to comply with the provisions of this Part relating to appeals.

(c) Where the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals, the respondent shall be liable to pay the costs of the appeal, unless the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals.

(d) Where the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals, the respondent shall be liable to pay the costs of the appeal, unless the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals.

(e) Where the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals, the respondent shall be liable to pay the costs of the appeal, unless the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals.

(f) Where the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals, the respondent shall be liable to pay the costs of the appeal, unless the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals.

725. (1) Section 750 (g).

(2) Section 757 (2).

726. (1) Section 757 (1).

(g) Where the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals, the respondent shall be liable to pay the costs of the appeal, unless the respondent shows that the respondent has failed to comply with the provisions of this Part relating to appeals.

Saving.

(2) An appeal shall not be dismissed by the appeal court by reason only that some person other than the appellant failed to comply with the provisions of this Part relating to appeals.

Appellant to furnish transcript of evidence.

(3) Where the evidence upon a trial before a summary conviction court has been taken by a stenographer duly sworn, the appellant shall, unless the appeal court otherwise orders, cause a transcript thereof, certified by the stenographer, to be furnished to the appeal court for use upon the appeal. 5 10

Further evidence.

727. (1) Where an appeal has been lodged in accordance with this Part, the appeal court shall hear and determine the appeal upon the evidence taken at the trial but may

(a) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial, to attend and be examined, and 15

(b) order the production of any writing, exhibit or other thing connected with the proceedings.

Powers of court.

(2) Where an appeal is taken against a conviction for an offence the appeal court 20

Allowance of appeal from conviction.

(a) may allow the appeal if it is of opinion that

(i) the conviction should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,

(ii) the judgment of the summary conviction court should be set aside on the ground that it is a wrong decision on a question of law, or 25

(iii) on any ground there has been a miscarriage of justice; or

Dismissal of appeal from conviction.

(b) may dismiss the appeal 30

(i) if it is of opinion that the appellant, notwithstanding that he was not properly convicted on a count or part of the information, was properly convicted on another count or part of the information, 35

(ii) if it is of opinion that the appellant could, on the information, have been found guilty of an offence other than that of which he was convicted, and that the summary conviction court must have been satisfied that the evidence proved that the appellant was guilty of that other offence, 40

(iii) if the appeal is not decided in favour of the appellant on any ground mentioned in paragraph (a), or

(iv) if, notwithstanding that the appeal court is of opinion that on any ground mentioned in paragraph (a) the appeal might be decided in favour of the appellant, it is of opinion that no substantial wrong or miscarriage of justice has occurred. 45 50

Powers on appeal from dismissal of information.

(3) Where an appeal is taken from the dismissal of an information for an offence the appeal court may

- (a) dismiss the appeal, or
- (b) allow the appeal and enter a verdict of guilty with respect to the offence of which in its opinion the appellant ought to have been found guilty, and pass a sentence that is warranted in law. 5

Powers on appeal from dismissal of complaint.

(4) Where an appeal is taken against an order or is taken from the dismissal of an information seeking an order the appeal court may dismiss the appeal in whole or in part and make the order that ought to have been made. 10

Appeal against sentence.

(5) Where an appeal is taken against sentence, the appeal court shall, unless the sentence is one fixed by law, consider the fitness of the sentence appealed against, and may upon such evidence, if any, as it thinks fit to require or receive, 15

- (a) dismiss the appeal, or
- (b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted.

Appeals on matters of form.

(6) The following provisions apply in respect of appeals, 20 namely,

- (a) where an appeal is based on an objection to an information or any process, judgment shall not be given in favour of the appellant

(i) for any alleged defect therein in substance or in form, or 25

(ii) for any variance between the information, or process and the evidence adduced at the trial, unless it is shown

(iii) that the objection was taken at the trial, and 30

(iv) that an adjournment of the trial was refused notwithstanding that the variance referred to in subparagraph (ii) had deceived or misled the appellant;

Objection must have been taken below.

Defect.

- (b) where an appeal is based on a defect in a conviction or order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect; or 35

Correcting punishment.

- (c) where an appeal is based on an allegation that the sentence imposed or the amount to be paid under an order for the payment of money was in excess of or less than that which might lawfully have been imposed or ordered to be paid, judgment shall not be given in favour of the appellant, but the court shall impose the sentence or fix the amount that is warranted in law. 40 45

Adjournment.

728. The appeal court may adjourn the hearing of the appeal from time to time as may be necessary.

(5) Section 754 (1).

(6) Section 753.

728. Section 751 (3).

Dismissal
for want of
prosecution.

729. The appeal court may, upon proof that notice of an appeal has been given and that the appeal has not been proceeded with or has been abandoned, order that the appeal be dismissed.

Costs.

730. Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the appeal court may make any order with respect to costs that it considers just and reasonable. 5

To whom
costs payable,
and when.

731. (1) Where the appeal court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid. 10

Application
of deposit.

(2) Where costs are awarded against an appellant who has made a deposit to cover costs, the amount of the deposit shall be applied towards payment of costs. 15

Certificate
of non-pay-
ment of costs.

(3) Where costs are not paid in full within the period fixed for payment and the person who has been ordered to pay them has not been bound by a recognizance to pay them, the clerk of the court shall, upon application by the person entitled to the costs, or by any person on his behalf, and upon payment of any fee to which the clerk of the court is entitled, issue a certificate in Form 38 certifying that the costs or a part thereof, as the case may be, have not been paid. 20 25

Committal.

(4) A justice having jurisdiction in the territorial division in which a certificate has been issued under subsection (3) may, upon production of the certificate, by warrant in Form 23, commit the defaulter to imprisonment for a term not exceeding one month, unless the amount of the costs and, where the justice thinks fit so to order, the costs of the committal and of conveying the defaulter to prison are sooner paid. 30

Enforce-
ment of
conviction or
order by
court of
appeal.

732. (1) A conviction or order made by the appeal court may be enforced 35

(a) in the same manner as if it had been made by the summary conviction court, or
(b) by process of the appeal court.

Enforcement
by justice.

(2) Where an appeal taken against a conviction or order adjudging payment of a sum of money is dismissed, the summary conviction court that made the conviction or order or a justice for the same territorial division may issue a warrant of committal as if no appeal had been taken. 40

Duty of clerk
of court.

(3) Where a conviction or order that has been made by an appeal court is to be enforced by a justice, the clerk of the appeal court shall send to the justice the conviction or order and all writings relating thereto, except the notice of intention to appeal and any recognizance. 45

729. Section 760 (in part).

730. Sections 755 (1) in part and 760 in part.

731. (1) Section 758.

(2) Section 751 (2).

(3) Section 759 (1).

(4) Section 759 (2).

732. Sections 754 (2) and (3), 756 and 757 (4).

STATED CASE.

"Court."	733. For the purposes of sections 734 to 742, "superior court" means the superior court of criminal jurisdiction for the province in which the proceedings in respect of which a case is sought to be stated are carried on.	
Application for stated case.	734. (1) A party to proceedings to which this Part applies or the Attorney General may appeal against a conviction, order, determination or other proceeding of a summary conviction court on the ground that	5
Grounds.	(a) it is erroneous in point of law, or (b) it is in excess of jurisdiction,	10
Rules of court, if any, to apply.	by applying to the summary conviction court to state a case setting forth the facts as found by that court and the grounds on which the proceedings are questioned. (2) An application to state a case shall be made and the case shall be stated within the period and in the manner directed by rules of court, if any, and where there are no rules of court otherwise providing, the following rules apply, namely,	15
Time and manner of application.	(a) the application (i) shall be in writing and be directed to the summary conviction court, (ii) shall be served upon the summary conviction court by leaving with that court a copy thereof within seven clear days after the time when the adjudication that is questioned was made;	20
When case to be stated.	(b) the case shall be stated and signed by the summary conviction court (i) within one month after the time when the application was made, and (ii) after the recognizance referred to in section 735 has been entered into; and	25
Delivery of stated case.	(c) the appellant shall, within seven clear days after receiving the stated case, (i) give to the respondent a notice in writing of the appeal with a copy of the stated case, and (ii) transmit the stated case to the superior court.	35
Right of Attorney General of Canada to appeal.	(3) The Attorney General of Canada has the same rights of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of that government as the Attorney General of a province has under this section.	40
Recognizance by appellant.	735. (1) The appellant shall, at the time he makes the application and before a case is stated, enter into a recognizance in Form 28 before the summary conviction court or a justice having the same jurisdiction, with or without sureties and in an amount that the summary conviction court or the justice considers proper, conditioned to prosecute	45

733. Section 705 (e).

734. Section 761.

735. Section 762 (1), (2) and (3).

his appeal without delay and to submit to the judgment of the superior court and to pay any costs that are awarded against him, or in lieu of furnishing sureties, make a cash deposit as the summary conviction court or the justice may direct.

5

Justice's fees.

(2) The appellant shall, before the stated case is delivered to him, pay to the summary conviction court or the justice the fees to which they are entitled.

Exception.

(3) Subsections (1) and (2) do not apply where the application is made by the Attorney General of Canada or the Attorney General of a province or by counsel acting on behalf of either of them.

Discharge of appellant from custody.

(4) Where an appellant is in custody the summary conviction court or the justice shall order that he be released if his recognizance contains a further condition that he will appear before that court or another summary conviction court within ten days after the judgment of the superior court has been given, to abide the judgment, unless the judgment from which the appeal is taken is reversed.

New recognizance.

(5) Where the recognizance appears to the superior court to be insufficient, defective or invalid, the superior court may permit the substitution of a new and sufficient recognizance, to be entered into before it and for that purpose may allow such time and make such examination and impose such terms with respect to the payment of costs as it considers just and reasonable, and the substituted recognizance shall, for all purposes, be as valid and effectual as if it had been entered into at the time the appellant made the application and before the case was stated.

Procedure when justice dies or quits office.

736. (1) Where, pending an application for a stated case, a justice who was, or was a member of, the summary conviction court dies or quits office, the appellant may, upon giving notice to the respondent, apply to the superior court to state a case, and if a case is thereupon stated it shall be dealt with as if it had been stated by the summary conviction court.

Recognizance.

(2) The appellant shall, before a case is stated by the superior court under this section, enter into a recognizance as provided in section 735.

Refusal to state a case.

737. Where a summary conviction court, to which an application to state a case is made, considers that the application is frivolous, it may refuse to state a case and shall, at the request of the appellant, issue to him a certificate of the refusal, but the summary conviction court shall not refuse to state a case where the application is made by or at the direction of the Attorney General of Canada or the Attorney General of a province or counsel acting on behalf of either of them.

735. (1) Where a summary conviction court orders to state a case the applicant may apply to the superior court, upon an affidavit setting out the facts, for an order directing the summary conviction court and the respondent to show cause why a case should not be stated.

(2) Where an applicant is made an order subsection (1) the superior court may make the order or dismiss the application, with or without payment of costs by the applicant as the summary conviction court as it considers appropriate in the circumstances.

(3) Where an order is made under this section, the summary conviction court shall upon being served with a copy thereof and upon the applicant obtaining into a court order of payment to subsection (1) of section 736, state a case accordingly.

736. No writ of certiorari or other writ is required to remove any conviction, order or other determination in relation to which a case is stated for the purpose of obtaining the judgment, determination or opinion of the superior court.

737. (1) Where a case is stated in relation to an appeal the court shall hear and determine the grounds of appeal and may (a) affirm, reverse or modify the conviction, order or determination.

(b) cause the case to be sent back to the summary conviction court for amendment and deliver judgment after it has been amended.

736. Section 762 (4) and (5).

(2) The authority and jurisdiction in which a case is stated may, with the consent of the court, be exercised by a judge of that court, subject to any rules of court in relation thereto, to exercise the powers of the court making the statement as well as to state the case.

737. Section 763.

Compelling
statement
of case.

738. (1) Where a summary conviction court refuses to state a case, the appellant may apply to the superior court, upon an affidavit setting out the facts, for an order directing the summary conviction court and the respondent to show cause why a case should not be stated.

5

Order.

(2) Where an application is made under subsection (1), the superior court may make the order or dismiss the application, with or without payment of costs by the appellant or the summary conviction court, as it considers appropriate in the circumstances.

10

Case to be
stated.

(3) Where an order is made under this section, the summary conviction court shall, upon being served with a copy thereof and upon the appellant entering into a recognizance pursuant to subsection (1) of section 735, state a case accordingly.

15

No
certiorari
required.

739. No writ of *certiorari* or other writ is required to remove any conviction, order or other determination in relation to which a case is stated for the purpose of obtaining the judgment, determination or opinion of the superior court.

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Powers of
court hearing
appeal.

740. (1) Where a case is stated under this Part, the superior court shall hear and determine the grounds of appeal and may

(a) affirm, reverse or modify the conviction, order or determination,

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(b) cause the case to be sent back to the summary conviction court for amendment and deliver judgment after it has been amended, or

(c) remit the matter to the summary conviction court with the opinion of the superior court,

30

and may make

(d) any other order in relation to the matter that it considers proper, and

Costs.

(e) any order, with respect to costs, that it considers proper, but except as provided in subsection (2) of section 738, no order for the payment of costs shall be made against a summary conviction court that states a case.

35

Authority
of judge.

(2) The authority and jurisdiction of the superior court to which a case is stated may, where that authority and jurisdiction may be exercised by a judge of that court, subject to any rules of court in relation thereto, be exercised by a judge of the court sitting in chambers as well in vacation as in term time.

40

738. Section 764.

739. Section 768.

740. Sections 765 and 766.

- Enforcement of adjudication.** **741.** (1) Where the superior court has rendered its decision on a stated case, the summary conviction court in relation to whose adjudication the case has been stated or a justice exercising the same jurisdiction has the same authority to enforce a conviction, order or determination that has been affirmed, amended or made by the superior court as the summary conviction court would have had if a case had not been stated. 5
- Idem.** (2) An order of the superior court may be enforced by its own process. 10

- Statement of case precludes appeal.** **742.** (1) Every person for whom a case is stated in respect of an adjudication of a summary conviction court from which he is entitled to an appeal under section 720 shall be taken to have abandoned all his rights of appeal under that section. 15
- No case to be stated when no appeal.** (2) Where it is provided by law that no appeal lies from a conviction or order, no appeal by way of a stated case lies from such a conviction or order.

APPEALS TO COURT OF APPEAL.

- On question of law.** **743.** (1) An appeal to the court of appeal, as defined in section 581 may, with leave of that court, be taken on any ground that involves a question of law alone, against (a) a decision of a court in respect of an appeal under section 727, or (b) a decision of a superior court in respect of a stated case under section 740, except where the superior court to which the case was stated is the court of appeal. 20
- Sections applicable.** (2) Sections 581 to 589 apply, *mutatis mutandis*, to an appeal under this section. 25
- Costs.** (3) Notwithstanding subsection (2), the court of appeal may make any order with respect to costs that it considers proper in relation to an appeal under this section. 30
- Enforcement of decision.** (4) The decision of the court of appeal may be enforced in the same manner as if it had been made by the summary conviction court before which the proceedings were originally heard and determined. 35

FEEES AND ALLOWANCES.

- Fees and allowances.** **744.** The fees and allowances mentioned in the Schedule to this Part and no others are the fees and allowances that may be taken or allowed in proceedings before summary conviction courts and justices under this Part. 40

741. Section 767.

FEES AND ALLOWANCES THAT MAY BE CHARGED BY
SHERIFF COURT AND JUSTICE

1.	Information	\$1.00
2.	Summons or warrant	0.50
3.	Warrant where summons served in last instance	0.50
4.	Each necessary copy of summons or warrant	0.30
5.	Each response or warrant to or for witness	0.50

742. Section 769.

6.	Information for warrant for witness and witness for witness	1.00
7.	Each necessary copy of subpoena to or witness for witness	0.50
8.	Each recognizance	1.00
9.	Hearing and determining proceedings	1.00

743. Section 769A.

10.	Where hearing held more than once	1.00
11.	Where two or more justices hear and determine a proceeding each is entitled to the fee authorized by item 9	0.50
12.	Each warrant or commitment	0.50
13.	Making up record of conviction or order upon request of a party to the proceedings	1.00
14.	Copy of a writing other than a conviction or order, upon request of a party to the proceedings, for each folio of one hundred words	0.10
15.	Bill of costs, when made out in detail upon request of a party to the proceedings (Items 12 and 13 may be charged only where there has been an adjournment)	0.50
16.	Attending to remand prisoner	1.00
17.	Attending to take recognizance of bail	1.00

FEES AND ALLOWANCES THAT MAY BE ALLOWED
TO PRISON OFFICERS

18.	Arresting a person upon a warrant or without a warrant	1.50
19.	Giving summons or response	0.50
20.	Mileage to serve summons or response or to make an arrest both ways for each mile (Where a public conveyance is not used, reasonable costs of transportation may be allowed)	0.20

744. Section 770.

- 21. Although where service cannot be effected, upon proof of a diligent attempt to effect service, one way..... \$0.20
- 22. Returning with prisoner after arrest to take him before a summary conviction court or justice at a place different from the place where the peace officer received the warrant to arrest, if the journey is of necessity over a route different from that taken by the peace officer to make the arrest, for each mile, one way... 0.20 10
- 23. Taking a prisoner to prison on remand or commitment, for each mile, one way..... 0.20
- (Where a public conveyance is not used, reasonable costs of transportation may be allowed. No charge may be made under this item in respect of a service for which a charge is made under item 22.)
- 24. Attending summary conviction court or justice on summary conviction proceedings, for each day necessarily employed..... 2.00 20
- (No more than \$2.00 may be charged under this item in respect of any day notwithstanding the number of proceedings that the peace officer attended on that day before that summary conviction court or justice.)

Fees AND ALLOWANCES THAT MAY BE ALLOWED TO WITNESSES.

- 25. Each day attending trial..... 2.00
- 26. Mileage travelled to attend trial, for each mile, one way..... 0.20

Fees AND ALLOWANCES THAT MAY BE ALLOWED TO JURYMEN.

- 27. Each half day attending trial..... 2.50
- 28. Actual living expenses when away from ordinary place of residence, not to exceed per day... 2.00
- 29. Mileage travelled to attend trial, for each mile, one way..... 0.20

21. Mileage where service cannot be effected, upon proof of a diligent attempt to effect service, one way.....	\$0.20	
22. Returning with prisoner after arrest to take him before a summary conviction court or justice at a place different from the place where the peace officer received the warrant to arrest, if the journey is of necessity over a route different from that taken by the peace officer to make the arrest, for each mile, one way..	0.20	10
23. Taking a prisoner to prison on remand or committal, for each mile, one way..... (Where a public conveyance is not used, reasonable costs of transportation may be allowed. No charge may be made under this item in respect of a service for which a charge is made under item 22.)	0.20	15
24. Attending summary conviction court or justice on summary conviction proceedings, for each day necessarily employed..... (No more than \$2.00 may be charged under this item in respect of any day notwithstanding the number of proceedings that the peace officer attended on that day before that summary conviction court or justice.)	2.00	20
		25

FEES AND ALLOWANCES THAT MAY BE ALLOWED
TO WITNESSES.

25. Each day attending trial.....	3.00
26. Mileage travelled to attend trial, for each mile, one way.....	0.20

FEES AND ALLOWANCES THAT MAY BE ALLOWED
TO INTERPRETERS.

27. Each half day attending trial.....	2.50
28. Actual living expenses when away from ordinary place of residence, not to exceed per day....	5.00
29. Mileage travelled to attend trial, for each mile, one way.....	0.20

PART XXV
TRANSITIONAL

745. (1) The Criminal Code, chapter 30 of the Revised Statutes of Canada, 1927, is repealed.

Repealed

(2) The following provisions of the Yukon Act, chapter 210 of the Revised Statutes of Canada, 1927, are repealed, namely, section 62, subsection (1) of section 78, sections 80 to 82, sections 85 to 88, and sections 110, 111, 112 and 124.

Repealed

746. Every offence against the criminal law that was wholly or partly committed before the coming into force of this Act shall be dealt with, inquired into, tried and determined, and any penalty, forfeiture or punishment in respect of that offence shall be imposed as if this Act had not come into force.

Transitional

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

Transitional
Date

PART XXVI
FORMS

748. (1) The forms set out in this Part varied to suit the case or forms to the like effect shall be deemed to be good, valid and sufficient in the circumstances for which, respectively, they are provided.

Form

(2) No justice is required to attach or affix a seal to any writing or process that he is authorized to issue and so in respect of which a form is provided by this Part.

Form
Form

PART XXV.

TRANSITIONAL.

- Repeal.** **745.** (1) The *Criminal Code*, chapter 36 of the Revised Statutes of Canada, 1927, is repealed.
- Idem.** (2) The following provisions of the *Yukon Act*, chapter 215 of the Revised Statutes of Canada, 1927, are repealed, namely, section 69A, subsection (1) of section 79, sections 80 to 93, sections 95 to 99, and sections 110, 114, 119 and 120. 5
- Transitional.** **746.** Every offence against the criminal law that was wholly or partly committed before the coming into force of this Act shall be dealt with, inquired into, tried and determined, and any penalty, forfeiture or punishment in respect of that offence shall be imposed as if this Act had not come into force. 10
- Coming into force.** **747.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

PART XXVI.

FORMS.

- Forms.** **748.** (1) The forms set out in this Part varied to suit the case or forms to the like effect shall be deemed to be good, valid and sufficient in the circumstances for which, respectively, they are provided. 15
- Seal not required.** (2) No justice is required to attach or affix a seal to any writing or process that he is authorized to issue and in respect of which a form is provided by this Part. 20

FORM 1

(Section 483)

Information to obtain a search warrant

Canada
Province of
(territorial division)

This is the information of A. D. of
the said (territorial division), hereinafter called the informant,
person before me.

The informant says that (insert things to be searched for and offence
in respect of which search is to be made), and that he has reasonable grounds
(or believing that the said things or some part of them are in the (insert
house, etc.) of C. D. in
in the said (territorial
division) (here add the grounds of belief, whether they may be).

Wherefore the informant prays that a search warrant may be granted
to search the said (insert house, etc.) for the said things.

Sworn before me
this
day of
A.D.

Signature of Informant

A Justice of the Peace in and
for

748. Section 1152.

FORM 2

(Sections 152 and 153)

Information

Canada
Province of
(territorial division)

This is the information of C. D. of
(occupation), hereinafter called the informant.

The informant says that (if the informant has not personal knowledge
state that he has reasonable and probable grounds to believe and does believe
and state the offence).

Sworn before me
this
day of
A.D.

Signature of Informant

A Justice of the Peace in and
for

FORM 1.

(Section 429.)

Information to obtain a search warrant.

Canada, }
Province of }
(territorial division).

This is the information of A. B., of _____ in
the said (territorial division), (occupation), hereinafter called the informant,
taken before me.

The informant says that (describe things to be searched for and offence
in respect of which search is to be made), and that he has reasonable grounds
for believing that the said things, or some part of them are in the (dwelling
house, etc.), of C. D., of _____ in the said (territorial
division) (here add the grounds of belief, whatever they may be).

Wherefore the informant prays that a search warrant may be granted
to search the said (dwelling house, etc.), for the said things.

Sworn before me }
this _____ day of }
at _____ A.D. , }

.....
Signature of Informant.

.....
A Justice of the Peace in and
for _____

FORM 2.

(Sections 439 and 695.)

Information.

Canada, }
Province of }
(territorial division) . }

This is the information of C. D., of _____ ,
(occupation), hereinafter called the informant.

The informant says that (if the informant has not personal knowledge
state that he has reasonable and probable grounds to believe and does believe
and state the offence.)

Sworn before me }
this _____ day of }
at _____ A.D. , }

.....
Signature of Informant.

.....
A Justice of the Peace in and
for _____

FORM 3.

(Sections 121 and 101.)

Heading of indictment.

Canada,
Province of
(territorial division)

In the (set out name of the court)

Her Majesty the Queen

against

(name of accused)

1. The jurors for Her Majesty the Queen present that

2. The said juror further present that

FORM 4.

(Sections 178 and 101.)

Heading of indictment.

Canada,
Province of
(territorial division)

In the (set out name of the court)

Her Majesty the Queen

against

(name of accused)

(Name of accused) stands charged

1. That he (state offence).

2. That he (state offence).

Dated this

day of

A.D.

(Signature of signing officer,
Agent of Attorney General, etc.,
in the case may be.)

FORM 3.

(Sections 491 and 501.)

Heading of Indictment.

Canada,
Province of }
(territorial division) . }

In the (set out name of the court)

Her Majesty the Queen

against

(name of accused)

1. The jurors for Her Majesty the Queen present that

2. The said jurors further present that

FORM 4.

(Sections 478 and 491.)

Heading of indictment.

Canada,
Province of }
(territorial division) . }

In the (set out name of the court)

Her Majesty the Queen

against

(name of accused)

(Name of accused) stands charged

1. That he (state offence).

2. That he (state offence).

Dated this

day of

A.D.

at

.....
(Signature of signing officer,
Agent of Attorney General, etc.,
as the case may be).

FORM B

(Section 122)

Witness to name of

(Judge,
Province of
(territorial division)

To the peace officer in the said (territorial division):

Witness is sworn on the oath of A. B. of
that there are reasonable grounds for believing that (describe things to be
sought for and officers in respect of which search is to be made) are in

possession of the following:

This is, therefore, to authorize and require you between the hours of
for the purpose of (insert into the said premises and to search for
the said things and to bring them before me or some other justice.

Witness this
day of
A.D.

.....
A Justice of the Peace in and
for

FORM C

(Section 141 and 142)

Witness to a person charged with an offence

(Judge,
Province of
(territorial division)

To A. B. of
(occupation):

Witness you have this day been charged before me that (state offence
or in the indictment):

This is therefore to command you, in Her Majesty's name, to appear

before
the
day of
A.D.

at
o'clock in the
before any justice for the said (territorial division) who is there, to answer
to the said charge and to be dealt with according to law.

Witness this
day of
A.D.

.....
A Justice of the Peace in and
for

FORM 7.

(Sections 442, 444 and 707.)

Warrant to arrest a person charged with an offence.

Canada, }
Province of }
(territorial division) .

To the peace officers in the said (territorial division):

Whereas A. B., of _____, (occupation).
hereinafter called the accused, has been charged that (state the offence as in
the information):

This is, therefore, to command you in Her Majesty's name forthwith
to arrest the accused and to bring him before
or any justice for the said (territorial division), to answer to the said charge
and to be dealt with according to law.

Dated this _____ day of _____
A.D. _____ at _____ .

.....
A Justice of the Peace in and
for _____ .

FORM 8.

(Sections 444, 451 and 710).

Warrant where summons is disobeyed or cannot be served.

Canada, }
Province of }
(territorial division) . }

To the peace officers in the said (territorial division);

Whereas on the _____ day of _____, A.D. _____, A. B., of _____, hereinafter called the accused, was charged that (*state the offence as in the information*);

And Whereas a summons to the accused was issued commanding him, in Her Majesty's name, to appear on _____ the _____ day of _____ A.D., _____, at _____ o'clock in the _____ noon, at _____, before me or any justice who should then be there, to answer to the said charge and to be dealt with according to law;

And Whereas it appears (* _____ or ** _____);

This is therefore to command you, in Her Majesty's name, forthwith to arrest the said accused and to bring him before me or any justice in and for the said (territorial division), to answer to the said charge and to be dealt with according to law.

Dated this _____ day of _____
A.D. _____ at _____ .

.....
A Justice of the Peace in and
for _____ .

* that the accused has failed to appear at the time and place appointed by the said summons and it has been proved that the summons was duly served upon him.

** that the said summons cannot be served upon the accused.

FORM 9.

(Sections 451 and 710).

Warrant where accused fails to appear after adjournment.

Canada, }
Province of }
(territorial division) }

To the peace officers in the (territorial division):

Whereas A. B., of _____, hereinafter called the
accused, appeared before me on the _____ day of _____
A.D., _____, on a charge that (state the offence as in the information);

And Whereas the trial (or inquiry, etc.) was adjourned to
the _____ day of _____ A.D.
at _____ ;

And Whereas the accused has failed to appear at the time and place
to which the trial (or inquiry, etc.) was adjourned:

This is therefore to command you, in Her Majesty's name, forthwith
to arrest the said accused and to bring him before me or any justice in
and for the said (territorial division), to answer to the said charge and to be
dealt with according to law.

Dated this _____ day of _____ A.D.
at _____ .

.....
A Justice of the Peace in and
for _____ .

FORM 10.

(Section 456.)

Warrant to convey accused before justice of another territorial division.

Canada,	}
Province of	
(territorial division)	

To the peace officers in the said (*territorial division*):

Whereas A. B., of _____ hereinafter called the accused, has been charged that (*state place of offence and charge*);

And Whereas I have taken the deposition of X. Y. in respect of the said charge;

And Whereas the charge is for an offence committed in the (*territorial division*);

This is to command you, in Her Majesty's name, to convey the said A. B., before a justice of the (*last-mentioned territorial division*) and to deliver to him the information, the said deposition and this warrant.

Dated this _____ day of _____ A.D.
 at _____ .

.....
 A Justice of the Peace in and
 for _____ .

(Sections 603 and 610)

Witness for defence

Province of
(territorial division)

To the peace officers in the (territorial division):

Whose A. B. of
has been charged
that (with offence as in the information):

And Whose it has been made to appear that E. F. of
has been charged with the offence of (the offence) and that
evidence for the prosecution of the offence and that

This is therefore to command you, in Her Majesty's name, to bring the
witness before (at out court or justice) on
day of
o'clock in the
month of
concerning the said charge.

Dated this
day of
A.D.
at

A Justice of the Peace
(Qualify yourself)

* Last sentence of the following is repealed:
(1) The said E. F. was charged with the offence of (the offence) and that
(2) The said E. F. was charged with the offence of (the offence) and that
(3) The said E. F. was charged with the offence of (the offence) and that
(4) The said E. F. was charged with the offence of (the offence) and that
(5) The said E. F. was charged with the offence of (the offence) and that
(6) The said E. F. was charged with the offence of (the offence) and that
(7) The said E. F. was charged with the offence of (the offence) and that
(8) The said E. F. was charged with the offence of (the offence) and that
(9) The said E. F. was charged with the offence of (the offence) and that
(10) The said E. F. was charged with the offence of (the offence) and that

(Section 208)

It is to be noted on examining witness

Canada
Province of
(Jurisdiction)

To the best of your knowledge in the (jurisdiction):

has been charged

Witness A. B. of
that (state offense as in the information):

And Witness I am satisfied by information in writing and under oath
that C. D. of
witness is bound by oath to give evidence upon the trial of the
charged upon the said charge, and that the witness has answered or is
about to answer:

This is to certify to command you, in Her Majesty's name, to arrest
the witness and bring him before the court, judge, justice or magistrate before
whom the witness is bound to appear) to do so with according to law.

A.D.

day of

190

at

A Justice of the Peace in and
for

FORM 13.

(Section 609.)

Warrant to arrest an absconding witness.

Canada, }
Province of }
(territorial division) }

To the peace officers in the (territorial division):

Whereas A. B. of _____, has been charged
that (state offence as in the information);

And Whereas I am satisfied by information in writing and under oath
that C. D. of _____, hereinafter called the
witness, is bound by recognizance to give evidence upon the trial of the
accused upon the said charge, and that the witness (has absconded or is
about to abscond):

This is therefore to command you, in Her Majesty's name, to arrest
the witness and bring him before (the court, judge, justice or magistrate before
whom the witness is bound to appear) to be dealt with according to law.

Dated this _____ day of _____ A.D.
at _____ .

.....
A Justice of the Peace in and
for _____ .

FORM 14

(Sections 481 and 710)

Warrant remaining a prisoner

Canada
Province of
(territorial division)

To the peace officer in the (territorial division):

You are hereby commanded forthwith to convey to the (prison) at
the persons named in the following
schedule each of whom has been remanded to the time mentioned in the
schedule:

Person charged, (Offence), Remanded to.

And I hereby command you, the keeper of the said prison, to receive
each of the said persons into your custody in the prison and keep him safely
until the day when his remand expires and then to have him before me or
any other justice at _____ o'clock in
_____ town of the said day, there to answer to the charge and
to be dealt with according to law, unless you are otherwise ordered before
that time.

Dated this _____ day of _____ A.D. _____ at _____

.....
A Justice of the Peace in and
for _____

FORM 15

(Section 507)

Warrant for arrest of person against whom indictment has been found

Canada
Province of
(territorial division)

To the peace officer in (territorial division):

Whereas an indictment has been found against A. B., hereinafter called
the accused, and the accused has not appeared or remained in attendance
to take his trial on the said indictment before (at our court):

You are hereby commanded, in Her Majesty's name, forthwith to arrest
the accused and to bring him before the said court to be dealt with according
to law.

Dated this _____ day of _____ A.D. _____ at _____

.....
Clerk of the Court.

FORM 14.

(Sections 451 and 710.)

Warrant remanding a prisoner.

Canada, }
Province of }
(territorial division) . }

To the peace officers in the (territorial division):

You are hereby commanded forthwith to convey to the (prison) at the persons named in the following schedule each of whom has been remanded to the time mentioned in the schedule:

Person charged.	Offence.	Remanded to.
-----------------	----------	--------------

And I hereby command you, the keeper of the said prison, to receive each of the said persons into your custody in the prison and keep him safely until the day when his remand expires and then to have him before me or any other justice at at o'clock in the noon of the said day, there to answer to the charge and to be dealt with according to law, unless you are otherwise ordered before that time.

Dated this day of A.D.
at

.....
A Justice of the Peace in and
for

FORM 15.

(Section 507).

Warrant for arrest of person against whom indictment has been found.

Canada, }
Province of }
(territorial division) . }

To the peace officers in (territorial division):

Whereas an indictment has been found against A. B., hereinafter called the accused, and the accused has not (appeared or remained in attendance) to take his trial on the said indictment before (set out court):

You are hereby commanded, in Her Majesty's name, forthwith to arrest the accused and to bring him before the said court to be dealt with according to law.

Dated this day of A.D.
at

(Seal).

.....
Clerk of the Court.

FORM 16.

(Section 457.)

Warrant of committal of witness for refusing to be sworn or to give evidence.

Canada, }
Province of }
(territorial division) }

To the peace officers in the (territorial division):

Whereas A. B. of _____, hereinafter called the accused, has been charged that (set out offence as in the information);

And Whereas E. F. of _____, hereinafter called the witness, attending before me to give evidence for (the prosecution or the defence) concerning the charge against the accused (refused to be sworn or being duly sworn as a witness refused to answer certain questions concerning the charge that were put to him or refused or neglected to produce the following writings, namely _____ or refused to sign his deposition) having been ordered to do so, without offering any just excuse for such refusal or neglect:

This is therefore to command you, in Her Majesty's name, to take the witness and convey him safely to the prison at _____, and there deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the said witness into your custody in the said prison and safely keep him there for the term of _____ days, unless he sooner consents to do what was required of him, and for so doing this is a sufficient warrant.

Dated this _____ day of _____ A.D.
at _____

.....
A Justice of the Peace in and
for _____

(Section 20)

Warrant of commitment for trial

Canada
Province of
(Provincial division)

To the peace officer in the (provincial division) and to the keeper of the
(prison) at

Whereas A. B., hereinafter called the accused, stands charged that
(state offence as in the information)

And Whereas on a preliminary inquiry into that charge the accused
(having elected to be tried by a judge without a jury or by a court composed
of a judge and jury or having stood mute, as the case may be) was this day
committed for trial;

It is therefore commanded you in Her Majesty's name to take the
accused and convey him safely to the prison) at
and there deliver him to the keeper thereof, with the following precept:

I do hereby command you the said keeper to receive the accused into
your custody in the said prison and keep him safely there until he is delivered
by due course of law.

Dated this _____ day of _____ A.D. _____

24

.....
A Justice of the Peace in and
for

(Sections 522 and 713.)

Warrant of commitment upon conviction.

Province of
(territorial division)

To the peace officer in the (territorial division) and to the keeper of
the (prison) at

Whence A. B., hereinafter called the accused, was this day convicted
upon a charge that (state offence as in the warrant), and it was adjudged
that the accused for his offence

For an order hereby commencing in Her Majesty's name, to take the accused
and convey him safely to the (prison) at
and deliver him to the keeper thereof, together with the following property:

For the said purpose, the peace officer is hereby recommended to receive the accused
from custody in the said prison and transport him there**

and for so doing this is a sufficient warrant.

Witness my hand and seal this _____ day of _____ 19____.

at

Chief of the Court, Justice
or Magistrate

(Seal if required)

* For reference of the following forms of warrants is applicable:

- (a) as mentioned in the (prison) at _____ for the term of _____
- (b) for the term of _____ and pay the sum of _____ to be applied according to law, and also pay to _____ the sum of _____
- in respect of costs and in default of payment of the said sum (hereafter to be called a fine) (if any) be imprisoned in the (prison) at _____ unless the said sum and costs and charges of the commitment and of conveying the accused to the said prison are sooner paid.
- (c) to be imprisoned in (prison) at _____ and in addition (as in (b) above).

FORM 19.

(Section 713.)

Warrant of committal upon an order for the payment of money.

Canada, }
Province of }
(territorial division) . }

To the peace officers in the (territorial division) and to the keeper of the (prison) at _____ ;

Whereas A. B., hereinafter called the defendant, was tried upon an information alleging that (set out matter of complaint), and it was ordered that (set out the order made), and in default that the defendant be imprisoned in the (prison) at _____ for a term of _____ ;

I hereby command you, in Her Majesty's name, to take the defendant and convey him safely to the (prison) at _____ , and deliver him to the keeper thereof together with the following precept:

I hereby command you the keeper of the said prison to receive the defendant into your custody in the said prison and imprison him there for the term of _____ , unless the said amounts and the costs and charges of the committal and of conveying the defendant to the said prison are sooner paid, and for so doing this is a sufficient warrant.

Dated this _____ day of _____ , A.D.

.....
A Justice of the Peace in and
for _____ .

(Sections 237 and 238)

Warrant of commitment for failure to furnish recognizance to keep the peace

Canada
Province of
(Territorial Division)

To the peace officers in the (Territorial Division) and to the keeper of
the (Prison) at

Witness A. H. hereinafter called the scribe, has been ordered to enter
into a recognizance to keep the peace and be of good behaviour, and has
(refused or failed) to enter into a recognizance accordingly;

You are hereby commanded in Her Majesty's name to take the scribe
and convey him safely to the (Prison) at
and deliver him to the keeper thereof together with the following people:

You, the said keeper, are hereby commanded to receive the scribe
into your custody in the said prison and imprison him there until he enters
into a recognizance as aforesaid or until he is discharged in due course of law.

Dated this _____ day of _____ A.D. _____

at

.....
Clerk of the Court, Justice
or Magistrate

(Seal if required)

(Section 481)

Witness of conviction of witness for failure to enter into recognizance.

Province of
Ontario
(Inferior Division)

To the peace officer in the (inferior division) and to the keeper of
the prison at

Witness A. B., hereinafter called the accused, was committed for trial
on a charge that (state offence as in the information);

And Witness C. D., hereinafter called the witness, having appeared as
a witness on the preliminary inquiry into the said charge, and being required
to enter into a recognizance to appear as a witness on the trial of the accused
on the said charge, has (failed or refused) to do so;

This is therefore to command you, in Her Majesty's name, to take and
safely convey the said witness to the (prison) at
and there deliver him to the keeper thereof, together with the following
process:

I do hereby command you, the said keeper, to receive the witness into
your custody in the said prison and keep him there until the trial
of the accused upon the said charge, unless before that time the witness
enters into the said recognizance.

A.D.

day of

1914

at

.....
A Justice of the Peace in and
for

FORM 22.

(Section 612.)

Warrant of committal for contempt.

Canada, }
 Province of }
 (territorial division) . }

To the peace officers in the said (territorial division) and to the keeper of the (prison) at :

Whereas E. F. of , hereinafter called the defaulter, was on the day of A.D. , at , convicted before for contempt in that he did not attend before to give evidence on the trial of a charge that (state offence as in the information) against A. B. of , although (duly subpoenaed or bound by recognizance to appear and give evidence in that behalf, as the case may be) and did not show any sufficient excuse for his default;

And Whereas in and by the said conviction it was adjudged that the defaulter (set out punishment adjudged);

And Whereas the defaulter has not paid the amounts adjudged to be paid; (delete if not applicable)

This is therefore to command you, in Her Majesty's name, to take the defaulter and convey him safely to the prison at and there deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the defaulter into your custody in the said prison and imprison him there* and for so doing this is a sufficient warrant.

Dated this day of A.D.
 at

.....
 A Justice or clerk of the court.

(Seal, if required).

* Insert whichever of the following is applicable:

- (a) for the term of
- (b) for the term of unless the said sums and the costs and charges of the committal and of conveying the defaulter to the said prison are sooner paid, or
- (c) for the term of and for the term of (if consecutive so state) unless the said sums and costs and charges of the committal and of conveying the defaulter to the said prison are sooner paid.

FORM 23.

(Section 731)

Warrant of committal in default of payment of costs of an appeal.

Canada, }
Province of }
(territorial division) ; }

To the peace officers of (territorial division) and to the keeper of the (prison) at :

Whereas it appears that upon the hearing of an appeal before the (set out court), it was adjudged that A. B., of hereinafter called the defaulter, should pay to the Clerk of the Court the sum of _____ dollars in respect of costs;

And Whereas the Clerk of the Court has certified that the defaulter has not paid the sum within the time limited therefor;

I do hereby command you the said peace officers, in Her Majesty's name, to take the defaulter and safely convey him to the (prison) at _____ and deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the defaulter into your custody in the said prison and imprison him for the term of _____, unless the said sum and the costs of the committal and of conveying the defaulter to prison are sooner paid, and for so doing this is a sufficient warrant.

Dated this _____ day of _____ A.D.
at _____

.....
A Justice of the Peace in and
for _____

FORM 21

(Section 512)

Warrant of commitment on detainer of a respondent

Province of
Canada
(territorial division)

To the sheriff of (territorial division) and to the keeper of the (prison)

You are hereby commanded to take (A, B, and C, D, as the case may be) and deliver them to the

report (together with the following property):
You are also hereby commanded to receive the detainer
two years commencing in the said prison and upon their final expiration
to that (to) the (to) in respect of the forfeiture of a respondent entered
into by (A, B, C, D) on the (day) of (month) A.D. 19 (year)

And you, the said sheriff, are further commanded to make a return on
the (day) of (month) A.D. 19 (year)

Dated this (day) of (month) A.D. 19 (year)

Chief of the

FORM 22

(Section 517 and 518)

Return of warrant

Province of
Canada
(territorial division)

I return to you (the sheriff) this day (the day) to me, I hereby authorize the
execution of this warrant within the said (territorial division).

Dated this (day) of (month) A.D. 19 (year)

A Justice of the Peace in and
for (territorial division)

FORM 24.

(Section 679.)

Warrant of committal on forfeiture of a recognizance.

Canada, }
Province of }
(territorial division) . }

To the sheriff of (territorial division) and to the keeper of the (prison)
at :

You are hereby commanded to take (A. B. and C. D. as the case may be)
hereinafter called the defaulters, and to convey them safely to the (prison)
at and deliver them to the
keeper thereof, together with the following precept:

You, the said keeper, are hereby commanded to receive the defaulters
into your custody in the said prison and imprison them until satisfaction
is made of a judgment debt of dollars due
to Her Majesty the Queen in respect of the forfeiture of a recognizance entered
into by on the day
of A.D. , or until
is discharged in due course of law.

And you, the said sheriff, are further commanded to make a return on
the day of A.D. ,
of what you have done in execution of this warrant.

Dated this day of A.D. .

(Seal).

.....
Clerk of the .

FORM 25.

(Sections 429 (2), 447 and 713.)

Endorsement of warrant.

Canada, }
Province of }
(territorial division) . }

Pursuant to application this day made to me, I hereby authorize the
execution of this warrant within the said (territorial division).

Dated this day of A.D.
at

.....
A Justice of the Peace in and
for .

(Section 22A)

(Order for process to be served) before Justice prior to expiration of period of removal

Province of
(territorial division)

To the Judge of the (order) at

Whereas by warrant dated the
A.D. I committed A. B. prisoner of the accused to your
custody and required you safely to keep him until the
day of A.D. and then to have him
before me or my next Justice at
o'clock in the
noon to answer to the charge against him and to
be dealt with according to law unless you should be ordered otherwise
before that time

Now, therefore, I order and direct you to have the accused before
me at
o'clock in the
noon to answer to the charge against him and to
be dealt with according to law

Dated this day of A.D.

A Justice of the Peace in and
for

FORM 26.

(Section 451.)

Order for accused to be brought before justice prior to expiration of period of remand.

Canada, }
Province of }
(territorial division) ; }

To the keeper of the (prison) at :

Whereas by warrant dated the _____ day of _____ A.D. _____, I committed A. B., hereinafter called the accused, to your custody and required you safely to keep him until the day of _____ A.D. _____, and then to have him before me or any other justice at _____ at _____ o'clock in the _____ noon to answer to the charge against him and to be dealt with according to law unless you should be ordered otherwise before that time:

Now, therefore, I order and direct you to have the accused before _____ at _____ at _____ o'clock in the _____ noon to answer to the charge against him and to be dealt with according to law.

Dated this _____ day of _____ A.D. _____
at _____

.....
A Justice of the Peace in and
for _____

FORM 27.

(Section 453.)

Deposition of a witness.

Canada, }
Province of }
(territorial division) }

These are the depositions of X. Y., of
and M. N., of _____, taken before me, this
day of _____ A.D. _____, at
_____ in the presence and
hearing of A. B., hereinafter called the accused, who stands charged (*state
offence as in the information*).

X. Y., having been duly sworn, deposes as follows: (*insert deposition
as nearly as possible in words of witness.*)

M. N., having been duly sworn, deposes as follows:

I certify that the depositions of X. Y., and M. N., written on the
several sheets of paper hereto annexed to which my signature is affixed,
were taken in the presence and hearing of the accused (and signed by them
respectively, in his presence, *where they are required to be signed by witness*).
In witness whereof I have hereto signed my name.

.....
A Justice of the Peace in and
for _____

FORM 28.

(Sections 451, 461, 463, 611, 637, 638, 710, 717, 724 and 735.)

Recognizance.

Canada, }
 Province of }
 (territorial division) }

Be it remembered that on this day the persons named in the following schedule personally came before me and severally acknowledged themselves to owe to Her Majesty the Queen the several amounts set opposite their respective names, namely,

Name	Address	Occupation	Amount
A. B.			
C. D.			
E. F.			

to be made and levied of their several goods and chattels, lands and tenements, respectively, to the use of Her Majesty the Queen, if the said A. B. fails in the condition hereunder written.

Taken and acknowledged before me on the _____ day of _____
 A.D. _____ at _____ .

.....
 A Justice of the Peace in and
 for _____ .

* Use whichever of the following conditions is appropriate:

(a) Whereas the said A. B. has been charged (*state offence as in the information*);

Now, therefore, the condition of the above written recognizance is that if the said A. B. appears before the (*state court, judge or justice*) on the _____ day of _____ A.D. _____ at _____ o'clock in the _____ noon, at (*place*) to answer to the charge and to be dealt with according to law, the said recognizance is void, otherwise it stands in full force and virtue.

(b) Whereas the said A. B., hereinafter called the accused, was committed to stand his trial before a judge acting under Part XVI, on a charge that: (*set out charge*)

Now, therefore, the condition of the above written recognizance is that if the accused appears before the presiding judge at the time and place fixed for his trial and there surrenders himself and takes his trial on the indictment that is found against him and does not depart the said court without leave, the said recognizance is void, otherwise it stands in full force and virtue.

(c) Whereas the said A. B., hereinafter called the accused, was committed for trial before (*set out court*);

Continued next page

FORM 29.

(Section 676.)

Certificate of default to be endorsed on recognizance.

I hereby certify that A. B. has not appeared as required by this recognizance and that by reason thereof the ends of justice have been (defeated or delayed, as the case may be).

The reason for the default is (*state reason if known*).

The names and addresses of the principal and sureties are as follows:

Dated this _____ day of _____ A.D.

at _____

.....
Clerk of the Court, Judge,
Justice or Magistrate.

(Seal, if required).

Now, therefore, the condition of the above written recognizance is that (if the accused appears at that court, or if, having re-elected under Part XVI, he appears before the presiding judge at the time and place fixed for his trial) and takes his trial on the indictment that is found against him and does not depart the said court without leave, the said recognizance is void, otherwise it stands in full force and virtue.

(d) Whereas C. D., hereinafter called the accused, was committed for trial on a charge that (*set out charge*);

And Whereas A. B. appeared as a witness on the preliminary inquiry into the said charge;

Now, therefore, the condition of the above written recognizance is that if the said A. B. appears at the time and place fixed for the trial of the accused to give evidence upon the indictment that is found against the accused, the said recognizance is void, otherwise it stands in full force and virtue.

(e) The condition of the above written recognizance is that if A. B. keeps the peace and is of good behaviour for the term of _____ commencing on _____, the said recognizance is void, otherwise it stands in full force and virtue.

(f) The condition of the above written recognizance is that if A. B. appears and receives judgment when called upon during the term of _____ commencing on _____, and during that term keeps the peace and is of good behaviour (*add special conditions as authorized by section 638, where applicable*), the said recognizance is void, otherwise it stands in full force and virtue.

(g) Whereas A. B., hereinafter called the appellant, has appealed (against his conviction or against an order or by way of stated case) in respect of the following matter (*set out offence, subject matter of order or question of law*);

Now, therefore, the condition of the above written recognizance is that if the appellant personally appears at the sittings of the court at which the (appeal or stated case) is to be heard and abides the judgment of the said court and pays any costs that are awarded against him, the said recognizance is void, otherwise it stands in full force and virtue.

(Section 677)

Writ of Habeas Corpus

Elizabeth II by the Grace of God, etc.

To the effect of (Section 677), (Section 678)

You are hereby commanded to pay to the goods and chattels, lands and tenements of such of the following persons the amount set opposite the name of each:

Name	Address	Occupation	Amount
------	---------	------------	--------

And you are further commanded to make a return of what you have done in execution of this writ.

Dated this _____ day of _____ A.D. _____

at

_____ (Name)
_____ Clerk of the _____

FORM 31.

(Sections 482 and 713.)

Conviction.

Canada, }
Province of , }
(territorial division) . }

Be it remembered that on the _____ day of _____, A. B., hereinafter called the accused, was tried under Part (XVI or XXIV) of the Criminal Code upon the charge that (state fully the offence of which accused was convicted), was convicted of the said offence and the following punishment was imposed upon him, namely,*

Dated this _____ day of _____ A.D.
at _____

(Seal, if required).

.....
Clerk of the Court, Justice or Magistrate.

* Use whichever of the following forms of sentence is applicable:

- (a) That the said accused be imprisoned in the (prison) at _____ for the term of _____
- (b) That the said accused forfeit and pay the sum of _____ dollars to be applied according to law and also pay to the sum of _____ dollars in respect of costs and in default of payment of the said sums (forthwith or within a time fixed, if any) to be imprisoned in the (prison) at _____ for the term of _____ unless the said sums and costs and charges of the committal and of conveying the accused to the said prison are sooner paid.
- (c) That the said accused be imprisoned in the (prison) at _____ for the term of _____ and in addition forfeit and pay the sum of _____ dollars to be applied according to law and also pay to the sum of _____ dollars in respect of costs and in default of payment of the said sums (forthwith or within a time fixed, if any) to be imprisoned in the (prison) at _____ for the term of _____ (if sentence to be consecutive, state accordingly) unless the said sums and costs and charges of the committal and of conveying the accused to the said prison are sooner paid.

FORM 32.

(Section 713.)

Order against a defendant.

Canada, }
Province of }
(territorial division) }

Be it remembered that on the _____ day of _____, A. B., of _____, at _____, was tried upon an information alleging that (*set out matter of complaint*), and it was ordered and adjudged that (*set out the order made*).

Dated this _____ day of _____ A.D. _____ at _____

.....
A Justice of the Peace in and for _____

FORM 33.

(Section 482.)

Order acquitting accused.

Canada, }
Province of }
(territorial division) }

Be it remembered that on the _____ day of _____, A. B., of _____, at _____, (*occupation*), was tried upon the charge that (*state fully the offence of which accused was acquitted*) and was found not guilty of the said offence.

Dated this _____ day of _____ A.D. _____ at _____

.....
Magistrate or Clerk of the Court.

(Seal, if required).

FORM 34.

(Section 612.)

Conviction for contempt.

Canada, }
Province of , }
(territorial division) . }

Be it remembered that on the _____ day of _____
A.D. _____, at _____ in the (territorial divi-
sion), E. F. of _____, hereinafter called the defaulter,
is convicted by me for contempt in that he did not attend before (set out
court or justice) to give evidence on the trial of a charge that (state fully
offence with which accused was charged), although (duly subpoenaed or bound
by recognizance to attend to give evidence, as the case may be) and has not
shown before me any sufficient excuse for his default;

Wherefore I adjudge the defaulter for his said default, (set out punish-
ment as authorized and determined in accordance with section 612).

Dated this _____ day of _____ A.D.
at _____ .

(Seal, if required).

.....
A Justice or clerk of the court
as the case may be.

FORM 35.

(Sections 461, 463 and 724).

Order for discharge of a person in custody.

Canada, }
Province of , }
(territorial division) . }

To the keeper of the (prison) at _____ :

I hereby direct you to release E. F., detained by you under a (warrant
of committal or order) dated the _____ day of _____
A.D. _____, if the said E. F. is detained by you for no other cause.

(Seal, if required).

.....
A Judge, Justice or Clerk of
the Court.

FORM 26

(Section 228)

Challenge to array

The Queen
v
C.D.

(Judge
of
Criminal Division)

The (prosecutor or respondent) challenges the array of the panel on the ground that X.Y. (juror or deputy sheriff) who returned the panel, was guilty of (specifying or finding or finding inconsistent) on returning it.

A.D.

day of

19

22

.....
Counsel for (prosecutor or
respondent)

FORM 27

(Section 229)

Challenge for cause

The Queen
v
C.D.

(Judge
of
Criminal Division)

The (prosecutor or respondent) challenges C.D. on the ground that (stating ground of challenge in accordance with section 229(1)).

.....
Counsel for (prosecutor or
respondent)

FORM 36.

(Section 538).

Challenge to array.

Canada,
Province of
(territorial division)

}
,
.

The Queen
v.
C. D.

The (prosecutor or accused) challenges the array of the panel on the ground that X. Y., (sheriff or deputy sheriff), who returned the panel, was guilty of (partiality or fraud or wilful misconduct) on returning it.

Dated this

day of

A.D.

at

.....
Counsel for (prosecutor or
accused).

FORM 37.

(Section 548).

Challenge for cause.

Canada,
Province of
(territorial division)

}
,
.

The Queen
v.
C. D.

The (prosecutor or accused) challenges G. H. on the ground that (set out ground of challenge in accordance with section 547(1)).

.....
Counsel for (prosecutor or
accused).

FORM 40.

(Section 646).

Certificate of execution of sentence of death.

I, A. B., prison doctor of the (*prison*), at hereby certify that I examined the body of C. D. on whom sentence of death was this day executed in the said prison and that I found that the said C. D. was dead.

Dated this _____ day of _____
A.D. _____ at _____ .

.....
Prison doctor.

FORM 41.

(Section 646).

Declaration of sheriff and others.

We, the undersigned, hereby declare that sentence of death was this day executed on C. D., in our presence in the (*prison*) at _____ .

Dated this _____ day of _____ A.D.
at _____ .

Sheriff of

Gaoler of

.....
.....
.....
.....

} Others.

FORM 42.

FIREARM PERMIT.

This permit authorizes.....of

.....to have a.....
(Address) (insert type of firearm)

.....elsewhere than in his dwelling house or place of
business for the purpose of.....
(insert purpose for which permit is required)

This permit is valid during the period.....

.....
(Date of issue). (Signature of person authorized to issue
permits in Form 42.)

FORM 43.

PERMIT TO BUY AND SELL FIREARMS AT RETAIL.

This permit authorizes.....
(Insert name of holder of permit)

of.....
to buy and sell firearms at retail.

.....
(Date of issue). (Signature of person authorized to issue
permits).

.....
(Address).

FORM 44.

PERMIT TO CONVEY FIREARM.

This permit authorizes..... to convey
the firearm described herein from.....
(Please show full Christian names)
..... to.....
(Place of delivery or place of residence or business) (Local registrar of firearms)
and thence to.....
(Place of residence or business)

This permit is valid only during the period.....
.....
(Date of Issue) (Local Registrar of Firearms)
.....
(Address)

APPLICATION TO REGISTER FIREARM.

Place..... DATE.....
Re..... Certificate No.....
(Name of Applicant) (If available)
(Please show full Christian names)
.....
Description of Firearm

Make of Firearm	R or A	Cal.	Model	Ser. No.	No. Shots	Bbl. Lgth.
	()					

(NOTE: (R) Revolver (A) Automatic)

Obtained by: Purchase Exchange Gift Found

Obtained from.....
Certificate No..... Address.....
Occupation of Applicant.....
Purpose for which firearm required.....

(Signature of Applicant)

Address:

Registered under the authority of section 93 of the Criminal Code of Canada

(Local Registrar of Firearms)

(Date of issue)

(Address)

TRANSFER COMPLETED

Date..... Initialled by..... Police Department.....

FORM 45.

PERMIT FOR A MINOR TO ACQUIRE FIREARMS.

This permit authorizes.....

of.....

aged.....years, to acquire and have in his possession the firearm,
air-gun, air-pistol or ammunition therefor, described as follows:

.....
.....

This permit is valid during the period.....

.....
Date of Issue.

.....
*(Signature of person authorized to
issue permits).*

.....
(Address).

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL P.

An Act respecting Interprovincial Pipe Line Company.

Read a first time, Wednesday, 26th November, 1952.

Honourable Senator LAMBERT.

THE SENATE OF CANADA

BILL P.

An Act respecting Interprovincial Pipe Line Company.

Preamble.
1949, 1st Sess.,
c. 34.

WHEREAS Interprovincial Pipe Line Company, a company incorporated by chapter thirty-four of the statutes of 1949, 1st Session, has by its petition prayed that it may be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Subdivision
of capital
stock value of
shares.

“1. (1) Notwithstanding anything contained in section three of chapter thirty-four of the statutes of 1949, 1st Session, the capital stock of the Company is hereby subdivided into shares of the par value of five dollars each. 10

Rights of
holders of
present
shares.

(2) Every person holding a share or shares of the par value of fifty dollars each shall hereafter be deemed to be the holder of the same aggregate amount of the stock divided into shares of five dollars each, and on surrender 15 of the share certificate or share certificates for shares of the par value of fifty dollars each held by him shall be entitled to receive in exchange therefor a new certificate or certificates for the same aggregate amount of stock expressed in shares of the par value of five dollars.” 20

EXPLANATORY NOTES.

The purpose of this Bill is to divide each of the 4,000,000 authorized shares of the par value of \$50 each of the capital stock of the Company into 10 shares of a par value of \$5 each.

Section 3 of the Act to incorporate the Company, being chapter 34 of the statutes of 1949, 1st Session, provides as follows:

"3. The capital stock of the Company shall be two hundred million dollars divided into four million shares having a par value of fifty dollars each."

The reason for the proposed subdivision is that the Company considers it desirable that there be a wide distribution of the stock amongst investors in Canada.

At September 10th, 1952, the \$50 par value shares of the Company had a market value of approximately \$175.00 to \$185.00 each. This relatively high market price discourages investment by small investors.

Also the Company has established a voluntary Employees' Savings Plan, to which the Company contributes, to encourage employees to save a portion of their salary or wages. The Company recognizes that it is in the best interests of the Company and investors in its stock that employees become shareholders so as to give employees a sense of ownership in the Company and active participation in its profits. With a lower unit market price for the Company's capital stock it would be feasible to make such stock available to participating employees through purchases for such Plan.

This Bill, if enacted, will not increase or alter the authorized capital of the Company of two hundred million dollars.

ARTICLE 10

PROVISIONS

The purpose of this Act is to provide a legal framework for the incorporation and operation of companies in Canada.

Section 2 of the Act defines the term "company" as any body corporate incorporated under the laws of Canada or any province or territory.

The Act provides that a company must have at least one director and one shareholder at all times.

Section 10 of the Act sets out the requirements for the incorporation of a company, including the filing of articles of incorporation and payment of fees.

The Act also provides for the registration of a company's name and the issuance of shares to shareholders.

Section 15 of the Act outlines the duties and responsibilities of directors and officers of a company.

The Act concludes with provisions regarding the winding up and liquidation of a company.

THE SENATE OF CANADA

BILL Q.

An Act to incorporate Peace River Transmission Company
Limited.

Read a first time, Thursday, 27th November, 1952.

Honourable Senator FARRIS.

THE SENATE OF CANADA

BILL Q.

An Act to incorporate Peace River Transmission Company Limited.

Preamble. **W**HEREAS 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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Incorporation.

1. Frank Murray McMahan, oil executive, George L. McMahan, oil executive, Allison Patrick Bowsher, oil executive, and Douglas Peter McDonald, barrister and solicitor, all of the city of Calgary, in the province of Alberta, together with such persons as may become shareholders in the Company, are incorporated under the name of Peace River Transmission Company Limited, hereinafter called "the Company". 10

Corporate name.

Provisional directors.

2. The persons named in section one of this Act shall be the first directors of the Company. 15

Capital.

3. The capital stock of the Company shall be five hundred thousand dollars divided into one hundred thousand shares having a par value of five dollars each.

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. 25

(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*. 5

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 or any liquid or gaseous products or by-products thereof which is enacted by Parliament. 10

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 gaseous or liquid products or by-products thereof which is enacted by Parliament, may 15

Power to
construct
and operate
pipe lines.

(a) within those parts of the provinces of Alberta and British Columbia which lie north of township sixty-eight in each of the said provinces, respectively, 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 pipe-lines and all appurtenances relative thereto for gathering, processing, transmitting, transporting, storing and delivering oil and 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 oil and natural and artificial gas and other gaseous and 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 radio communication facilities; 20 25 30 35 40

Power to
hold land.

(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 neces- 45

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

Proviso.

(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. 5

(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. 15

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, 20 25 30

(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; 35 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, 40 45

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 5 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 sub-
scription.

11. The Company may pay a commission to any person 10 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 subscrip- 15 tions, 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.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL R.

An Act respecting Beaver Fire Insurance Company.

Read a first time, Thursday, 27th November, 1952.

Honourable Senator TAYLOR.

7th Session, 21st Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL R.

An Act respecting Beaver Fire Insurance Company.

Preamble.
1913, c. 68.

WHEREAS Beaver Fire Insurance Company 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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Name
changed.

1. The name of Beaver Fire Insurance Company, a company incorporated by chapter sixty-eight of the statutes of 1913, hereinafter called "the Company", is hereby changed to "Beaver Insurance Company", such change in name to take effect on the first day of January, 1953, but such change in name shall not in any way impair, alter or affect the rights or liabilities of the Company, nor in any way affect any suit or proceeding now pending, or judgment existing, either by, or in favour of, or against the Company, which, notwithstanding such change in the name of the Company, may be prosecuted, continued, completed and enforced as if this Act had not been passed. 15

Rights
saved.

THE SENATE OF CANADA

BILL S.

EXPLANATORY NOTE.

The purpose of this Bill is to change the name of Beaver Fire Insurance Company, a company incorporated by chapter 68 of the statutes of 1913, to that of Beaver Insurance Company.

The Honorable Mr. Chairman of the
Committee on Finance

THE SENATE OF CANADA

BILL N.

EXPLANATORY NOTE

The purpose of this Bill is to change the name of the
The (Business Company) to the (Business Corporation)
of the (Business Company) to the (Business Corporation)
of the (Business Company) to the (Business Corporation)
of the (Business Company) to the (Business Corporation)

The (Business Company) is a company
incorporated under the laws of the
Province of (Province Name) and
has a capital of \$ (Amount)
and is engaged in the business of
(Business Description). The
purpose of this Bill is to change
the name of the (Business Company)
to the (Business Corporation) and
to amend the (Business Company)
Act, 1907, in that behalf.

THE SENATE OF CANADA

BILL S.

An Act for the relief of Barbara Carrique Cordeau.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL S.

An Act for the relief of Barbara Carrique Cordeau.

Preamble.

WHEREAS Barbara Carrique Cordeau, residing at the city of Montreal, in the province of Quebec, wife of Joseph Raymond Roger Cordeau, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifteenth day of 5 February, A.D. 1941, at the said city, she then being Barbara Carrique, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved, and whereas the said marriage and adultery have been proved by evidence adduced and 10 it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Barbara Carrique and 15 Joseph Raymond Roger Cordeau, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Barbara Carrique may at any time hereafter marry any man whom she might lawfully marry if the said 20 marriage with the said Joseph Raymond Roger Cordeau had not been solemnized.

THE SENATE OF CANADA

BILL T.

An Act for the relief of Frederick Kenneth Hare.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL T.

An Act for the relief of Frederick Kenneth Hare.

Preamble.

WHEREAS Frederick Kenneth Hare, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, professor, has by his petition alleged that on the twenty-third day of August, A.D. 1941, at Hornchurch, in the county of Essex, England, he and Suzanne Alice Bates 5 who was then of Hornchurch aforesaid, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have 10 been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Frederick Kenneth Hare 15 and Suzanne Alice Bates, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Frederick Kenneth Hare may at any time hereafter marry any woman whom he might lawfully marry 20 if the said marriage with the said Suzanne Alice Bates had not been solemnized.

The Honourable the Chairman of the
Committee on Privileges

THE SENATE OF CANADA

BILL U.

An Act for the relief of Frances Wavertree Harris McClure.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL U.

An Act for the relief of Frances Wavertree Harris McClure.

Preamble.

WHEREAS Frances Wavertree Harris McClure, residing at the town of Oakville, in the province of Ontario, wife of Marlin Hassard McClure, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the fourteenth day of April, A.D. 1949, at the said city, she then being Frances Wavertree Harris; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Frances Wavertree Harris and Marlin Hassard McClure, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Frances Wavertree Harris may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Marlin Hassard McClure had not been solemnized.

THE SENATE OF CANADA

BILL V.

An Act for the relief of Nicole Jeanne Andree Marion Comys.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL V.

An Act for the relief of Nicole Jeanne Andree Marion Comys.

Preamble.

WHEREAS Nicole Jeanne Andree Marion Comys, residing at the city of Montreal, in the province of Quebec, clerk, wife of Joris Willem Herman Comys, who is domiciled in Canada and residing at the city of Westmount, in the said province, has by her petition alleged that they were married on the twenty-second day of December, A.D. 1949, at the city of Eindhoven, Holland, she then being Nicole Jeanne Andree Marion, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Nicole Jeanne Andree Marion and Joris Willem Herman Comys, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Nicole Jeanne Andree Marion may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Joris Willem Herman Comys had not been solemnized.

THE SENATE OF CANADA

BILL W.

An Act for the relief of Joseph Mattioli.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL W.

An Act for the relief of Joseph Mattioli.

Preamble.

WHEREAS Joseph Mattioli, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, sales manager, has by his petition alleged that on the twenty-first day of November, A.D. 1925, at the said city, he and Agnes Waugh Morrison, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Joseph Mattioli and Agnes Waugh Morrison, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Joseph Mattioli may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Agnes Waugh Morrison had not been solemnized.

THE SENATE OF CANADA

BILL X.
BILL X.

An Act for the relief of Gabrielle Bertrand McCullough.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL X.

An Act for the relief of Gabrielle Bertrand McCullough.

Preamble.

WHEREAS Gabrielle Bertrand McCullough, residing at the city of Montreal, in the province of Quebec, cashier, wife of Murwood Cyril McCullough, who is domiciled in Canada and residing at the town of Beaurepaire, in the said province, has by her petition alleged that they were married on the tenth day of May, A.D. 1944, at the said city, she then being Gabrielle Bertrand, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Gabrielle Bertrand and Murwood Cyril McCullough, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Gabrielle Bertrand may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Murwood Cyril McCullough had not been solemnized.

THE SENATE OF CANADA

BILL Y.

An Act for the relief of Katherine Jessie McArthur.

Read a first time, Wednesday, 3rd December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Y.

An Act for the relief of Katherine Jessie McArthur.

Preamble.

WHEREAS Katherine Jessie McArthur, residing at the city of Montreal, in the province of Quebec, wife of James Henry Gordon McArthur, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the sixth day of April, A.D. 1945, at the city of Westmount, in the said province, she then being Katherine Jessie Berliner, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Katherine Jessie Berliner and James Henry Gordon McArthur, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Katherine Jessie Berliner may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said James Henry Gordon McArthur had not been solemnized.

THE SENATE OF CANADA

BILL Z.

An Act to amend The Indian Act.

Read a first time, Wednesday, 3rd December, 1952.

Honourable Senator Ross.

THE SENATE OF CANADA

BILL Z.

An Act to amend The Indian Act.

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

PART I.

1. Subsection (1) of section 88 of *The Indian Act*, chapter 29 of the statutes of 1951, is repealed and the following substituted therefor: 5

Property on reserve not subject to charge, pledge or mortgage.

“88. (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge or mortgage in favour or at the instance of any person other than an Indian.” 10

PART II.

2. Subsection (1) of section 88 of the *Indian Act*, chapter 149 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Property on reserve not subject to charge, pledge or mortgage.

“88. (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge or mortgage in favour or at the instance of any person other than an Indian.” 15

Coming into force.

3. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force. 20

Repeal.

THE SENATE OF CANADA

BILL No.

EXPLANATORY NOTES.

1. The purpose of the amendment is to make the real and personal property of an Indian subject to attachment, levy, seizure, distress or execution.

Present subsection (1) of section 88 of *The Indian Act* reads as follows:—

Property on
reserve not
subject to
alienation.

“88. (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian.”

2. The purpose of Part II is to make the corresponding amendment to the new Revised Statutes of Canada, which are now in press and are expected to appear during the current session.

THE SENATE OF CANADA

BILL 2

THE SENATE OF CANADA

1. The purpose of the amendments to the... and personal property of the... levy, seizure, distress or execution... Present subsection (1) of section 88 of the... reads as follows:—

88 (1) Subject to this Act, the real and personal property... of a person... but as to removal in execution to... and as to removal in execution to...

Part II

2. The purpose of Part II is to make the... amendments to the... in which... current section... but as to removal in execution to... and as to removal in execution to...

3. This Part shall come into force, and Part I is repealed...

THE SENATE OF CANADA

BILL A¹.

An Act to incorporate The Mercantile Bank of Canada.

Read a first time, Wednesday, 3rd December, 1952.

Honourable Senator HUGESSEN.

THE SENATE OF CANADA

BILL A¹.

An Act to incorporate The Mercantile Bank of Canada.

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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Incorporation.

1. The Honourable Paul Henri Bouffard, advocate and Queen's Counsel, of the city of Quebec, in the province of Quebec; Arthur Cross, executive, of the city of Montreal, in the province of Quebec; John Ballantyne Carswell, 10 consulting engineer, of the city of Vancouver, in the province of British Columbia; Carel Johan Endert, managing-director, and Henri Ernest Moquette, managing-director, both of the city of Amsterdam, The Netherlands, together with such persons as become shareholders in the corporation 15 by this Act created, are incorporated under the name of The Mercantile Bank of Canada, hereinafter called "the Bank".

Corporate name.

Provisional directors.

2. The persons named in section one of this Act shall be the provisional directors of the Bank. 20

Capital stock.

3. The capital stock of the Bank shall be three million dollars divided into three hundred thousand shares of the par value of ten dollars each.

Head office.

4. The chief office of the Bank shall be at the city of Montreal, in the province of Quebec. 25

Bank Act to apply.

5. This Act shall, subject to the provisions of section sixteen of the *Bank Act*, remain in force until the first day of July, in the year one thousand nine hundred and fifty-four.

THE SENATE OF CANADA

BILL B¹.

An Act for the relief of Sarah Cohen Lintz.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL B¹.

An Act for the relief of Sarah Cohen Lintz.

Preamble.

WHEREAS Sarah Cohen Lintz, residing at the city of Montreal, in the province of Quebec, wife of Sam Lintz, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-first day of July, A.D. 1929, at the said city, she then being Sarah Cohen, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Sarah Cohen and Sam Lintz, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Sarah Cohen may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Sam Lintz had not been solemnized.

THE SENATE OF CANADA

BILL C¹.

An Act for the relief of Fernande Robitaille Viel.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL C¹.

An Act for the relief of Fernande Robitaille Viel.

Preamble.

WHEREAS Fernande Robitaille Viel, residing at the city of Montreal, in the province of Quebec, wife of Real Viel, who is domiciled in Canada and residing at the town of Mount Royal, in the said province, has by her petition alleged that they were married on the first day of June, A.D. 1946, at the town of St. Laurent, in the said province, she then being Fernande Robitaille, a spinster; and whereas by her petition she has prayed that, because of his inability to consummate the said marriage, their marriage be annulled; and whereas the said marriage and inability to consummate have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage Annulled.

1. The said marriage between Fernande Robitaille and Real Viel, her husband, is hereby annulled, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Fernande Robitaille may at any time hereafter marry any man whom she might lawfully marry if said marriage with the said Real Viel had not been solemnized.

THE SENATE OF CANADA

BILL D¹.

An Act for the relief of John Joseph Francis.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL D¹.

An Act for the relief of John Joseph Francis.

Preamble.

WHEREAS John Joseph Francis, domiciled in Canada and residing at the city of Ottawa, in the province of Ontario, airman, has by his petition alleged that on the seventeenth day of June, A.D. 1944, at the city of Montreal, in the province of Quebec, he and Mary Kathleen Maureen Forrest, who was then of the said city of Montreal, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between John Joseph Francis and Mary Kathleen Maureen Forrest, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said John Joseph Francis may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Mary Kathleen Maureen Forrest had not been solemnized.

THE SENATE OF CANADA

BILL E¹.

An Act for the relief of Olga Andrews Martin.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL E¹.

An Act for the relief of Olga Andrews Martin.

Preamble.

WHEREAS Olga Andrews Martin, residing at the city of Montreal, in the province of Quebec, stenographer, wife of Albert Martin, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-ninth day of July, A.D. 1950, at the said city, she then being Olga Andrews, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Olga Andrews and Albert Martin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Olga Andrews may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Albert Martin had not been solemnized.

THE SENATE OF CANADA

BILL F¹.

An Act for the relief of Lois Hattie Adelstein Green.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL F¹.

An Act for the relief of Lois Hattie Adelstein Green.

Preamble.

WHEREAS Lois Hattie Adelstein Green, residing at the city of Montreal, in the province of Quebec, typist, wife of Irving I. Green, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the thirtieth day of May, A.D. 1950, at the said city, she then being Lois Hattie Adelstein, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Lois Hattie Adelstein and Irving I. Green, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Lois Hattie Adelstein may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Irving I. Green had not been solemnized.

THE SENATE OF CANADA

BILL G¹.

An Act for the relief of Nellie Slade McCue.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL G¹.

An Act for the relief of Nellie Slade McCue.

Preamble.

WHEREAS Nellie Slade McCue, residing at the city of Verdun, in the province of Quebec, telephone operator, wife of Francis John McCue, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-seventh day of 5 September, A.D. 1947, at the said city, she then being Nellie Slade, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is 10 expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Nellie Slade and Francis 15 John McCue, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Nellie Slade may at any time hereafter marry any man whom she might lawfully marry if the said 20 marriage with the said Francis John McCue had not been solemnized.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL H¹.

An Act for the relief of Jean Davis Brady.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

66682

THE SENATE OF CANADA

BILL H¹.

An Act for the relief of Jean Davis Brady.

Preamble.

WHEREAS Jean Davis Brady, residing at the city of Montreal, in the province of Quebec, waitress, wife of William Joseph Leon Brady, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the nineteenth day of September, A.D. 5 1944, at the town of Stockton-on-Tees, in the county of Durham, England, she then being Jean Davis, a spinster; that on the tenth day of January, A.D. 1950, at the said city, they were married again; and whereas by her petition she has prayed that, because of his adultery since then, 10 their marriages be dissolved; and whereas the said marriages and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as 15 follows:—

Marriages dissolved.

1. The said marriages between Jean Davis and William Joseph Leon Brady, her husband, are, respectively, hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 20

Right to marry again.

2. The said Jean Davis may at any time hereafter marry any man whom she might lawfully marry if the said marriages with the said William Joseph Leon Brady had not been solemnized.

THE SENATE OF CANADA

BILL I¹.

An Act for the relief of Dominique Fiorito.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL I¹.

An Act for the relief of Dominique Fiorito.

Preamble.

WHEREAS Dominique Fiorito, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, musician, has by his petition alleged that on the tenth day of September, A.D. 1942, at the said city, he and Kathleen Whistler Gamble, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: There-
fore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Dominique Fiorito and Kathleen Whistler Gamble, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Dominique Fiorito may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Kathleen Whistler Gamble had not been solemnized.

THE SENATE OF CANADA

BILL J¹.

An Act for the relief of Pearl Elmeda Clarke Staples.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL J¹.

An Act for the relief of Pearl Elmeda Clarke Staples.

Preamble.

WHEREAS Pearl Elmeda Clarke Staples, residing at the town of Lennoxville, in the province of Quebec, wife of James Henry Staples, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the twenty-third day of December, A.D. 1914, at the city of Saskatoon, in the province of Saskatchewan, she then being Pearl Elmeda Clarke, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Pearl Elmeda Clarke and James Henry Staples, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Pearl Elmeda Clarke may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said James Henry Staples had not been solemnized.

THE SENATE OF CANADA

BILL K¹.

An Act for the relief of James Arthur Bruce.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL K¹.

An Act for the relief of James Arthur Bruce.

Preamble.

WHEREAS James Arthur Bruce, domiciled in Canada and residing at the city of Westmount, in the province of Quebec, retired merchant, has by his petition alleged that on the tenth day of September, A.D. 1914, at the city of Verdun, in the said province, he and Eunice Mary Cain, who was then of the city of Montreal, in the said province, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between James Arthur Bruce and Eunice Mary Cain, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said James Arthur Bruce may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Eunice Mary Cain had not been solemnized.

THE SENATE OF CANADA

BILL L¹.

An Act for the relief of Bernice Rosen Rapps.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL L¹.

An Act for the relief of Bernice Rosen Rapps.

Preamble.

WHEREAS Bernice Rosen Rapps, residing at the city of Montreal, in the province of Quebec, secretary, wife of Louis Rapps, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the third day of April, A.D. 1949, at the said city, 5 she then being Bernice Rosen, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition 10 be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Bernice Rosen and Louis Rapps, her husband, is hereby dissolved, and shall be 15 henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Bernice Rosen may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Louis Rapps had not been solemnized. 20

THE SENATE OF CANADA

BILL M¹.

An Act for the relief of Murray Cecil Day.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL M¹.

An Act for the relief of Murray Cecil Day.

Preamble.

WHEREAS Murray Cecil Day, domiciled in Canada and residing at the city of Verdun, in the province of Quebec, mechanic, has by his petition alleged that on the fourth day of February, A.D. 1930, at the said city, he and Vera Pearl Butler, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Murray Cecil Day and Vera Pearl Butler, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Murray Cecil Day may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Vera Pearl Butler had not been solemnized.

The Honorable the Chairman of the Committee on Privileges

THE SENATE OF CANADA

BILL N¹.

An Act for the relief of Elizabeth Florence Robson Hamilton.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL N^o 1.

An Act for the relief of Elizabeth Florence Robson Hamilton.

Preamble.

WHEREAS Elizabeth Florence Robson Hamilton, residing at the city of Montreal, in the province of Quebec, bookkeeper, wife of William McLean Hamilton, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the nineteenth day of June, A.D. 1943, at the said city, she then being Elizabeth Florence Robson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Elizabeth Florence Robson and William McLean Hamilton, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Elizabeth Florence Robson may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William McLean Hamilton had not been solemnized.

THE SENATE OF CANADA

BILL O¹.

An Act for the relief of Winniefred Ann Maltby Gurlevitch.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL O¹.

An Act for the relief of Winniefred Ann Maltby Gurlevitch.

Preamble.

WHEREAS Winniefred Ann Maltby Gurlevitch, residing at the city of Montreal, in the province of Quebec, switchboard operator, wife of Hyman Gurlevitch, who is domiciled in Canada and residing at the city of Beauharnois, in the said province, has by her petition alleged that they were married on the second day of September, A.D. 1950, at the said city of Montreal, she then being Winniefred Ann Maltby, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Winniefred Ann Maltby and Hyman Gurlevitch, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Winniefred Ann Maltby may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Hyman Gurlevitch had not been solemnized.

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THE SENATE OF CANADA

BILL P¹.

An Act for the relief of Marie Claude Audette Isabelle
Boulanger Douglas.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL P¹.

An Act for the relief of Marie Claude Audette Isabelle
Boulanger Douglas.

Preamble.

WHEREAS Marie Claude Audette Isabelle Boulanger Douglas, residing at the city of Montreal, in the province of Quebec, wife of Thomas Robert Douglas, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the nineteenth day of 5
October, A.D. 1940, at the said city, she then being Marie Claude Audette Isabelle Boulanger, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence 10
adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Marie Claude Audette 15
Isabelle Boulanger and Thomas Robert Douglas, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Marie Claude Audette Isabelle Boulanger may at any time hereafter marry any man whom she might 20
lawfully marry if the said marriage with the said Thomas Robert Douglas had not been solemnized.

THE SENATE OF CANADA

BILL Q¹.

An Act for the relief of Gaston Courtemanche.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Q¹.

An Act for the relief of Gaston Courtemanche.

Preamble.

WHEREAS Gaston Courtemanche, domiciled in Canada and residing at the city of Lachine, in the province of Quebec, truck driver, has by his petition alleged that on the twenty-second day of June, A.D. 1940, at the town of Marievalle, in the said province, he and Simonne Sansoucy 5 who was then of the town of Marievalle, aforesaid, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that 10 the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Gaston Courtemanche and Simonne Sansoucy, his wife, is hereby dissolved, and shall 15 be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Gaston Courtemanche may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Simonne Sansoucy had 20 not been solemnized.

The Honorable the Chairman of the
Committee on Divorce.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL R¹.

An Act for the relief of Norma Bernstein Cohen.

Read a first time, Monday, 8th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL R¹.

An Act for the relief of Norma Bernstein Cohen.

Preamble

WHEREAS Norma Bernstein Cohen, residing at the city of Montreal, in the province of Quebec, wife of Milton Cohen, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the ninth day of April, A.D. 1950, at the city of Westmount, in the said province, she then being Norma Bernstein, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Norma Bernstein and Milton Cohen, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Norma Bernstein may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Milton Cohen had not been solemnized.

THE SENATE OF CANADA

BILL S¹.

An Act for the relief of Mina Eisenthal Hamerman Segal,
otherwise known as Mina Eisenthal Segal.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL S¹.

An Act for the relief of Mina Eisenthal Hamerman Segal,
otherwise known as Mina Eisenthal Segall.

Preamble.

WHEREAS Mina Eisenthal Hamerman Segal, otherwise known as Mina Eisenthal Segall, residing at the city of Montreal, in the province of Quebec, dressmaker, wife of Samoil Glicman Segal, otherwise known as Samuel Glickman Segall, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-seventh day of August, A.D. 1946, at the city of Dorohoi, Roumania, she then being Mina Eisenthal Hamerman, a widow; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Mina Eisenthal Hamerman and Samoil Glicman Segal, otherwise known as Samuel Glickman Segall, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Mina Eisenthal Hamerman may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Samoil Glicman Segal, otherwise known as Samuel Glickman Segall, had not been solemnized.

THE SENATE OF CANADA

BILL T¹.

An Act for the relief of Agnes Charlotte Quamme Higgins.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL T¹.

An Act for the relief of Agnes Charlotte Quamme Higgins.

Preamble.

WHEREAS Agnes Charlotte Quamme Higgins, residing at the city of Lachine, in the province of Quebec, dietitian, wife of Benjamin Howard Higgins, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the first day of June, A.D. 1936, at the city of Minneapolis, in the state of Minnesota, one of the United States of America, she then being Agnes Charlotte Quamme, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Agnes Charlotte Quamme and Benjamin Howard Higgins, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Agnes Charlotte Quamme may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Benjamin Howard Higgins had not been solemnized.

THE SENATE OF CANADA

BILL U¹.

An Act for the relief of Agnes Mary Perkins Pereira.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL U¹.

An Act for the relief of Agnes Mary Perkins Pereira.

Preamble.

WHEREAS Agnes Mary Perkins Pereira, residing at the city of Montreal, in the province of Quebec, receptionist, wife of Kenneth Woodrow Anthony Pereira, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-fifth day of August, A.D. 1945, in the district of Surrey North Eastern, in the county of Surrey, England, she then being Agnes Mary Perkins, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Agnes Mary Perkins and Kenneth Woodrow Anthony Pereira, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Agnes Mary Perkins may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Kenneth Woodrow Anthony Pereira had not been solemnized.

THE SENATE OF CANADA

BILL V¹.

An Act for the relief of Rosalia Marie Sepchuk Maniloff.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL V¹.

An Act for the relief of Rosalia Marie Sepchuk Maniloff.

Preamble.

WHEREAS Rosalia Marie Sepchuk Maniloff, residing at the town of St. Adele, in the province of Quebec, hostess, wife of Victor Maniloff, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the sixteenth day of August, A.D. 1942, at the said city, she then being Rosalia Marie Sepchuk, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Rosalia Marie Sepchuk and Victor Maniloff, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Rosalia Marie Sepchuk may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Victor Maniloff had not been solemnized.

THE SENATE OF CANADA

BILL W¹.

An Act for the relief of Anne Reddie Banks Carruthers
Beaudoin.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL W¹.

An Act for the relief of Anne Reddie Banks Carruthers Beaudoin.

Preamble.

WHEREAS Anne Reddie Banks Carruthers Beaudoin, residing at the city of Montreal, in the province of Quebec, clerk, wife of Myron Armand Beaudoin, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the first day of July, A.D. 1944, at the said city, she then being Anne Reddie Banks Carruthers, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Anne Reddie Banks Carruthers and Myron Armand Beaudoin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Anne Reddie Banks Carruthers may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Myron Armand Beaudoin had not been solemnized.

The Honorable the Chairman of the
Committee on Divorce

THE SENATE OF CANADA

BILL X¹.

An Act for the relief of Doris Isabell Dalzell Bennett.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL X¹.

An Act for the relief of Doris Isabell Dalzell Bennett.

Preamble.

WHEREAS Doris Isabell Dalzell Bennett, residing at the city of Montreal, in the province of Quebec, wife of Claude Louis Bennett, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-fifth day of May, A.D. 1940, at the said city, she then being Doris Isabell Dalzell, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Doris Isabell Dalzell and Claude Louis Bennett, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Doris Isabell Dalzell may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Claude Louis Bennett had not been solemnized.

THE SENATE OF CANADA

BILL Y¹.

An Act for the relief of Costanza Marzitelli Boisvert.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

7th Session, 21st Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL Y¹.

An Act for the relief of Costanza Marzitelli Boisvert.

Preamble.

WHEREAS Costanza Marzitelli Boisvert, residing at the city of Montreal, in the province of Quebec, secretary, wife of Mario Boisvert, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-seventh day of October, A.D. 1945, at the said city, she then being Costanza Marzitelli, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Costanza Marzitelli and Mario Boisvert, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Costanza Marzitelli may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Mario Boisvert had not been solemnized.

THE SENATE OF CANADA

BILL Z¹.

An Act for the relief of Gladys Emily Miller Young.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Z¹.

An Act for the relief of Gladys Emily Miller Young.

Preamble.

WHEREAS Gladys Emily Miller Young, residing at the town of Hampstead, in the province of Quebec, house-keeper, wife of Robert Harold Young, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married 5 on the first day of May, A.D. 1941, at the said city, she then being Gladys Emily Miller, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence 10 adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Gladys Emily Miller and 15 Robert Harold Young, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Gladys Emily Miller may at any time 20 hereafter marry any man whom she might lawfully marry if the said marriage with the said Robert Harold Young had not been solemnized.

THE SENATE OF CANADA

BILL A².

An Act for the relief of Francoise Ernout Fisher.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL A².

An Act for the relief of Francoise Ernout Fisher.

Preamble.

WHEREAS Francoise Ernout Fisher, residing at the city of Paris, France, wife of Sidney Thomson Fisher, who is domiciled in Canada and residing at the town of Mount Royal, in the province of Quebec, has by her petition alleged that they were married on the eleventh day of May, A.D. 1941, at the city of New York, in the state of New York, one of the United States of America, she then being Francoise Ernout, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Francoise Ernout and Sidney Thomson Fisher, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Francoise Ernout may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Sidney Thomson Fisher had not been solemnized.

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THE SENATE OF CANADA

BILL B².

An Act for the relief of Margaret Girvan Hill.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL B².

An Act for the relief of Margaret Girvan Hill.

Preamble.

WHEREAS Margaret Girvan Hill, residing at the city of Ottawa, in the province of Ontario, stenographer, wife of Lewis Gogger Hill, who is domiciled in Canada and residing at Otterburn Park, in the province of Quebec, has by her petition alleged that they were married on the seventeenth day of October, A.D. 1932, at the said city of Ottawa, she then being Margaret Girvan, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Margaret Girvan and Lewis Gogger Hill, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Margaret Girvan may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Lewis Gogger Hill had not been solemnized.

THE SENATE OF CANADA

BILL C².

An Act for the relief of Fernand Ratelle.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL C².

An Act for the relief of Fernand Ratelle.

Preamble.

WHEREAS Fernand Ratelle, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, labourer, has by his petition alleged that on the second day of March, A.D. 1946, at the said city, he and Rachel Lepine, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Fernand Ratelle and Rachel Lepine, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Fernand Ratelle may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Rachel Lepine had not been solemnized.

The Honourable the Chairman of the Committee on Divorce.

THE SENATE OF CANADA

BILL D.
BILL D².

An Act for the relief of Charles Meela Voyinovitch Seifert.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL D².

An Act for the relief of Charles Meela Voyinovitch Seifert.

Preamble.

WHEREAS Charles Meela Voyinovitch Seifert, residing at the city of Montreal, in the province of Quebec, writer, wife of Hyman Seifert, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the eighteenth day of October, A.D. 1933, at Champlain, in the state of New York, one of the United States of America, she then being Charles Meela Voyinovitch, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Charles Meela Voyinovitch and Hyman Seifert, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Charles Meela Voyinovitch may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Hyman Seifert had not been solemnized.

THE SENATE OF CANADA

BILL E².

An Act for the relief of Lily Isenberg Kwavnick.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL E².

An Act for the relief of Lily Isenberg Kwavnick.

Preamble.

WHEREAS Lily Isenberg Kwavnick, residing at the city of Montreal, in the province of Quebec, bookkeeper, wife of Bennie Kwavnick, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the nineteenth day of June, A.D. 1938, at the said city, she then being Lily Isenberg, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Lily Isenberg and Bennie Kwavnick, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Lily Isenberg may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Bennie Kwavnick had not been solemnized.

THE SENATE OF CANADA

BILL F².

An Act for the relief of Doreen Mae Walmough dit
Watmough Colson.

Read a first time, Wednesday, 10th December, 1952.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL F².

An Act for the relief of Doreen Mae Walmough dit
Watmough Colson.

Preamble.

WHEREAS Doreen Mae Walmough dit Watmough Colson, residing at the city of Montreal, in the province of Quebec, wife of Raymond Pierre Joseph Colson, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the seventh day of May, A.D. 1949, at the said city, she then being Doreen Mae Walmough dit Watmough, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Doreen Mae Walmough dit Watmough and Raymond Pierre Joseph Colson, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Doreen Mae Walmough dit Watmough may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Raymond Pierre Joseph Colson had not been solemnized.

THE SENATE OF CANADA

BILL G².

An Act for the relief of Robert Gordon.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL G².

An Act for the relief of Robert Gordon.

Preamble.

WHEREAS Robert Gordon, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, checker, has by his petition alleged that on the second day of February, A.D. 1932, at Lancaster, in the province of New Brunswick, he and Grace McCausland, who was then of West Saint John, in the said province of New Brunswick, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Robert Gordon and Grace McCausland, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Robert Gordon may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Grace McCausland had not been solemnized.

THE SENATE OF CANADA

BILL H².

An Act for the relief of Helen Isabelle Hammond Dadson.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.

QUEEN'S PRINTER AND CONTROLLER OF STATIONERY

OTTAWA, 1952

THE SENATE OF CANADA

BILL H².

An Act for the relief of Helen Isabelle Hammond Dadson.

Preamble.

WHEREAS Helen Isabelle Hammond Dadson, residing at the city of Toronto, in the province of Ontario, secretary, wife of William James Dadson, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the eighth day of July, A.D. 1937, at the city of Sudbury, in the said province of Ontario, she then being Helen Isabelle Hammond, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Helen Isabelle Hammond and William James Dadson, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Helen Isabelle Hammond may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William James Dadson had not been solemnized.

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THE SENATE OF CANADA

BILL I².

An Act for the relief of Harold Gordon McFarlane.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL I².

An Act for the relief of Harold Gordon McFarlane.

Preamble.

WHEREAS Harold Gordon McFarlane, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by his petition alleged that on the seventeenth day of September, A.D. 1949, at the said city, he and Gladys Patricia Hopley, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Harold Gordon McFarlane and Gladys Patricia Hopley, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Harold Gordon McFarlane may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Gladys Patricia Hopley had not been solemnized.

THE SENATE OF CANADA

BILL J².

An Act for the relief of Dezso Ferenc Cross.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL J².

An Act for the relief of Dezso Ferenc Cross.

Preamble.

WHEREAS Dezso Ferenc Cross, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, physician, has by his petition alleged that on the seventeenth day of November, A.D. 1945, at the city of Budapest, Hungary, he and Veronica Iris Collier, who was then of the said city of Budapest, a widow, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Dezso Ferenc Cross and Veronica Iris Collier, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Dezso Ferenc Cross may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Veronica Iris Collier had not been solemnized.

THE SENATE OF CANADA

BILL K².

An Act for the relief of Eric Ernest Auclair.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL K².

An Act for the relief of Eric Ernest Auclair.

Preamble.

WHEREAS Eric Ernest Auclair, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, fireman, has by his petition alleged that on the first day of December, A.D. 1945, at the village of Marieville, in the said province, he and Therese Gauthier, who was then of the village of Ste. Bridget, in the said province, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Eric Ernest Auclair and Therese Gauthier, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Eric Ernest Auclair may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Therese Gauthier had not been solemnized.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL L².

An Act for the relief of Napoleon Jean-Paul Chayer.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL L².

An Act for the relief of Napoleon Jean-Paul Chayer.

Preamble.

WHEREAS Napoleon Jean-Paul Chayer, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, foreman, has by his petition alleged that on the sixth day of December, A.D. 1947, at the said city, he and Suzanne Durocher, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Napoleon Jean-Paul Chayer and Suzanne Durocher, his wife, is hereby dissolved and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Napoleon Jean-Paul Chayer may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Suzanne Durocher had not been solemnized.

THE SENATE OF CANADA

BILL M².

An Act for the relief of Marie Josephte Gilberte Belanger
Byrne.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL M².

An Act for the relief of Marie Josephte Gilberte Belanger
Byrne.

Preamble.

WHEREAS Marie Josephte Gilberte Belanger Byrne, residing at the city of Westmount, in the province of Quebec, secretary, wife of Michel John GERALD Joseph Byrne, who is domiciled in Canada and residing at city of Quebec, in the said province, has by her petition alleged that they were married on the twenty-second day of February, A.D. 1937, at the said city of Quebec, she then being Marie Josephte Gilberte Belanger, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Marie Josephte Gilberte Belanger and Michel John GERALD Joseph Byrne, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Marie Josephte Gilberte Belanger may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Michel John GERALD Joseph Byrne had not been solemnized.

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THE SENATE OF CANADA

BILL N².

An Act for the relief of Nina Difiore Statner.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL N^o.

An Act for the relief of Nina Difiore Statner.

Preamble.

WHEREAS Nina Difiore Statner, residing at the city of Montreal, in the province of Quebec, wife of Allan Statner, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the seventeenth day of July, A.D. 1949, at the said city, she then being Nina Difiore, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Nina Difiore and Allan Statner, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Nina Difiore may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Allan Statner had not been solemnized.

THE SENATE OF CANADA

BILL OF
BILL O².

An Act for the relief of Tillie Tietlebaum Victor.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL O².

An Act for the relief of Tillie Tietlebaum Victor.

Preamble.

WHEREAS Tillie Tietlebaum Victor, residing at the city of Montreal, in the province of Quebec, operator, wife of Marcus Victor, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the second day of February, A.D. 1930, at the said city, she then being Tillie Tietlebaum, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Tillie Tietlebaum and Marcus Victor, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Tillie Tietlebaum may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Marcus Victor had not been solemnized.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL P².

An Act for the relief of Elina Iacurto Floyd.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL P².

An Act for the relief of Elina Iacurto Floyd.

Preamble.

WHEREAS Elina Iacurto Floyd, residing at the city of Montreal, in the province of Quebec, finisher, wife of John Floyd, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the ninth day of November, A.D. 1935, at the said city, she then being Elina Iacurto, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Elina Iacurto and John Floyd, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

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Right to marry again.

2. The said Elina Iacurto may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said John Floyd had not been solemnized.

THE SENATE OF CANADA

BILL Q².

An Act for the relief of Jennie Miller Solomon.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL Q².

An Act for the relief of Jennie Miller Solomon.

Preamble.

WHEREAS Jennie Miller Solomon, residing at the city of Montreal, in the province of Quebec, stenographer, wife of Jack Solomon, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the thirtieth day of January, A.D. 1944, at the said city, she then being Jennie Miller, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Jennie Miller and Jack Solomon, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Jennie Miller may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Jack Solomon had not been solemnized.

THE SENATE OF CANADA

BILL R².

An Act for the relief of Elia Kuczerian.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL R².

An Act for the relief of Elia Kuczerian.

Preamble.

WHEREAS Elia Kuczerian, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, mechanic, has by his petition alleged that on the tenth day of April, A.D. 1940, at the said city, he and Marie Yvette Cliche, who was then of the said city, a spinster, 5
were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her 10
Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Elia Kuczerian and Marie Yvette Cliche, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes 15
whatsoever.

Right to marry again.

2. The said Elia Kuczerian may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Marie Yvette Cliche had not been solemnized. 20

THE SENATE OF CANADA

BILL S².

An Act for the relief of Ruth Audrey Lorraine Beauchamp
Laderoute.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL S².

An Act for the relief of Ruth Audrey Lorraine Beauchamp Laderoute.

Preamble.

WHEREAS Ruth Audrey Lorraine Beauchamp Laderoute, residing at the city of Montreal, in the province of Quebec, secretary, wife of Joseph Raymond Laderoute, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the nineteenth day of April, A.D. 1947, at the said city, she then being Ruth Audrey Lorraine Beauchamp, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ruth Audrey Lorraine Beauchamp and Joseph Raymond Laderoute, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ruth Audrey Lorraine Beauchamp may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Joseph Raymond Laderoute had not been solemnized.

THE SENATE OF CANADA

BILL T².

An Act for the relief of Phyllis Newman Lunan.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL T².

An Act for the relief of Phyllis Newman Lunan.

Preamble.

WHEREAS Phyllis Newman Lunan, residing at the city of Montreal, in the province of Quebec, manager, wife of David Gordon Lunan, who is domiciled in Canada and residing at the city of Westmount, in the said province, has by her petition alleged that they were married on the third day of November, A.D. 1939, at the said city of Montreal, she then being Phyllis Newman, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Phyllis Newman and David Gordon Lunan, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Phyllis Newman may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said David Gordon Lunan had not been solemnized.

THE SENATE OF CANADA

BILL U².

An Act for the relief of Helen Doreen Cave Crawshaw.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL U².

An Act for the relief of Helen Doreen Cave Crawshaw.

Preamble.

WHEREAS Helen Doreen Cave Crawshaw, residing at the city of Montreal, in the province of Quebec, stenographer, wife of Robert Frederick Crawshaw, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-
second day of October, A.D. 1949, at St. Dorothee, in the
said province, she then being Helen Doreen Cave, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and
whereas the said marriage and adultery have been proved
by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of
Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Helen Doreen Cave and Robert Frederick Crawshaw, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Helen Doreen Cave may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Robert Frederick Crawshaw had not been solemnized.

THE SENATE OF CANADA

BILL V².

An Act for the relief of Armand Frenette.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL V².

An Act for the relief of Armand Frenette.

Preamble.

WHEREAS Armand Frenette, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, dentist, has by his petition alleged that on the seventh day of August, A.D. 1943, at the city of Joliette, in the said province, he and Reine Estelle Lafond, who was then of the said city of Joliette, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Armand Frenette and Reine Estelle Lafond, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Armand Frenette may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Reine Estelle Lafond had not been solemnized.

THE SENATE OF CANADA

BILL W².

An Act for the relief of Florence Brown Boyaner.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL W².

An Act for the relief of Florence Brown Boyaner.

Preamble.

WHEREAS Florence Brown Boyaner, residing at the city of Outremont, in the province of Quebec, book-keeper, wife of Melvin Boyaner, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the twenty-third day of October, A.D. 1949, at the said city of Montreal, she then being Florence Brown, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Florence Brown and Melvin Boyaner, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Florence Brown may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Melvin Boyaner had not been solemnized.

THE SENATE OF CANADA

BILL X².

An Act for the relief of Eileen Mercedes Hudson Walsh.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL X².

An Act for the relief of Eileen Mercedes Hudson Walsh.

Preamble. WHEREAS Eileen Mercedes Hudson Walsh, residing at the city of Montreal, in the province of Quebec, clerk, wife of Arthur Walsh, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-ninth day of May, A.D. 1925, at the said city, she then being Eileen Mercedes Hudson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Eileen Mercedes Hudson and Arthur Walsh, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Eileen Mercedes Hudson may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Arthur Walsh had not been solemnized.

THE SENATE OF CANADA

BILL Y².

An Act for the relief of Madeleine McCartney Ratcliff.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL Y².

An Act for the relief of Madeleine McCartney Ratcliff.

Preamble.

WHEREAS Madeleine McCartney Ratcliff, residing at the town of Montreal North, in the province of Quebec, clerk, wife of Edward Ray Ratcliff, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married 5 on the eighteenth day of September, A.D. 1946, at the said town, she then being Madeleine McCartney, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and 10 whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Madeleine McCartney and 15 Edward Ray Ratcliff, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Madeleine McCartney may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said Edward Ray Ratcliff had not been solemnized.

THE SENATE OF CANADA

BILL NO.
BILL Z².

An Act for the relief of Kathleen Mary Wilkinson
Paraskiewicz.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL Z².

An Act for the relief of Kathleen Mary Wilkinson
Paraskiewicz.

Preamble.

WHEREAS Kathleen Mary Wilkinson Paraskiewicz,
residing at the city of Montreal, in the province of
Quebec, wife of Mikolaj Paraskiewicz, who is domiciled in
Canada and residing at the said city, has by her petition
alleged that they were married on the twenty-sixth day of 5
December, A.D. 1940, at the city of Blackpool, England,
she then being Kathleen Mary Wilkinson, a spinster; and
whereas by her petition she has prayed that, because of his
adultery since then, their marriage be dissolved; and whereas
the said marriage and adultery have been proved by evi- 10
dence adduced and it is expedient that the prayer of her
petition be granted: Therefore Her Majesty, by and with
the advice and consent of the Senate and House of Commons
of Canada, enacts as follows:—

Marriage
dissolved.

1. The said marriage between Kathleen Mary Wilkinson 15
and Mikolaj Paraskiewicz, her husband, is hereby dissolved,
and shall be henceforth null and void to all intents and
purposes whatsoever.

Right to
marry again.

2. The said Kathleen Mary Wilkinson may at any time 20
hereafter marry any man whom she might lawfully marry if
the said marriage with the said Mikolaj Paraskiewicz had
not been solemnized.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL A³.

An Act for the relief of Georges Chaput.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL A³.

An Act for the relief of Georges Chaput.

Preamble.

WHEREAS Georges Chaput, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, chauffeur, has by his petition alleged that on the fourteenth day of August, A.D. 1937, at the said city, he and Veronique Boileau, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: 5
Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 10

Marriage dissolved.

1. The said marriage between Georges Chaput and Veronique Boileau, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Georges Chaput may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Veronique Boileau had not been solemnized. 20

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL B³.

An Act for the relief of Florence Anna Carsh Laing.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

65873

THE SENATE OF CANADA

BILL B³.

An Act for the relief of Florence Anna Carsh Laing.

Preamble.

WHEREAS Florence Anna Carsh Laing, residing at the city of Montreal, in the province of Quebec, saleslady, wife of William Symon Laing, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-fourth day of April, A.D. 1948, at the said city, she then being Florence Anna Carsh, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Florence Anna Carsh and William Symon Laing, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Florence Anna Carsh may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William Symon Laing had not been solemnized.

THE SENATE OF CANADA

BILL C³.

An Act for the relief of Beatrice Miriam Kert Beloff.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL C³.

An Act for the relief of Beatrice Miriam Kert Beloff.

Preamble.

WHEREAS Beatrice Miriam Kert Beloff, residing at the city of Montreal, in the province of Quebec, interior decorator, wife of H. Benjamin Beloff, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifteenth day of August, A.D. 1951, at the said city, she then being Beatrice Miriam Kert; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Beatrice Miriam Kert and H. Benjamin Beloff, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Beatrice Miriam Kert may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said H. Benjamin Beloff had not been solemnized.

THE SENATE OF CANADA

BILL D³.

An Act for the relief of John Alexander Stronach.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL D³.

An Act for the relief of John Alexander Stronach.

Preamble.

WHEREAS John Alexander Stronach, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, X-ray technician, has by his petition alleged that on the nineteenth day of July, A.D. 1947, at the said city, he and Shirley Florence June Carter, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between John Alexander Stronach and Shirley Florence June Carter, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said John Alexander Stronach may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Shirley Florence June Carter had not been solemnized. 20

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL E³.

An Act for the relief of Raymond Gelinas.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

66545

THE SENATE OF CANADA

BILL E³.

An Act for the relief of Raymond Gelinas.

Preamble.

WHEREAS Raymond Gelinas, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, manager, has by his petition alleged that on the twenty-sixth day of May, A.D. 1947, at the said city, he and Therese Bouchard, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Raymond Gelinas and Therese Bouchard, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Raymond Gelinas may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Therese Bouchard had not been solemnized.

THE SENATE OF CANADA

BILL F³.

An Act for the relief of Anna Madeline Patterson Cotter.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL F³.

An Act for the relief of Anna Madeline Patterson Cotter.

Preamble.

WHEREAS Anna Madeline Patterson Cotter, residing at the city of Toronto, in the province of Ontario, assembler, wife of John Edward Cotter, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married 5 on the seventh day of January, A.D. 1932, at the city of Saint John, in the province of New Brunswick, she then being Anna Madeline Patterson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the 10 said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 15

Marriage dissolved.

1. The said marriage between Anna Madeline Patterson and John Edward Cotter, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Anna Madeline Patterson may at any time 20 hereafter marry any man whom she might lawfully marry if the said marriage with the said John Edward Cotter had not been solemnized.

THE SENATE OF CANADA

BILL G³.

An Act for the relief of Claudia Marie Boudreau Leblanc.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL G³.

An Act for the relief of Claudia Marie Boudreau Leblanc.

Preamble.

WHEREAS Claudia Marie Boudreau Leblanc, residing at the city of Montreal, in the province of Quebec, wife of Martin Willard Leblanc, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-second day of September, A.D. 1942, at Wedgeport, in the province of Nova Scotia, she then being Claudia Marie Boudreau, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Claudia Marie Boudreau and Martin Willard Leblanc, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Claudia Marie Boudreau may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Martin Willard Leblanc had not been solemnized.

THE SENATE OF CANADA

BILL H³.

An Act for the relief of Lily Belzberg Bigman.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL H³.

An Act for the relief of Lily Belzberg Bigman.

Preamble.

WHEREAS Lily Belzberg Bigman, residing at the city of Quebec, in the province of Quebec, wife of Sidney Bigman, who is domiciled in Canada and residing at the village of Valcartier, in the said province, has by her petition alleged that they were married on the fifth day of September, A.D. 1943, at the city of Calgary, in the province of Alberta, she then being Lily Belzberg, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Lily Belzberg and Sidney Bigman, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Lily Belzberg may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Sidney Bigman had not been solemnized.

THE SENATE OF CANADA

BILL 13.

An Act for the relief of Joseph Arthur Lesage.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL I³.

An Act for the relief of Joseph Arthur Lesage.

Preamble.

WHEREAS Joseph Arthur Lesage, domiciled in Canada and residing at the city of Quebec, in the province of Quebec, civil servant, has by his petition alleged that on the twentieth day of January, A.D. 1931, at the village of La Sarre, in the said province, he and Mary Noella Irene Bedard, who was then of the said village, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Joseph Arthur Lesage and Mary Noella Irene Bedard, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Joseph Arthur Lesage may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Mary Noella Irene Bedard had not been solemnized.

THE SENATE OF CANADA

BILL J³.

An Act for the relief of Minnie Gruhn Boon.

AS PASSED BY THE SENATE, 16th DECEMBER, 1952.

THE SENATE OF CANADA

BILL J³.

An Act for the relief of Minnie Gruhn Boon.

Preamble.

WHEREAS Minnie Gruhn Boon, residing at the city of Westmount, in the province of Quebec, secretary, wife of William John Boon, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the twenty-fifth day of June, A.D. 1949, at the said city of Montreal, she then being Minnie Gruhn, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Minnie Gruhn and William John Boon, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Minnie Gruhn may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William John Boon had not been solemnized.

THE SENATE OF CANADA

BILL K³.

An Act for the relief of Jane Louttit Dormer.

AS PASSED BY THE SENATE, 17th DECEMBER, 1952.

THE SENATE OF CANADA

BILL K³.

An Act for the relief of Jane Louttit Dormer.

Preamble. WHEREAS Jane Louttit Dormer, residing at Point La Nim, in the province of New Brunswick, wife of Charles Henry Dormer, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the second day of July, A.D. 1946, at the city of Edinburgh, Scotland, she then being Jane Louttit; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved. 1. The said marriage between Jane Louttit and Charles Henry Dormer, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again. 2. The said Jane Louttit may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Charles Henry Dormer had not been solemnized. 20

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL L³.

An Act for the relief of Roger Loiselle.

AS PASSED BY THE SENATE, 17th DECEMBER, 1952.

THE SENATE OF CANADA

BILL L³.

An Act for the relief of Roger Loiselle.

Preamble.

WHEREAS Roger Loiselle, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, welder, has by his petition alleged that on the thirty-first day of July, A.D. 1944, at the said city, he and Odellie Cote, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Roger Loiselle and Odellie Cote, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Roger Loiselle may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Odellie Cote had not been solemnized.

THE SENATE OF CANADA

BILL M³.

An Act for the relief of William Oscar Gilbert.

AS PASSED BY THE SENATE, 17th DECEMBER, 1952.

THE SENATE OF CANADA

BILL M³.

An Act for the relief of William Oscar Gilbert.

Preamble.

WHEREAS William Oscar Gilbert, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, painter, has by his petition alleged that on the twentieth day of April, A.D. 1928, at the said city, he and Violet Cecilia Black, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: 10
Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between William Oscar Gilbert and Violet Cecilia Black, his wife, is hereby dissolved, and shall 15 be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said William Oscar Gilbert may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Violet Cecilia Black had 20 not been solemnized.

THE SENATE OF CANADA

BILL N³.

An Act for the relief of George Magner.

AS PASSED BY THE SENATE, 17th DECEMBER, 1952.

THE SENATE OF CANADA

BILL N³.

An Act for the relief of George Magner.

Preamble.

WHEREAS George Magner, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, druggist, has by his petition alleged that on the twenty-ninth day of January, A.D. 1944, at the said city, he and Lily Murray, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between George Magner and Lily Murray, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said George Magner may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Lily Murray had not been solemnized.

THE SENATE OF CANADA

BILL O³.

An Act for the relief of Teodora Szablity
Szentirmai.

AS PASSED BY THE SENATE, 17th DECEMBER, 1952.

THE SENATE OF CANADA

BILL O³.

An Act for the relief of Teodora Szablity
Szentirmai.

Preamble.

WHEREAS Teodora Szablity Szentirmai, residing at the city of Montreal, in the province of Quebec, seamstress, wife of Joseph Szentirmai, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the third day of September, A.D. 1944, at Zalaegerszeg, Hungary, she then being Teodora Szablity, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Teodora Szablity and Joseph Szentirmai, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Teodora Szablity may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Joseph Szentirmai had not been solemnized.

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952.

THE SENATE OF CANADA

BILL P³.

An Act for the relief of Arthur Piche.

AS PASSED BY THE SENATE, 17th DECEMBER, 1952.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

THE SENATE OF CANADA

BILL P³.

An Act for the relief of Arthur Piche.

Preamble.

WHEREAS Arthur Piche, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, truck driver, has by his petition alleged that on the thirteenth day of August, A.D. 1912, at the town of Hawkesbury, in the province of Ontario, he and Marie Morris, who was then of the said town, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Arthur Piche and Marie Morris, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Arthur Piche may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Marie Morris had not been solemnized.

THE SENATE OF CANADA

BILL Q³.

An Act to incorporate The Apostolic Trustees of the
Friars Minor or Franciscans of Western Canada.

Read a first time, Tuesday, 3rd February, 1953.

Honourable Senator BLAIS.

THE SENATE OF CANADA

BILL Q³.

An Act to incorporate The Apostolic Trustees of the Friars Minor or Franciscans of Western Canada.

Preamble.

WHEREAS the Friars Minor or Franciscans, a religious order in communion with the Roman Catholic Church, is prohibited by its rules and constitution from owning or acquiring any property;

WHEREAS the persons hereinafter mentioned own and administer property situated in various parts of Western Canada as trustees for The Friars Minor or Franciscans; and

WHEREAS the said persons 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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation.

1. Jacob Rollwagen, William English, Claude Currie, of the city of Winnipeg, and Joseph Binda, of Lac Du Bonnet, in the province of Manitoba, Thomas Molloy, of the city of Regina, in the province of Saskatchewan, Clair J. Cote and Vincent Cooney, of the city of Calgary, Andre Miville Dechene, of the city of Edmonton, in the province of Alberta, James Gagnon, of the town of Trail, J. McMaster, of the city of Vancouver, in the province of British Columbia, and their successors duly appointed are hereby incorporated under the name of The Apostolic Trustees of the Friars Minor or Franciscans of Western Canada, (and in French "Les Syndics Apostoliques des Freres Mineurs ou Franciscains du Canada Occidental"), hereinafter called "the Corporation".

Corporate name.

Head office.

2. The head office of the Corporation shall be at the city of Calgary, in the province of Alberta.

1. The Corporation shall have charge of the wants and material interests of the Friars Minor or Franciscans in the province of British Columbia, Alberta, Saskatchewan and Manitoba.

2. The property which is now owned shall be employed and administered in accordance with the rules and constitution of the said The Friars Minor or Franciscans.

3. The Corporation may make, amend and repeal by-law for the government of its members: provided such by-laws do not conflict with the rules and constitution of the said The Friars Minor or Franciscans or with this Act.

EXPLANATORY NOTE.

The assets of the Friars Minor or Franciscans in Canada have heretofore been administered by a corporation incorporated by chapter 63 of the statutes of Canada, 1950. It has been found, however, that the administration is cumbersome with respect to the houses and enterprises of the Franciscan Fathers in Western Canada. Authority has therefore been granted by the religious superior of the order in Rome for the establishment of a "province" in Western Canada. The benefits will be that the trustees of the order will reside closer to the works of the Franciscans and will be better able to assist in furthering the aims of the order.

4. Subject always to the terms of any trust relating thereto, the Corporation may also sell, convey, exchange, lease, mortgage, lease or demise any real property held by the Corporation, whether by way of investment for the use and purposes of the Corporation or not; and may also from time to time, invest all or any of its funds or money, and all or any funds or money vested in or acquired by it for the use and purposes aforesaid, in and upon any security of way of mortgage, hypothec or charge upon real property in any part of Canada; and for the purpose of such investment may take receipts and assign mortgages or assignments thereof, whether made and executed directly to the Corporation or to any corporation, body, company or person in trust for it; and may sell, grant, assign and transfer such mortgages or assignments either wholly or partly,

Duties of Corporation.

3. (1) The Corporation shall have charge of the wants and material interests of The Friars Minor or Franciscans in the provinces of British Columbia, Alberta, Saskatchewan and Manitoba.

Application and management of property.

(2) The property which it may acquire shall be employed and administered in accordance with the rules and constitution of the said The Friars Minor or Franciscans. 5

Power to make by-laws. Proviso.

4. The Corporation may make, amend and repeal by-laws for the government of its members: Provided such by-laws be not inconsistent with the rules and constitution of the said The Friars Minor or Franciscans or with this Act. 10

When Corporation shall be bound.

5. The Corporation shall be bound by the signature of its authorized officers given pursuant to the by-laws of the Corporation and the authority of the Corporation may be exercised by an administrative council composed of members of the Corporation elected or chosen in accordance with the by-laws of the Corporation. 15

Appointment and removal of syndics.

6. The members of the Corporation shall be appointed, removed and replaced, according to the rules and constitution of the said The Friars Minor or Franciscans. 20

Power to acquire and hold property.

7. The Corporation may purchase, take, have, hold, receive, possess, retain and enjoy property, real or personal, corporeal or incorporeal, and any or every estate or interest whatsoever, given, granted, mortgaged, devised or bequeathed to it, or appropriated, purchased or acquired by it in any manner or way whatsoever, to, for or in favour of the use and purposes of the Corporation. 25

Investment in and disposal of property.

8. Subject always to the terms of any trust relating thereto, the Corporation may also sell, convey, exchange, alienate, mortgage, lease or demise any real property held by the Corporation, whether by way of investment for the uses and purposes of the Corporation or not; and may also, from time to time, invest all or any of its funds or moneys, and all or any funds or moneys vested in or acquired by it for the uses and purposes aforesaid, in and upon any security by way of mortgage, hypothec or charge upon real property in any part of Canada; and for the purposes of such investment may take, receive and accept mortgages or assignments thereof, whether made and executed directly to the Corporation or to any corporation, body, company or person in trust for it; and may sell, grant, assign and transfer such mortgages or assignments either wholly or partly. 30 35 40

Statement.

9. The Corporation shall give the Minister of Finance when required by him a full and correct statement of all real property at the date of such statement held by the Corporation or in trust for it.

Application of mortmain laws.

10. In regard to any real property which, by reason of its situation or otherwise, is subject to the legislative authority of the Parliament of Canada, a licence in mortmain shall not be necessary for the exercise of the powers granted by this Act; but otherwise the exercise of the said powers shall in any province of Canada be subject to the laws of such province as to the acquisition and holding of lands by religious corporations, in so far as such laws apply to the Corporation. 5 10

Authority for transfer of property held in trust.

11. In so far as authorization by the Parliament of Canada is necessary, any person or corporation, in whose name any property, real or personal, is held, in trust or otherwise, for the use and purposes aforesaid, or any such person or corporation to whom any such property devolves, may, subject always to the terms and conditions of any trust relating to such property, transfer such property or any part thereof to the Corporation. 15 20

Execution of deeds.

12. Any deed or other instrument relating to real property vested in the Corporation or to any interest in such real property shall, if executed within the jurisdiction of the Parliament of Canada, be deemed to be duly executed if there are affixed thereto the seal of the Corporation and the signature of any officer of the Corporation duly authorized for such purpose or his lawful attorney. 25

Borrowing powers.

13. (1) The Corporation may, from time to time, for the purposes of the Corporation:— 30

- (a) borrow money upon the credit of the Corporation;
- (b) limit or increase the amount to be borrowed;
- (c) make, draw, accept, endorse or become party to promissory notes and bills of exchange; every such note or bill made, drawn, accepted or endorsed by the party thereto authorized by the by-laws of the Corporation and countersigned by the proper party thereto authorized by the said by-laws of the Corporation, shall be binding upon the Corporation, and shall be presumed to have been made, drawn, accepted or endorsed with proper authority until the contrary is shown; and it shall not be necessary in any case to have the seal of the Corporation affixed to any such note or bill; 35 40
- (d) issue bonds, debentures or other securities of the Corporation; 45

- (e) pledge or sell such bonds, debentures or other securities for such sums and at such prices as may be deemed expedient;
- (f) mortgage, hypothecate or pledge any property of the Corporation, real or personal, to secure the repayment of any money borrowed for the purposes of the Corporation. 5

(2) Nothing in this section shall be construed to authorize the Corporation to issue any note or bill payable to bearer thereof, or any promissory note intended to be circulated as money or as the note or bill of a bank or to engage in the business of banking or insurance. 10

Investment of funds.

14. The Corporation may invest its funds, or any portion thereof, either directly in the name of the Corporation or indirectly in the name of trustees, in the purchase of such securities as it may deem advisable, and also may lend its funds or any portion thereof on any such securities. 15

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952-53.

THE SENATE OF CANADA

BILL R³.

An Act relating to Trade Marks and Unfair
Competition.

Read a first time, Tuesday, 3rd February, 1953.

Honourable Senator ROBERTSON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

THE SENATE OF CANADA

BILL R³.

An Act relating to Trade Marks and Unfair Competition.

HER 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 *Trade Marks Act*.

INTERPRETATION.

- Definitions. **2.** In this Act, 5
"Certification
mark". (a) "certification mark" means a mark that is used
for the purpose of distinguishing or so as to distinguish
wares or services that are of a defined standard with
respect to
 (i) the character or quality of the wares or services, 10
 (ii) the working conditions under which the wares
 have been produced or the services performed,
 (iii) the class of persons by whom the wares have
 been produced or the services performed, or
 (iv) the area within which the wares have been pro- 15
 duced or the services performed,
from wares or services that are not of such a defined
standard;
- "Confusing". (b) "confusing" when applied as an adjective to a trade
mark or trade name, means a trade mark or trade name 20
the use of which would cause confusion in the manner
and circumstances described in section 6;
- "Conven-
tion". (c) "Convention" means the Convention of the Union of
Paris made on the 20th day of March, 1883, and any 25
amendments and revisions thereof made before or
after the coming into force of this Act to which Canada
is a party;
- "Country of
origin". (d) "country of origin" means
 (i) the country of the Union in which the applicant
 for registration of a trade mark had at the date 30
 of the application a real and effective industrial
 or commercial establishment, or
 (ii) if the applicant did not at the date of the applica-
 tion have in a country of the Union an establish-
 ment as described in subparagraph (i), the country 35
 of the Union where he on that date had his domicile,
or

EXPLANATORY NOTES.

The purpose of this Bill is to revise and consolidate the law relating to trade marks.

The references to sections are references to sections of the *Unfair Competition Act* dealing with the same subject matter.

Sec. 2 (a)

Sec. 28 (2)

- (iii) if the applicant did not at the date of the application have in a country of the Union an establishment as described in subparagraph (i) or a domicile as described in subparagraph (ii), the country of the Union of which he was on that date a citizen or national; 5
- “Country of the Union”. (e) “country of the Union” means any country that is a member of the Union for the Protection of Industrial Property constituted under the Convention;
- “Distinctive”. (f) “distinctive” in relation to a trade mark means a trade mark that actually distinguishes the wares or services in association with which it is used by its owner from the wares or services of others or is adapted so to distinguish them; 10
- “Distinguishing guise”. (g) “distinguishing guise” means 15
 (i) a shaping of wares or their containers, or
 (ii) a mode of wrapping or packaging wares the appearance of which is used by a person for the purpose of distinguishing or so as to distinguish wares or services manufactured, sold, leased, hired or performed by him from those manufactured, sold, leased, hired or performed by others; 20
- “Owner”. (h) “owner” in relation to a certification mark means the person by whom the defined standard has been established; 25
- “Package”. (i) “package” includes any container or holder ordinarily associated with wares at the time of the transfer of the property in or possession of the wares in the course of trade;
- “Person”. (j) “person” includes any lawful trade union and any lawful association engaged in trade or business or the promotion thereof, and the administrative authority of any country, state, province, municipality or other organized administrative area; 30
- “Person interested”. (k) “person interested” includes any person who is affected or reasonably apprehends that he may be affected by any entry in the register, or by any act or omission or contemplated act or omission under or contrary to the provisions of this Act, and includes the Attorney General of Canada; 35 40
- “Prescribed”. (l) “prescribed” means prescribed by or under the regulations;
- “Proposed trade mark”. (m) “proposed trade mark” means a mark that is proposed to be used by a person for the purpose of distinguishing or so as to distinguish wares or services manufactured, sold, leased, hired or performed by him from those manufactured, sold, leased, hired or performed by others; 45
- “Register”. (n) “register” means the register kept under section 26; 50
- “Registered trade mark”. (o) “registered trade mark” means a trade mark that is on the register;

- "Registered user". (p) "registered user" means a person registered as such under section 49;
- "Registrar". (q) "Registrar" means the Registrar of Trade Marks appointed under this Act;
- "Related companies". (r) "related companies" means companies that are 5 members of a group of two or more companies one of which, directly or indirectly, owns or controls a majority of the issued voting stock of the others;
- "Representative for service". (s) "representative for service" means the person or firm named under paragraph (g) of section 29, subsection 10 (3) of section 37, paragraph (a) of subsection (1) of section 40, or subsection (1) of section 41;
- "Trade mark". (t) "trade mark" means
 (i) a mark that is used by a person for the purpose of distinguishing or so as to distinguish wares or 15 services manufactured, sold, leased, hired or performed by him from those manufactured, sold, leased, hired or performed by others,
 (ii) a certification mark,
 (iii) a distinguishing guise, or 20
 (iv) a proposed trade mark;
- "Trade name". (u) "trade name" means the name under which any business is carried on, whether or not it is the name of a corporation, a partnership or an individual;
- "Use". (v) "use" in relation to a trade mark, means any use 25 that by section 4 is deemed to be a use in association with wares or services;
- "Wares". (w) "wares" includes printed publications.

When trade mark deemed to be adopted. **3.** A trade mark is deemed to have been adopted by a person when he or his predecessor in title commenced to 30 use it in Canada or to make it known in Canada or, if he or such predecessor had not previously so used it or made it known, when he or such predecessor filed an application for its registration in Canada.

When trade mark deemed to be used. **4.** (1) A trade mark is deemed to be used in association 35 with wares if, at the time of the transfer of the property in or possession of such wares, in the normal course of trade, it is marked on the wares themselves or on the packages in which they are distributed or it is in any other manner so associated with the wares that notice of the association is 40 then given to the person to whom the property or possession is transferred.

Idem. (2) A trade mark is deemed to be used in association with services if it is used or displayed in the performance or advertising of such services. 45

Use by export. (3) A trade mark that is marked in Canada on wares or on the packages in which they are contained is, when such wares are exported from Canada, deemed to be used in Canada in association with such wares.

Sec. 2 (i)

Sec. 2 (m)

Sec. 2 (n)

Sec. 6

Sec. 6

When trade mark deemed to be made known in Canada.

5. A trade mark is deemed to be made known in Canada by a person if it is used by such person in a country of the Union, other than Canada, in association with wares or services, and

(a) such wares are distributed in association with it in Canada, or 5

(b) such wares or services are advertised in association with it in

(i) any printed publication circulated in Canada in the ordinary course of commerce among potential dealers in or users of such wares or services, or 10

(ii) radio broadcasts, as defined in the *Radio Act*, ordinarily received in Canada by potential dealers in or users of such wares or services,

and it has become well known in Canada by reason of such distribution or advertising. 15

When mark or name confusing.

6. (1) For the purposes of this Act a trade mark or trade name is confusing with another trade mark or trade name if the use of such first mentioned trade mark or trade name would cause confusion with such last mentioned trade mark or trade name in the manner and circumstances described in this section. 20

Idem.

(2) The use of a trade mark causes confusion with another trade mark if the use of both trade marks in the same area is likely to lead to the inference that the wares or services associated with such trade marks are manufactured, sold, leased, hired or performed by the same person, whether or not such wares or services are of the same general class. 25

Idem.

(3) The use of a trade mark causes confusion with a trade name if the use of both the trade mark and trade name in the same area is likely to lead to the inference that the wares or services associated with the trade mark and those associated with the business carried on under such trade name are manufactured, sold, leased, hired or performed by the same person, whether or not such wares or services are of the same general class. 30 35

Idem.

(4) The use of a trade name causes confusion with a trade mark if the use of both the trade name and the trade mark in the same area is likely to lead to the inference that the wares or services associated with the business carried on under such trade name and those associated with such trade mark are manufactured, sold, leased, hired or performed by the same person, whether or not such wares or services are of the same general class. 40

What to be considered.

(5) In determining whether trade marks or trade names are confusing, the court or the Registrar, as the case may be, shall have regard to all the surrounding circumstances including 45

(a) the inherent distinctiveness of the trade marks or trade names and the extent to which they have become known; 50

Sec. 3 (b).

(1) the nature of the trade mark or trade name;
 (2) the nature of the goods or services to which it is applied;
 (3) the nature of the business in which it is used;
 (4) the degree of resemblance between the trade mark or trade name in question and the trade mark or trade name suggested by them.

TRADE MARKS AND REGISTERED TRADE NAMES

7. No person shall...
 (a) make a false or misleading statement leading to...
 (b) use in connection with the goods or services of a competitor...
 (c) use in connection with the goods or services of a competitor...

Secs. 2 (k) and 2 (l)

15. In this section, unless the context otherwise requires, the following definitions shall apply:—
 (a) "business" means any trade, profession, vocation, occupation, industry, or service, whether or not carried on for profit, and whether or not carried on by an individual, a partnership, a firm, a company, or a body corporate; and
 (b) "goods" means any movable property, whether or not embodied in any other article, and whether or not attached to any real property, and whether or not attached to any other article, and whether or not attached to any other article, and whether or not attached to any other article.

20. (1) A person shall not, in connection with the goods or services of a competitor, use in connection with the goods or services of a competitor, a trade mark or trade name which is identical with, or so nearly identical with, the trade mark or trade name of the competitor as to be likely to deceive the public as to the identity of the goods or services of the competitor.

25. (2) A person shall not, in connection with the goods or services of a competitor, use in connection with the goods or services of a competitor, a trade mark or trade name which is identical with, or so nearly identical with, the trade mark or trade name of the competitor as to be likely to deceive the public as to the identity of the goods or services of the competitor.

30. (3) A person shall not, in connection with the goods or services of a competitor, use in connection with the goods or services of a competitor, a trade mark or trade name which is identical with, or so nearly identical with, the trade mark or trade name of the competitor as to be likely to deceive the public as to the identity of the goods or services of the competitor.

35. (4) A person shall not, in connection with the goods or services of a competitor, use in connection with the goods or services of a competitor, a trade mark or trade name which is identical with, or so nearly identical with, the trade mark or trade name of the competitor as to be likely to deceive the public as to the identity of the goods or services of the competitor.

- (b) the length of time the trade marks or trade names have been in use;
- (c) the nature of the wares, services or business;
- (d) the nature of the trade; and
- (e) the degree of resemblance between the trade marks or trade names in appearance or sound or in the ideas suggested by them. 5

UNFAIR COMPETITION AND PROHIBITED MARKS.

Prohibitions.

- 7.** No person shall
- (a) make a false or misleading statement tending to discredit the business, wares or services of a competitor; 10
 - (b) direct public attention to his wares, services or business in such a way as to create or be likely to create confusion in Canada, at the time he commenced so to direct attention to them, between his wares, services or business and the wares, services or business of another; 15
 - (c) pass off other wares or services as and for those ordered or requested;
 - (d) make use, in association with wares or services, of any description that is false in a material respect and likely to mislead the public as to 20
 - (i) the character, quality, quantity or composition,
 - (ii) the geographical origin, or
 - (iii) the mode of the manufacture, production or performance
 of such wares or services; or 25
 - (e) do any other act or adopt any other business practice contrary to honest industrial or commercial usage in Canada.

Warranty of lawful use.

- 8.** Every person who in the course of trade transfers the property in or the possession of any wares bearing, 30 or in packages bearing, any trade mark or trade name, shall, unless before the transfer he otherwise expressly states in writing, be deemed to warrant, to the person to whom the property or possession is transferred, that such trade mark or trade name has been and may be lawfully used in 35 connection with such wares.

Prohibited marks.

- 9.** (1) No person shall adopt in connection with a business, as a trade mark or otherwise, any mark consisting of, or so nearly resembling as to be likely to be mistaken for 40
- (a) the Royal Arms, Crest or Standard;
 - (b) the arms or crest of any member of the Royal Family;
 - (c) the standard, arms or crest of His Excellency the Governor General;

(2) any word or emblem likely to lead to the belief that the word or emblem is associated with which it is used have received or are proposed to be received under royal, provincial or governmental patronage or approval or authority;

(3) the name, crest or logo adopted and used at any time by Canada or by any province or municipal corporation in Canada in respect of which the Registrar has at the request of the Government of Canada or of the province or municipal corporation concerned, given public notice of its adoption and use;

Sec. 11

(4) the heraldic emblem of the Red Cross or any emblem formed by covering the federal colours of Switzerland and retained by the Geneva Convention for the Protection of War Victims of 1918, as the emblem and distinctive sign of the Medical Service of armed forces; or the emblem "Red Cross" or "Geneva Cross";

(5) the heraldic emblem of the Red Crescent or a white emblem formed for the same purpose as specified in paragraph (4) by a member of Moslem countries;

(6) the emblem of the Red Flag and Sun used by any national, national or civic flag, crest or emblem, or of any emblem and distinctive sign or mark;

(7) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

(8) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

(9) the crest or emblem of any individual who has been awarded within the preceding thirty years the words "United Nations" or the emblem of the United Nations;

Sec. 15

(10) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

(11) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

(12) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

Sec. 14

(13) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

(14) any emblem, crest or mark which is a copy of or a variation of the emblem or mark of any of the provinces of the Dominion and which is used in connection with the business of any of the provinces;

- (*d*) any word or symbol likely to lead to the belief that the wares or services in association with which it is used have received or are produced, sold or performed under royal, vice-regal or governmental patronage, approval or authority; 5
- (*e*) the arms, crest or flag adopted and used at any time by Canada or by any province or municipal corporation in Canada in respect of which the Registrar has at the request of the Government of Canada or of the province or municipal corporation concerned, given public 10 notice of its adoption and use;
- (*f*) the heraldic emblem of the Red Cross on a white ground, formed by reversing the federal colours of Switzerland and retained by the Geneva Convention for the Protection of War Victims of 1949, as the 15 emblem and distinctive sign of the Medical Service of armed forces; or the expression "Red Cross" or "Geneva Cross";
- (*g*) the heraldic emblem of the Red Crescent on a white ground adopted for the same purpose as specified in 20 paragraph (*f*) by a number of Moslem countries;
- (*h*) the equivalent sign of the Red Lion and Sun used by Iran for the same purpose as specified in paragraph (*f*);
- (*i*) any national, territorial or civic flag, arms, crest or emblem, or official control and guarantee sign or stamp, 25 notice of the objection to the use of which as a commercial device has been received pursuant to the provisions of the Convention and publicly given by the Registrar;
- (*j*) any scandalous, obscene or immoral word or device; 30
- (*k*) any matter that may falsely suggest a connection with any living individual;
- (*l*) the portrait or signature of any individual who is living or has died within the preceding thirty years;
- (*m*) the words "United Nations" or the official seal or 35 emblem of the United Nations;
- (*n*) any badge, crest, emblem or mark
- (i) adopted or used by any of Her Majesty's naval, army or air forces,
 - (ii) of any university or of any fraternal or charitable 40 society, or
 - (iii) adopted and used by any public authority in Canada as an official mark for wares or services, in respect of which the Registrar has, at the request of Her Majesty or of the university, society or public 45 authority as the case may be, given public notice of its adoption and use; or

(o) the name "Royal Canadian Mounted Police" or "R.C.M.P." or any other combination of letters relating to the Royal Canadian Mounted Police, or any pictorial representation of a uniformed member thereof.

Consent to use.

(2) Nothing in this section prevents the use as a trade mark or otherwise, in connection with a business, of any mark described in subsection (1) with the consent of Her Majesty or such other person, society, authority or organization as may be considered to have been intended to be protected by this section. 5
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Further prohibitions.

10. Where any mark has by ordinary and *bona fide* commercial usage become recognized in Canada as designating the kind, quality, quantity, destination, value, place of origin or date of production of any wares or services, no person shall adopt it as a trade mark in association with such wares or services or others of the same general class or use it in a way likely to mislead, nor shall any person so adopt or so use any mark so nearly resembling such mark as to be likely to be mistaken therefor. 15

Idem.

11. No person shall use in connection with a business, as a trade mark or otherwise, any mark adopted contrary to section 9 or 10 of this Act or contrary to section 13 or 14 of *The Unfair Competition Act, 1932* or contrary to section 13 or 14 of the *Unfair Competition Act, chapter 274 of the Revised Statutes of Canada, 1952.* 25

REGISTRABLE TRADE MARKS.

When trade mark registrable.

12. (1) Subject to section 13, a trade mark is registrable if it is not

- (a) a word that is primarily merely the name or the surname of an individual who is living or has died within the preceding thirty years; 30
- (b) whether depicted, written or sounded, either clearly descriptive or deceptively misdescriptive in the English or French languages of the character or quality of the wares or services in association with which it is used or proposed to be used or of the conditions of or the persons employed in their production or of their place of origin; 35
- (c) the name in any language of any of the wares or services in connection with which it is used or proposed to be used; 40
- (d) confusing with a registered trade mark; or
- (e) a mark of which the adoption is prohibited by section 9 or 10.

(3) A trade mark that is not registrable by reason of paragraph (1) or (2) of subsection (1) is registrable if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

idem

13. (1) A distinguishing sign is registrable only if it is a trade mark as defined in section 2 and if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

W. 100
idem
idem
idem

14. (1) The distinctive use by the applicant of such a sign in connection with the sale or service with which it has been used is not likely to be confused with the distinctive use of any other sign in the trade.

15. (1) The distinctive use by the applicant of such a sign in connection with the sale or service with which it has been used is not likely to be confused with the distinctive use of any other sign in the trade.

idem
idem
idem
idem

16. (1) A trade mark is registrable only if it is a trade mark as defined in section 2 and if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

idem
idem
idem
idem

17. (1) A trade mark is registrable only if it is a trade mark as defined in section 2 and if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

Sec. 26, 27

18. (1) A trade mark is registrable only if it is a trade mark as defined in section 2 and if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

idem
idem
idem
idem

19. (1) A trade mark is registrable only if it is a trade mark as defined in section 2 and if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

20. (1) A trade mark is registrable only if it is a trade mark as defined in section 2 and if it has been used in Canada by the applicant or his predecessor in title as to have become distinctive of the goods of which an application for its registration is made.

idem
idem
idem
idem

Idem.

(2) A trade mark that is not registrable by reason of paragraph (a) or (b) of subsection (1) is registrable if it has been so used in Canada by the applicant or his predecessor in title as to have become distinctive at the date of filing an application for its registration.

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When distinguishing
guises
registrable.

13. (1) A distinguishing guise is registrable only if (a) it has been so used in Canada by the applicant or his predecessor in title as to have become distinctive at the date of filing an application for its registration, and

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(b) the exclusive use by the applicant of such distinguishing guise in association with the wares or services with which it has been used is not likely unreasonably to limit the development of any art or industry.

Effect of
registration.

(2) No registration of a distinguishing guise interferes with the use of any utilitarian feature embodied in the distinguishing guise.

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Not to
limit art
or industry.

(3) The registration of a distinguishing guise may be expunged by the Exchequer Court of Canada on the application of any interested person if the Court decides that the registration has become likely unreasonably to limit the development of any art or industry.

20

Registration
of marks
registered
abroad.

14. (1) Notwithstanding section 12, a trade mark that the applicant or his predecessor in title has caused to be duly registered in his country of origin is registrable if, in Canada,

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(a) it is not confusing with a registered trade mark;

(b) it is not without distinctive character, having regard to all the circumstances of the case including the length of time during which it has been used in any country;

(c) it is not contrary to morality or public order or of such a nature as to deceive the public; or

(d) it is not a trade mark of which the adoption is prohibited by section 9 or 10.

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Definition of
marks
registered
abroad.

(2) A trade mark that differs from the trade mark registered in the country of origin only by elements that do not alter its distinctive character or affect its identity in the form under which it is registered in the country of origin shall be regarded for the purpose of subsection (1) as the trade mark so registered.

40

Registration
of confusing
marks.

15. (1) Notwithstanding section 12 or 14, confusing trade marks are registrable if the applicant is the owner of all such trade marks, which shall be known as associated trade marks.

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(2) Upon the registration of any trade mark associated with any other trademark such mark shall be noted on the record of the Registrar and shall be noted on the record of the Registrar of the other trade mark.

(3) The statement of the Registrar regarding any change in the ownership or in the name or address of the owner of any trade mark or of any group of associated trade marks shall be made known to the Registrar as required that the same change has occurred with respect to all the trade marks in such group and corresponding entries are made contemporaneously with respect to all such trade marks.

Provisions Relating to Registration of Trade Marks

28 (1) Any applicant who has filed an application in accordance with section 27 for registration of a trade mark that is registrable and that he or his predecessor in title has used in Canada or goods known in Canada in association with any services is entitled, subject to section 31, to secure the registration in respect of such goods or services unless at the date on which he or his predecessor in title first so used or made known in Canada it was contingent with

Sec. 28 (1) (d).

(a) a trade mark that had been previously used in Canada or made known in Canada by any other person or

(b) a trade name that had been previously used in Canada by any other person.

(2) Any applicant who has filed an application in accordance with section 27 for registration of a trade mark that is registrable and that he or his predecessor in title has only used in the country of origin and has used in association with any goods or services in respect of the goods or services in connection with which it is registered in such country and has been used, unless at the date of filing of the application in accordance with section 27 it was contingent with

Sec. 28 (1) (b).

Record.

(2) Upon the registration of any trade mark associated with any other registered trade mark, a note of the registration of each trade mark shall be made on the record of registration of the other trade mark.

Amendment.

(3) No amendment of the register recording any change in the ownership or in the name or address of the owner of any one of a group of associated trade marks shall be made unless the Registrar is satisfied that the same change has occurred with respect to all the trade marks in such group, and corresponding entries are made contemporaneously with respect to all such trade marks. 5
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PERSONS ENTITLED TO REGISTRATION OF TRADE MARKS.

Registration
of marks
used or made
known in
Canada.

16. (1) Any applicant who has filed an application in accordance with section 29 for registration of a trade mark that is registrable and that he or his predecessor in title has used in Canada or made known in Canada in association with wares or services is entitled, subject to section 37, to secure its registration in respect of such wares or services, unless at the date on which he or his predecessor in title first so used it or made it known it was confusing with 15

(a) a trade mark that had been previously used in 20

Canada or made known in Canada by any other person;

(b) a trade mark in respect of which an application for registration had been previously filed in Canada by any other person; or

(c) a trade name that had been previously used in 25
Canada by any other person.

Marks
registered
and used
abroad.

(2) Any applicant who has filed an application in accordance with section 29 for registration of a trade mark that is registrable and that he or his predecessor in title has duly registered in his country of origin and has used in association with wares or services is entitled, subject to section 37, to secure its registration in respect of the wares or services in association with which it is registered in such country and has been used, unless at the date of filing of the application in accordance with section 29 it was confusing with 30
35

(a) a trade mark that had been previously used in Canada or made known in Canada by any other person;

(b) a trade mark in respect of which an application for registration had been previously filed in Canada by any other person; or 40

(c) a trade name that had been previously used in Canada by any other person.

Sec. 41.

Sec. 45.

(3) Any applicant who has filed an application in accordance with section 36 for registration of a proposed trade mark that is identical to or similar to a trade mark registered in the application, unless at the time of the application it was identical with

(4) a trade mark that had been previously used in Canada or elsewhere in Canada by any other person;

(5) a trade mark in respect of which an application for registration had been previously filed in Canada by any other person;

(6) a trade mark that had been previously used in Canada by any other person.

(7) The right of an applicant to secure registration of a trade mark shall not be affected by the previous filing of an application for registration of a similar trade mark to another person, unless the application for registration of the trade mark was made at the date of advertisement of the applicant's application in accordance with section 36.

(8) The right of an applicant to secure registration of a trade mark shall not be affected by the previous use of a similar trade mark or trade name by another person, if such similar trade mark or trade name was advertised at the date of advertisement of the applicant's application in accordance with section 36.

(9) In proceedings commenced after the expiry of five years from the date of registration of a trade mark or from the date of the coming into force of this Act, whichever is the later, no registration shall be refused or annulled on the ground of the previous use of a similar

trade mark or trade name, or of the previous use of a similar trade name or trade mark, if such similar trade mark or trade name was advertised at the date of advertisement of the applicant's application in accordance with section 36.

(10) In proceedings commenced after the expiry of five years from the date of registration of a trade mark or from the date of the coming into force of this Act, whichever is the later, no registration shall be refused or annulled on the ground of the previous use of a similar

trade mark or trade name, or of the previous use of a similar trade name or trade mark, if such similar trade mark or trade name was advertised at the date of advertisement of the applicant's application in accordance with section 36.

(11) No application for registration of a trade mark that has been advertised in accordance with section 36 shall be refused and no registration of a trade mark shall be annulled or annulled or held invalid on the ground of

the previous use of a similar trade name or trade mark by a person other than the applicant for such registration or his predecessor in title, the holder of such other person or his successor in title, and the person has on such other person or his successor in title, or has had not advertised with containing

trade mark or trade name at the date of advertisement of the applicant's application.

(12) In proceedings commenced after the expiry of five years from the date of registration of a trade mark or from the date of the coming into force of this Act, whichever is the later, no registration shall be refused or annulled on the ground of the previous use of a similar

trade mark or trade name, or of the previous use of a similar trade name or trade mark, if such similar trade mark or trade name was advertised at the date of advertisement of the applicant's application in accordance with section 36.

(13) In proceedings commenced after the expiry of five years from the date of registration of a trade mark or from the date of the coming into force of this Act, whichever is the later, no registration shall be refused or annulled on the ground of the previous use of a similar

Section 41

Section 45

Section 45

Section 45

Section 45

Proposed
marks.

(3) Any applicant who has filed an application in accordance with section 29 for registration of a proposed trade mark that is registrable is entitled, subject to sections 37 and 39, to secure its registration in respect of the wares or services specified in the application, unless at the date of filing of the application it was confusing with 5

(a) a trade mark that had been previously used in Canada or made known in Canada by any other person;

(b) a trade mark in respect of which an application for registration had been previously filed in Canada by any other person; or 10

(c) a trade name that had been previously used in Canada by any other person.

Where
application
for confusing
mark pending.

(4) The right of an applicant to secure registration of a registrable trade mark is not affected by the previous filing of an application for registration of a confusing trade mark by another person, unless the application for registration of the confusing trade mark was pending at the date of advertisement of the applicant's application in accordance with section 36. 20

Previous use
or making
known of
confusing
mark.

(5) The right of an applicant to secure registration of a registrable trade mark is not affected by the previous use or making known of a confusing trade mark or trade name by another person, if such confusing trade mark or trade name was abandoned at the date of advertisement of the applicant's application in accordance with section 36. 25

VALIDITY AND EFFECT OF REGISTRATION.

Effect of
registration
in relation to
previous
use, etc. of
confusing
marks.

17. (1) No application for registration of a trade mark that has been advertised in accordance with section 36 shall be refused and no registration of a trade mark shall be expunged or amended or held invalid on the ground of any previous use or making known of a confusing trade mark or trade name by a person other than the applicant for such registration or his predecessor in title, except at the instance of such other person or his successor in title, and the burden lies on such other person or his successor to establish that he had not abandoned such confusing trade mark or trade name at the date of advertisement of the applicant's application. 30 35

When
registration
incontestable.

(2) In proceedings commenced after the expiry of five years from the date of registration of a trade mark or from the date of the coming into force of this Act, whichever is the later, no registration shall be expunged or amended or held invalid on the ground of the previous use or making 40

Sec. 41.

known referred to in subsection (1), unless it is established that the person who applied the registered trade mark in Canada did so with knowledge of such previous use or making known.

15 20. (1) Subject to section 17, the registration of a trade mark is invalid if

(a) the trade mark was not registered at the date of registration;

(b) the applicant for registration was not the person entitled to secure the registration;

(c) the trade mark is not distinctive at the time proposed- ing bringing the validity of the registration into question are concerned; or

(d) the trade mark has been abandoned.

20 21. (2) No registration of a trade mark that had been so used in Canada by the registrant or his predecessor in title as to have become generally distinctive at the date of registration shall be held invalid merely on the ground that evidence of such distinctiveness was not submitted to the competent authority or tribunal before the grant of such registration.

25 22. Subject to sections 21, 23 and 24, the registration of a trade mark in respect of any wares or services, unless shown to be invalid, gives to the owner the exclusive right to the use throughout Canada of such trade mark in respect of such wares or services.

30 23. The right of the owner of a registered trade mark to the exclusive use shall be deemed to be infringed by a person not entitled to its use under this Act who sells, distributes or advertises wares or services in association with a confusing trade mark or trade name, but no registration of a trade mark prevents a person from making

(a) any bona fide use of his personal name as a trade name or

(b) any bona fide use, other than as a trade mark, (1) of the geographical name of his place of business,

(2) of any accurate description of the character or quality of his wares or services, in such a manner as is not likely to have the effect of depriving the value of the goodwill attaching to the trade mark.

35 24. (1) Where, in any proceedings respecting a registered trade mark in which the registration is entitled to the protection of subsection (2) of section 17, it is made to appear to the Federal Court of Canada that one of the parties to the proceedings other than the registered owner of the

known referred to in subsection (1), unless it is established that the person who adopted the registered trade mark in Canada did so with knowledge of such previous use or making known.

When registration invalid.

18. (1) Subject to section 17, the registration of a trade mark is invalid if 5

(a) the trade mark was not registrable at the date of registration;

(b) the applicant for registration was not the person entitled to secure the registration; 10

(c) the trade mark is not distinctive at the time proceedings bringing the validity of the registration into question are commenced; or

(d) the trade mark has been abandoned.

Exception.

(2) No registration of a trade mark that had been so used in Canada by the registrant or his predecessor in title as to have become generally distinctive at the date of registration shall be held invalid merely on the ground that evidence of such distinctiveness was not submitted to the competent authority or tribunal before the grant of such registration. 15 20

Rights conferred by registration.

19. Subject to sections 21, 31 and 65, the registration of a trade mark in respect of any wares or services, unless shown to be invalid, gives to the owner the exclusive right to the use throughout Canada of such trade mark in respect of such wares or services. 25

Infringement

20. The right of the owner of a registered trade mark to its exclusive use shall be deemed to be infringed by a person not entitled to its use under this Act who sells, distributes or advertises wares or services in association with a confusing trade mark or trade name, but no registration of a trade mark prevents a person from making 30

(a) any *bona fide* use of his personal name as a trade name, or

(b) any *bona fide* use, other than as a trade mark, 35

(i) of the geographical name of his place of business, or

(ii) of any accurate description of the character or quality of his wares or services,

in such a manner as is not likely to have the effect of depreciating the value of the goodwill attaching to the trade mark. 40

Concurrent use of confusing marks.

21. (1) Where, in any proceedings respecting a registered trade mark of which the registration is entitled to the protection of subsection (2) of section 17, it is made to appear to the Exchequer Court of Canada that one of the parties to the proceedings, other than the registered owner of the 45

trade mark, had in good faith used a confusing trade mark or trade name in Canada before the date of filing of the application for such registration, and the Court considers that it is not contrary to the public interest that the continued use of the confusing trade mark or trade name should be permitted in a defined territorial area concurrently with the use of the registered trade mark, it may, subject to such terms as it deems just, order that such other party may continue to use the confusing trade mark or trade name within such area with an adequate specified distinction from the registered trade mark. 5 10

Registration of order.

(2) The rights conferred by an order made under subsection (1) take effect only if, within three months from its date, such other party makes application to the Registrar to enter it on the register in connection with the registration of the registered trade mark. 15

Depreciation of goodwill.

22. (1) No person shall use a trade mark registered by another person in a manner likely to have the effect of depreciating the value of the goodwill attaching thereto.

Action in respect thereof.

(2) In any action in respect of a use contrary to subsection (1), the court may decline to order the recovery of damages or profits and may permit the defendant to continue to sell wares marked with such trade mark that were in his possession or under his control at the time notice was given to him that the owner of the registered trade mark complained of such use. 20 25

CERTIFICATION MARKS.

Registration of certification marks.

23. (1) A certification mark may be adopted and registered only by a person who is not engaged in the manufacture, sale, leasing or hiring of wares or the performance of services such as those in association with which the certification mark is used. 30

Licence.

(2) The owner of a certification mark may license others to use the mark in association with wares or services that meet the defined standard, and the use of the mark accordingly shall be deemed to be use thereof by the owner. 35

Unauthorized use.

(3) The owner of a registered certification mark may prevent its use by unlicensed persons or in association with any wares or services in respect of which such mark is registered but to which the licence does not extend.

Action by unincorporated body.

(4) Where the owner of a registered certification mark is an unincorporated body, any action or proceeding to prevent unauthorized use of such mark may be brought by any member of such body on behalf of himself and all other members thereof. 40

24. With the consent of the owner of a trademark...
 25. A trademark mark describing of the place of...
 26. (1) This shall be kept under the supervision of the...
 (2) The register shall show with reference to each...
 (3) The register shall be subject to subsection (2) of...

Registration
 of
 marks

Registration
 of
 marks

REGISTER OF TRADE MARKS

27. (1) This shall be kept under the supervision of the...
 (2) The register shall show with reference to each...
 (3) The register shall be subject to subsection (2) of...
 (4) The register shall be subject to subsection (2) of...
 (5) The register shall be subject to subsection (2) of...
 (6) The register shall be subject to subsection (2) of...
 (7) The register shall be subject to subsection (2) of...
 (8) The register shall be subject to subsection (2) of...
 (9) The register shall be subject to subsection (2) of...
 (10) The register shall be subject to subsection (2) of...

Register

Register

Register
 of
 marks

Sec. 12.

Registration
of trade
mark
confusing
with
certification
mark.

24. With the consent of the owner of a certification mark, a trade mark confusing with the certification mark may, if it exhibits an appropriate difference, be registered by some other person to indicate that the wares or services in association with which it is used have been manufactured, sold, leased, hired or performed by him as one of the persons entitled to use the certification mark, but the registration thereof shall be expunged by the Registrar on the withdrawal at any time of the consent of the owner of the certification mark, or upon the cancellation of the registration of the certification mark.

Descriptive
certification
mark.

25. A certification mark descriptive of the place of origin of wares or services, and not confusing with any registered trade mark, is registrable if the applicant is the administrative authority of a country, state, province or municipality including or forming part of the area indicated by the mark, or is a commercial association having an office or representative in such area; but the owner of any mark registered under this section shall permit the use of the mark in association with any wares or services produced or performed in the area of which the mark is descriptive.

REGISTER OF TRADE MARKS.

Register.

26. (1) There shall be kept under the supervision of the Registrar a register of trade marks and of transfers, disclaimers, amendments, judgments and orders relating to, and of registered users of, each registered trade mark.

Information
to be shown.

(2) The register shall show, with reference to each registered trade mark, the following:

- (a) the date of registration;
- (b) a summary of the application for registration;
- (c) a summary of all documents deposited with such application or subsequently thereto and affecting the rights to such trade mark;
- (d) particulars of each renewal;
- (e) particulars of each change of name and address; and
- (f) such other particulars as this Act or the regulations require to be entered thereon.

Register
under
*Unfair
Competition
Act.*

(3) The register kept under *The Unfair Competition Act, 1932*, or the *Unfair Competition Act, chapter 274 of the Revised Statutes of Canada, 1952*, forms part of the register kept under this Act and, subject to subsection (2) of section 43, no entry made therein, if properly made according to the law in force at the time it was made, is subject to be expunged or amended only because it might not properly have been made pursuant to this Act.

Sec. 28 (1) (c).

Sec. 28 (1) (a).

Sec. 22.

Sec. 23.

Trade marks
Registered
Under the
Trade Marks
Act

1844

1845

Trade marks
registered
under *Unfair
Competition
Act*.

(4) Trade marks on the register at the date of the coming into force of *The Unfair Competition Act, 1932*, shall be treated as word marks or as design marks as defined in that Act according to the following rules:

- (a) any trade mark consisting only of words or numerals 5
or both without any indication of a special form or
appearance shall be deemed to be a word mark;
- (b) any other trade mark consisting only of words or
numerals or both shall be deemed to be a word mark
if at the date of its registration the words or numerals 10
or both would have been registrable independently
of any defined special form or appearance and shall
also be deemed to be a design mark for reading matter
presenting the special form or appearance defined;
- (c) any trade mark including words or numerals or both 15
in combination with other features shall be deemed
 - (i) to be a design mark having the features described
in the application therefor but without any
meaning being attributed to the words or numerals,
 - (ii) to constitute a word mark if and so far as it 20
would at the date of registration have been
registrable independently of any defined form or
appearance and without being combined with any
other feature; and
- (d) any other trade mark shall be deemed to be a design 25
mark having the features described in the application
therefor.

Idem.

(5) Trade marks registered under *The Unfair Competition Act, 1932*, or the *Unfair Competition Act*, chapter 274 of the Revised Statutes of Canada, 1952, shall, in accordance with 30
their registration, continue to be treated as word marks or
design marks as defined in that Act.

Indexes

27. There shall be kept under the supervision of the Registrar,

- (a) an index of registered trade marks; 35
- (b) an index of trade marks in respect of which applica-
tions for registration are pending;
- (c) an index of applications that have been abandoned
or refused;
- (d) an index of the names of owners of registered trade 40
marks;
- (e) an index of the names of applicants for the regis-
tration of trade marks; and
- (f) an index of the names of registered users.

Registrar
of
Patents

25. Subject to subsection (6) of section 43, the Registrar shall issue a certificate of registration for a trade mark if the Registrar is satisfied that the applicant has established that the mark is distinctive of the goods or services in relation to which it is used, and that the mark is not prohibited by section 44. The Registrar shall, upon request and payment of the fee prescribed in section 42, issue a copy certified by him of any entry in the register or index, or of any such document or application.

APPLICATIONS FOR REGISTRATION OF TRADE MARKS

Registrar
of
Patents

26. An applicant for the registration of a trade mark shall file with the Registrar an application containing (a) a statement in ordinary commercial terms of the goods or services in association with which the mark has been or is proposed to be used; (b) in the case of a trade mark that has been used in Canada, the date from which the applicant or his predecessor has used the mark in association with each of the general classes of goods or services described in the application; (c) in the case of a trade mark that has not been used in Canada but is known in Canada, the names of the countries of the Union in which it has been used by the applicant or his named predecessors in title, if any, and the date from and the manner in which the applicant or such predecessors have made it known in Canada in association with each of the general classes of goods or services described in the application; (d) in the case of a trade mark that is the subject of an application for registration by the applicant or his predecessor in title in another country of the Union, the date on which the applicant or his predecessor in title obtained the right to registration in that country and if the trade mark has been used in that country, the date from which it has been used in that country in association with each of the general classes of goods or services described in the application; (e) in the case of a proposed trade mark where the applicant is not accompanied by an application for registration in a foreign country, a statement that the applicant intends to use such trade mark in that country.

Sec. 36.

27. In the case of a trade mark, the Registrar shall issue a certificate of registration for a trade mark if the Registrar is satisfied that the applicant has established that the mark is distinctive of the goods or services in relation to which it is used, and that the mark is not prohibited by section 44. The Registrar shall, upon request and payment of the fee prescribed in section 42, issue a copy certified by him of any entry in the register or index, or of any such document or application.

Register open
to inspection.

28. Subject to subsection (6) of section 49, the register, the documents upon which the entries therein are based, all applications, including those abandoned, and the indexes shall be open to public inspection during business hours and the Registrar shall, upon request and payment of the fee prescribed therefor, furnish a copy certified by him of any entry in the register or indexes, or of any such document or application. 5

APPLICATIONS FOR REGISTRATION OF TRADE MARKS.

Contents of
application.

29. An applicant for the registration of a trade mark shall file with the Registrar an application containing 10

(a) a statement in ordinary commercial terms of the specific wares or services in association with which the mark has been or is proposed to be used;

(b) in the case of a trade mark that has been used in Canada, the date from which the applicant or his named predecessors in title, if any, have so used the trade mark in association with each of the general classes of wares or services described in the application; 15

(c) in the case of a trade mark that has not been used in Canada but is made known in Canada, the names of the countries of the Union in which it has been used by the applicant or his named predecessors in title, if any, and the date from and the manner in which the applicant or such predecessors have made it known in Canada in association with each of the general classes of wares or services described in the application; 20 25

(d) in the case of a trade mark that is the subject in another country of the Union of a registration or an application for registration by the applicant or his predecessor in title on which the applicant bases his right to registration, particulars of such application or registration and, if the trade mark has neither been used in Canada nor made known in Canada, the name of a country in which the trade mark has been used by the applicant or his named predecessor in title, if any, in association with each of the general classes of wares or services described in the application; 30 35

(e) in the case of a proposed trade mark, where the application is not accompanied by an application for registration of a person as a registered user, a statement that the applicant intends to use such trade mark in Canada; 40

(f) in the case of a certification mark, particulars of the defined standard that the use of the mark is intended to indicate and a statement that the applicant is not engaged in the manufacture, sale, leasing or hiring of 45

Sec. 25.

ways or the preparation of services... association with which the condition mark is used; (b) the address of the applicant's principal office or place of business in Canada, if any, and if the applicant has no office or place of business in Canada, the address of his principal office or place of business abroad and the name and address in Canada of some person or firm to whom any notice in respect of the registration or registration may be sent, and upon whom service of any proceedings in respect of the registration or registration may be given or served with the same effect as if they had been given to or served upon the applicant or registrant himself.

Sec. 30.

(1) unless the application is for the registration only of a word or words not included in a special list, a drawing of the trade mark and such number of accurate reproductions of the trade mark as may be prescribed, and (2) a statement that the applicant is satisfied that he is entitled to use the trade mark in Canada in association with the wares or services described in the application.

(1) An applicant who claims the right to registration of a trade mark is deemed to be a registrant of such trade mark in Canada from the date of the filing of the application in accordance with section 24, unless a copy of such registration certificate is filed in which it was made, together with a translation thereof into English or French, if it is in any other language, and such other evidence as the Registrar may require fully to establish his right to registration under this Act.

Sec. 32.

(1) An applicant whose trade mark has been registered in his country of origin and who claims that such mark is registered under paragraph (1) of section 24 shall furnish such evidence as the Registrar may require by way of affidavit or statutory declaration establishing the circumstances on which he relies, including the length of time during which the trade mark has been used in any country.

(1) An applicant who claims that his trade mark is registered under subsection (2) of section 24 or under section 25 shall furnish the Registrar with evidence by way of affidavit or statutory declaration establishing the extent to which and the time during which the trade mark has been used in Canada and with any other evidence that the Registrar may require in support of such claim.

(2) The Registrar shall, having regard to the evidence adduced, restrict the registration to the wares or services in association with which the trade mark is shown to have

1900-1901
1902-1903
1904-1905

1906-1907
1908-1909
1910-1911

1912-1913
1914-1915
1916-1917

1918-1919
1920-1921
1922-1923

- wares or the performance of services such as those in association with which the certification mark is used;
- (g) the address of the applicant's principal office or place of business in Canada, if any, and if the applicant has no office or place of business in Canada, the address of his principal office or place of business abroad and the name and address in Canada of some person or firm to whom any notice in respect of the application or registration may be sent, and upon whom service of any proceedings in respect of the application or registration may be given or served with the same effect as if they had been given to or served upon the applicant or registrant himself;
- (h) unless the application is for the registration only of a word or words not depicted in a special form, a drawing of the trade mark and such number of accurate representations of the trade mark as may be prescribed; and
- (i) a statement that the applicant is satisfied that he is entitled to use the trade mark in Canada in association with the wares or services described in the application.

Applications based on registration abroad.

30. (1) An applicant whose right to registration of a trade mark is based on a registration of such trade mark in another country of the Union shall, before the date of advertisement of his application in accordance with section 36, furnish a copy of such registration certified by the office in which it was made, together with a translation thereof into English or French if it is in any other language, and such other evidence as the Registrar may require fully to establish his right to registration under this Act.

Evidence required in certain cases.

(2) An applicant whose trade mark has been duly registered in his country of origin and who claims that such trade mark is registrable under paragraph (b) of subsection (1) of section 14, shall furnish such evidence as the Registrar may require by way of affidavit or statutory declaration establishing the circumstances on which he relies, including the length of time during which the trade mark has been used in any country.

Further information in certain cases.

31. (1) An applicant who claims that his trade mark is registrable under subsection (2) of section 12 or under section 13 shall furnish the Registrar with evidence by way of affidavit or statutory declaration establishing the extent to which and the time during which the trade mark has been used in Canada and with any other evidence that the Registrar may require in support of such claim.

Registration to be restricted.

(2) The Registrar shall, having regard to the evidence adduced, restrict the registration to the wares or services in association with which the trade mark is shown to have

Sec 30 (3).

30 Every trade mark or commercial association shall be deemed to have become distinctive if the registration of a trade mark may be refused to it on the ground that its existence is not contrary to the laws of the country in which its registration is made.

31 When an application for the registration of a trade mark has been made in any country of the Union other than Canada and an application is subsequently made in Canada for the registration for use in association with the same kind of wares or services of the same or substantially the same trade mark by the same applicant or his successor in title, the date of filing of the application in the other country is deemed to be the date of filing of the application in Canada, and the applicant is entitled to priority in Canada accordingly notwithstanding any intervening use in Canada or marking known in Canada or any intervening application or registration in Canada.

Sec. 31.

32 (1) The applicant in Canada, including or accompanying by a declaration setting out the date upon which and the country of the Union in which the earliest application was filed for the registration of the same or substantially the same trade mark for use in association with the same kind of wares or services, is deemed to have filed his application in Canada within six months from that date.

Sec. 32.

(2) The applicant or, if the applicant is a transferee, his predecessor in title by whom any earlier application was filed in any country of the Union, was at the date of such application a citizen or national of or domiciled in such country or had therein a real and effective industrial or commercial establishment, and the applicant within three months after filing the application in Canada, furnished a copy of every prior application relied upon, certified by the office in which it was filed, together with a certificate by such office of the date upon which it was filed therein, translations of those documents into English or French, if they are in any other language, and subsequently furnished as required by the Registrar any other evidence necessary to establish his right to priority.

been so used as to have become distinctive and to the defined territorial area in Canada in which the trade mark is shown thus to have become distinctive.

Applications
by trade
unions, etc.

32. Every trade union or commercial association applying for the registration of a trade mark may be required to furnish satisfactory evidence that its existence is not contrary to the laws of the country in which its headquarters are situate. 5

Date of
application
abroad
deemed date
of application
in Canada.

33. When an application for the registration of a trade mark has been made in any country of the Union other than Canada, and an application is subsequently made in Canada for the registration for use in association with the same kind of wares or services of the same or substantially the same trade mark by the same applicant or his successor in title, the date of filing of the application in the other country is deemed to be the date of filing of the application in Canada, and the applicant is entitled to priority in Canada accordingly notwithstanding any intervening use in Canada or making known in Canada or any intervening application or registration, if 10 15 20

(a) the application in Canada, including or accompanied by a declaration setting out the date upon which and the country of the Union in which the earliest application was filed for the registration of the same or substantially the same trade mark for use in association with the same kind of wares or services, is filed within six months from that date, 25

(b) the applicant or, if the applicant is a transferee, his predecessor in title by whom any earlier application was filed in any country of the Union, was at the date of such application a citizen or national of or domiciled in such country or had therein a real and effective industrial or commercial establishment, and 30

(c) the applicant, within three months after filing the application in Canada, furnishes a copy of every prior application relied upon, certified by the office in which it was filed, together with a certificate by such office of the date upon which it was filed therein, translations of these documents into English or French, if they are in any other language, and subsequently furnishes as required by the Registrar any other evidence necessary fully to establish his right to priority. 35 40

24. The Registrar may require the applicant for registration of a trade mark to disclaim the right to the exclusive use apart from the trade mark of such portion of the mark as is not independently registrable, and if the applicant does not acquiesce or allow the applicant's rights then existing or to be acquired to be so disclaimed, the Registrar may, if he is satisfied that the applicant's right to registration on a subsequent application if the disclaimed matter has been become distinctive of the applicant's trade or services.

Sec. 34.

25. Where in the opinion of the Registrar an applicant is in default in the presentation of an application filed under this Act or any Act relating to trade marks to be so put to the court and in force of this Act the Registrar may, after giving notice to the applicant of such default, treat the application as abandoned unless the default is remedied within the time specified in the notice.

Sec. 40

26. (1) The Registrar shall refuse an application for the registration of a trade mark if he is satisfied that—
(a) the application does not comply with the requirements of section 23;
(b) the trade mark is not registrable; or
(c) the applicant is not the person entitled to registration of the trade mark because it is confusing with another trade mark for the registration of which an application is pending.

and where the Registrar is not so satisfied, he shall cause the application to be advertised in the manner prescribed.

(2) The Registrar shall not refuse any application without first notifying the applicant of the objections thereto and 30 his reasons for such objections, and giving the applicant a reasonable opportunity to answer such objections.

(3) Where the Registrar, by reason of a registered trade mark, is in doubt whether the trade mark claimed in the application is registrable, he shall, by registered letter, 32 give the owner of the registered trade mark of the advertisement of the application.

27. (1) Within one month from the advertisement of an application, any person may, upon payment of the prescribed fee, file a statement of opposition with the Registrar.

(2) Such opposition may be based on any of the following grounds:

(a) that the application does not comply with the requirements of section 23;

Registrar

Applicant

Registrar
Applicant

Registrar

Registrar

Registrar

Registrar

Disclaimer.

34. The Registrar may require the applicant for registration of a trade mark to disclaim the right to the exclusive use apart from the trade mark of such portion of the trade mark as is not independently registrable, but such disclaimer does not prejudice or affect the applicant's rights then existing or thereafter arising in the disclaimed matter, nor does such disclaimer prejudice or affect the applicant's right to registration on a subsequent application if the disclaimed matter has then become distinctive of the applicant's wares or services. 5
10

Abandonment.

35. Where, in the opinion of the Registrar, an applicant is in default in the prosecution of an application filed under this Act or any Act relating to trade marks in force prior to the coming into force of this Act, the Registrar may, after giving notice to the applicant of such default, treat the application as abandoned unless the default is remedied within the time specified in the notice. 15

When applications to be refused.

36. (1) The Registrar shall refuse an application for the registration of a trade mark if he is satisfied that
(a) the application does not comply with the requirements of section 29; 20
(b) the trade mark is not registrable; or
(c) the applicant is not the person entitled to registration of the trade mark because it is confusing with another trade mark for the registration of which an application is pending, 25

and where the Registrar is not so satisfied, he shall cause the application to be advertised in the manner prescribed.

Notice to applicant.

(2) The Registrar shall not refuse any application without first notifying the applicant of his objections thereto and his reasons for such objections, and giving the applicant adequate opportunity to answer such objections. 30

Doubtful cases.

(3) Where the Registrar, by reason of a registered trade mark, is in doubt whether the trade mark claimed in the application is registrable, he shall, by registered letter, notify the owner of the registered trade mark of the advertisement of the application. 35

Statement of opposition.

37. (1) Within one month from the advertisement of an application, any person may, upon payment of the prescribed fee, file a statement of opposition with the Registrar. 40

Grounds.

(2) Such opposition may be based on any of the following grounds:

(a) that the application does not comply with the requirements of section 29; 45

(b) that the trade mark is not registrable;
(c) that the applicant is not the person entitled to register

(d) that the trade mark is not distinctive;
(e) that the trade mark shall set out

(f) the grounds of opposition in sufficient detail to enable the applicant to reply thereon and

(g) the address of the opponent's principal office or place of business in Canada, if any, and if the opponent has

no office or place of business in Canada, the address of the principal office or place of business abroad and

the name and address in Canada of some person or firm upon whom notice of any document in respect of

the opposition may be made with the same effect as if it had been served upon the opponent himself.

10 If the Registrar considers that the opposition does not raise a substantial issue for decision, he shall reject it and shall give notice of his decision to the opponent.

15 (2) If the Registrar considers that the opposition raises a substantial issue for decision, he shall forward a copy of the statement of opposition to the applicant.

Sec. 39

(3) Within the period prescribed in a notice of opposition he has been forwarded to him, the applicant may file a counter-statement with the Registrar and serve a copy upon the opponent in the manner prescribed, and if 20

he does not file and serve a counter-statement within the prescribed time he shall be deemed to have abandoned his opposition.

(4) Both the applicant and the opponent shall be given an opportunity, in the manner prescribed, to submit the 25 evidence upon which they rely and to be heard by the Registrar if they so desire.

(5) After hearing the parties and considering the evidence, the Registrar shall refuse the application or reject the opposition and notify the parties of his decision 30 and his reasons therefor.

(6) When an application has not been opposed and the time for the filing of a statement of opposition has expired, it has been opposed and the opposition has been 35 decided finally in favour of the applicant, the Registrar shall forward a notice to the applicant and the opponent that the opposition has been allowed.

(7) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(8) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(9) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(10) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(11) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(12) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(13) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(14) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

(15) The Registrar shall not extend the time for filing a statement of opposition with respect to any application that has been allowed.

- (b) that the trade mark is not registrable;
 (c) that the applicant is not the person entitled to registration; or
 (d) that the trade mark is not distinctive.
- Content. (3) The statement of opposition shall set out, 5
 (a) the grounds of opposition in sufficient detail to enable the applicant to reply thereto; and
 (b) the address of the opponent's principal office or place of business in Canada, if any, and if the opponent has no office or place of business in Canada, the address 10
 of his principal office or place of business abroad and the name and address in Canada of some person or firm upon whom service of any document in respect of the opposition may be made with the same effect as if it had been served upon the opponent himself. 15
- Frivolous. (4) If the Registrar considers that the opposition does not opposition. raise a substantial issue for decision, he shall reject it and shall give notice of his decision to the opponent.
- Substantial (5) If the Registrar considers that the opposition raises issue. a substantial issue for decision, he shall forward a copy 20
 of the statement of opposition to the applicant.
- Counter (6) Within the prescribed time after a statement of statement. opposition has been forwarded to him, the applicant may file a counter statement with the Registrar and serve a copy upon the opponent in the manner prescribed, and if 25
 he does not file and serve a counter statement within the prescribed time he shall be deemed to have abandoned his application.
- Evidence (7) Both the opponent and the applicant shall be given and hearing. an opportunity, in the manner prescribed, to submit the 30
 evidence upon which they rely and to be heard by the Registrar if they so desire.
- Decision. (8) After hearing the parties, if so required, and considering the evidence, the Registrar shall refuse the application or reject the opposition and notify the parties of his decision 35
 and his reasons therefor.
- When (38. (1) When an application either has not been opposed application to be allowed. and the time for the filing of a statement of opposition has expired or it has been opposed and the opposition has been decided finally in favour of the applicant, the Registrar 40
 thereupon shall allow it.
- No extension (2) The Registrar shall not extend the time for filing of time for opposition. a statement of opposition with respect to any application that has been allowed.

REGISTRATION OF TRADE MARKS

29. (1) When an application for registration of a trade mark other than a proposed trade mark is allowed the Registrar shall thereupon register the trade mark and issue a certificate of its registration.

(2) When an application for registration of a proposed trade mark is allowed, the Registrar shall give notice to the applicant accordingly, and shall register the trade mark and issue a certificate of its registration upon receipt of a declaration that the applicant, his successor in title or a person approved as a registered user under subsection (7) of section 40 has commenced the use of the trade mark in Canada in association with the wares or services specified in the application.

(3) If the applicant for registration of a proposed trade mark fails to file the declaration referred to in subsection (2) within six months after the notice by the Registrar referred to in subsection (2), his application shall be deemed to be abandoned.

(4) Registration of a trade mark shall be made in the name of the applicant or his transferee; the day on which registration is made shall be entered on the register, and the registration takes effect on that day.

AMENDMENT OF THE REGISTER

30. (1) The Registrar may, on application by the registered owner of a trade mark made in the prescribed manner, make any of the following amendments to the register:

(a) correct any error or enter any change in the name, address or description of the registered owner or of his representative for service in Canada;

(b) amend the registration of the trade mark in respect of which the statement of the wares or services in

(c) amend the partition of the defined standard that the use of a certification mark is intended to indicate;

(d) enter a disclaimer that does not in any way extend the rights given by the existing registration of the trade mark.

(2) No amendment provided for in paragraph (a) of subsection (1) other than deletion shall be made in the register unless the Registrar is satisfied that such amendment is justified by the fact that no bona fide user of the trade mark and that it will not prejudice the rights of the person appearing to be the owner of any registered trade mark at the date of advertisement of the application for the amendment.

Registration of trade marks.

Proposed trade mark.

Abandonment of application.

Trade mark.

Amendment of register.

Disclaimer.

REGISTRATION OF TRADE MARKS

Registration
of trade
marks.

39. (1) When an application for registration of a trade mark other than a proposed trade mark is allowed the Registrar shall thereupon register the trade mark and issue a certificate of its registration.

Proposed
trade mark.

(2) When an application for registration of a proposed trade mark is allowed, the Registrar shall give notice to the applicant accordingly and shall register the trade mark and issue a certificate of its registration upon receipt of a declaration that the applicant, his successor in title or a person approved as a registered user under subsection (7) of section 49 has commenced the use of the trade mark in Canada in association with the wares or services specified in the application. 5

Abandon-
ment of
application.

(3) If the applicant for registration of a proposed trade mark fails to file the declaration referred to in subsection (2) within six months after the notice by the Registrar referred to in subsection (2), his application shall be deemed to be abandoned. 15

Form and
effect.

(4) Registration of a trade mark shall be made in the name of the applicant or his transferee; the day on which registration is made shall be entered on the register, and the registration takes effect on that day. 20

AMENDMENT OF THE REGISTER.

Amendments
to register.

40. (1) The Registrar may, on application by the registered owner of a trade mark made in the prescribed manner, make any of the following amendments to the register: 25

- (a) correct any error or enter any change in the name, address or description of the registered owner or of his representative for service in Canada;
- (b) cancel the registration of the trade mark; 30
- (c) amend the statement of the wares or services in respect of which the trade mark is registered;
- (d) amend the particulars of the defined standard that the use of a certification mark is intended to indicate; or 35
- (e) enter a disclaimer that does not in any way extend the rights given by the existing registration of the trade mark.

Conditions.

(2) No amendment provided for in paragraph (c) of subsection (1) other than deletion shall be made in the register unless the Registrar considers that such amendment is justified by the use that has been made of the trade mark and that it will not prejudice the rights of the person appearing to be the owner of any registered trade mark at the date of advertisement of the application for the amend- 45
ment.

(2) Where the Registrar considers that the advertisement is justified as provided in subsection (1) he shall, except in the case of deletion of words or symbols, cause the application to be advertised in the manner prescribed, whether or not the person may, upon payment of the prescribed fee, require the application within the same time limit, upon the same grounds and subject to the same procedure as in the case of applications for registration.

Sec. 39

41. (1) The registered owner of a trade mark who has no office or place of business in Canada shall cause to be recorded another representative for service in place of the last recorded representative or signify a new and correct address of the last recorded representative upon notice from the Registrar that the last recorded representative has died or that a letter addressed to him at the last recorded address has not been returned undelivered.

(2) When after the deletion of the notice by the Registrar, no new nomination is made or no new and correct address is supplied by the registered owner within three months, the Registrar or the Exchequer Court of Canada may dispose of any proceedings under this Act without requiring service on the registered owner of any process therein.

Secs. 42 and 48

42. The registered owner of any trade mark shall cause to be recorded such additional representative as he may deem fit to supply in addition to the representative already recorded, and if he fails to comply with any such notice, the Registrar may, by a further order, at a reasonable time after which, if the representative does not comply, he may expunge the registration of the trade mark.

48. (1) The Registrar may at any time, and shall at the request of any person who pays the prescribed fee, by notice in writing require the registered owner of any trade mark that was on the register at the date on which this Act comes into force, to furnish to him within three months from the date of the notice the information that would be required on an application for the registration of such trade mark made at the date of such notice.

(2) The Registrar may amend the registration in a word- or symbol-mark with the information furnished to him under subsection (1).

Sec. 43

(3) Where the information is not furnished, the Registrar shall, by a further notice fix a reasonable time after which, if the information is not furnished, he may expunge the registration of the trade mark.

Advertisement.

(3) Where the Registrar considers that the amendment is justified as provided in subsection (2) he shall, except in the case of deletion of wares or services, cause the application to be advertised in the manner prescribed, whereupon any person may, upon payment of the prescribed fee, oppose the application within the same time limit, upon the same grounds and subject to the same procedure as in the case of applications for registration. 5

Representative for service.

41. (1) The registered owner of a trade mark who has no office or place of business in Canada shall name another representative for service in place of the last recorded representative or supply a new and correct address of the last recorded representative upon notice from the Registrar that the last recorded representative has died or that a letter addressed to him at the last recorded address and sent by ordinary mail has been returned undelivered. 15

Change of address.

(2) When, after the despatch of the notice by the Registrar, no new nomination is made or no new and correct address is supplied by the registered owner within three months, the Registrar or the Exchequer Court of Canada may dispose of any proceedings under this Act without requiring service on the registered owner of any process therein. 20

Additional representations.

42. The registered owner of any trade mark shall furnish such additional representations thereof as the Registrar may by notice demand and if he fails to comply with any such notice, the Registrar may by a further notice, fix a reasonable time after which, if the representations are not furnished, he may expunge the registration of the trade mark. 25 30

Notice for information.

43. (1) The Registrar may at any time, and shall at the request of any person who pays the prescribed fee, by notice in writing require the registered owner of any trade mark that was on the register at the date on which this Act comes into force, to furnish to him within three months from the date of the notice the information that would be required on an application for the registration of such trade mark made at the date of such notice. 35

Amendments to register.

(2) The Registrar may amend the registration in accordance with the information furnished to him under subsection one. 40

Failure to give information.

(3) Where the information is not furnished, the Registrar shall by a further notice fix a reasonable time after which, if the information is not furnished, he may expunge the registration of the trade mark. 45

Sec. 49

Sec. 30 (c)

Sec. 47

Sec. 23.

RENEWAL OF REGISTRATIONS

15 (1) The registration of a trade mark that gives the
 20 right by virtue of the provisions of this Act is subject
 to renewal within the period specified in this section.

30 (2) If the registration of a trade mark has been on the
 35 register without renewal for the period specified in this
 section less four months, the Registrar shall send a notice
 to the registered owner and his representative for service, if
 any, stating that if within four months from the date of
 such notice the prescribed renewal fee is not paid, the
 registration will be expunged.

Registrar
may remove
evidence of
mark

Form of
evidence

Effect of
evidence

Notice to
owner

Appeal by
Registrar

Renewal

Notice to
owner

Registrar
may request
evidence of
user.

44. (1) At any time after three years from the date of the registration of a trade mark the Registrar may, and at the written request of any person who pays the prescribed fee shall, unless he sees good reason to the contrary, give notice to the registered owner requiring him to furnish within three months an affidavit or statutory declaration showing with respect to each of the wares or services specified in the registration, whether the trade mark is in use in Canada and, if not, the date when it was last so in use and the reason for the absence of such use since such date. 5 10

Form of
evidence.

(2) The Registrar shall not receive any evidence other than such affidavit or statutory declaration, but may hear representations made by or on behalf of the registered owner of the trade mark or by or on behalf of the person at whose request the notice was given. 15

Effect of
non-user.

(3) Where, by reason of the evidence furnished to him or the failure to furnish such evidence, it appears to the Registrar that the trade mark, either with respect to all of the wares or services specified in the registration or with respect to any of such wares or services, is not in use in Canada and that the absence of use has not been due to special circumstances that excuse such absence of use, the registration of such trade mark is liable to be expunged or amended accordingly. 20 25

Notice to
owner.

(4) When the Registrar reaches a decision as to whether or not the registration of the trade mark ought to be expunged or amended, he shall give notice of his decision with the reasons therefor to the registered owner of the trade mark and to the person at whose request the notice was given. 30

Action by
Registrar.

(5) The Registrar shall act in accordance with his decision if no appeal therefrom is taken within the time limited by this Act or, if an appeal is taken, shall act in accordance with the final judgment given in such appeal. 35

RENEWAL OF REGISTRATIONS.

Renewal.

45. (1) The registration of a trade mark that is on the register by virtue of the provisions of this Act is subject to renewal within the period specified in this section.

Notice to
renew.

(2) If the registration of a trade mark has been on the register without renewal for the period specified in this section less four months, the Registrar shall send a notice to the registered owner and his representative for service, if any, stating that if within four months from the date of such notice the prescribed renewal fee is not paid, the registration will be expunged. 40 45

(2) If within the period specified in the notice, which shall not be extended, the prescribed renewal fee is not paid, the Registrar shall expire the registration.

(3) The period referred to in subsections (1) and (2) of this section is as follows:

(a) in the case of any registration made before the 1st day of June, 1957, or of any registration of a general trade mark or union label made under the Trade Mark and Design Act, twenty-two years from the 1st day of December, 1956;

(b) in the case of any registration of a specific trade mark made under the Trade Mark and Design Act, twenty-five years from the day of such registration or from the 1st day of September, 1957, whichever day is the earlier, or from the date of the last renewal thereof effected before the coming into force of this Act;

(c) in the case of any registration made under the Trade Mark and Design Act, 1952, or the United States-Canada Act, Chapter 274 of the Revised Statutes of Canada, 1952, fifteen years from the day of such registration or of the last renewal thereof effected before the coming into force of this Act; or

(d) in the case of any registration made or renewed under this Act, fifteen years from the day of such registration or of the last such renewal.

(4) When the prescribed fee for a renewal is paid within the time limited for the payment thereof, the renewal of any trade mark registration under this section takes effect as of the day next following the expiration of the period specified in subsection (3).

EXTENSION OF TIME

44. (1) If, in any case, the Registrar is satisfied that the circumstances justify an extension of the time fixed by this Act or prescribed by the regulations for the doing of any act, he may, except as in this Act otherwise provided, extend the time either with notice to other persons and upon such terms as he may direct.

(2) An extension application for after the expiry of such time of the time extended by the Registrar under subsection (1) shall not be granted unless the prescribed fee is paid and the Registrar is satisfied that the failure to do the act or apply for the extension within such time or such extended time was not reasonably avoidable.

Sec. 50

Section 44

Section 44

Section 44

Section 44

Section 44

Failure to
renew.

(3) If within the period specified in the notice, which shall not be extended, the prescribed renewal fee is not paid, the Registrar shall expunge the registration.

Periods of
renewal.

(4) The period referred to in subsections (1) and (2) of this section is as follows:

(a) in the case of any registration made before the 1st day of June, 1879, or of any registration of a general trade mark or union label made under the *Trade Mark and Design Act*, twenty-five years from the 1st day of September, 1932;

(b) in the case of any registration of a specific trade mark made under the *Trade Mark and Design Act*, twenty-five years from the day of such registration or from the 1st day of September, 1932, whichever day is the earlier, or from the date of the last renewal thereof effected before the coming into force of this Act;

(c) in the case of any registration made under *The Unfair Competition Act, 1932*, or the *Unfair Competition Act*, chapter 274 of the Revised Statutes of Canada, 1952, fifteen years from the day of such registration or of the last renewal thereof effected before the coming into force of this Act; or

(d) in the case of any registration made or renewed under this Act, fifteen years from the day of such registration or of the last such renewal.

Effective
date of
renewal.

(5) When the prescribed fee for a renewal is paid within the time limited for the payment thereof, the renewal of any trade mark registration under this section takes effect as of the day next following the expiration of the period specified in subsection (4).

EXTENSIONS OF TIME.

Extensions
of time.

46. (1) If, in any case, the Registrar is satisfied that the circumstances justify an extension of the time fixed by this Act or prescribed by the regulations for the doing of any act, he may, except as in this Act otherwise provided, extend the time after such notice to other persons and upon such terms as he may direct.

Conditions.

(2) An extension applied for after the expiry of such time or the time extended by the Registrar under subsection (1) shall not be granted unless the prescribed fee is paid and the Registrar is satisfied that the failure to do the act or apply for the extension within such time or such extended time was not reasonably avoidable.

TRANSFER.

Trade mark transferable.

47. (1) A trade mark, whether registered or unregistered, is transferable, and deemed always to have been transferable, either in connection with or separately from the goodwill of the business and in respect of either all or some of the wares or services in association with which it has been used. 5

Where two or more persons interested.

(2) Nothing in subsection (1) prevents a trade mark from being held not to be distinctive if as a result of a transfer thereof there subsisted rights in two or more persons to the use of confusing trade marks and such rights were exercised by such persons. 10

Registration of transfer.

(3) The Registrar shall register the transfer of any registered trade mark upon being furnished with evidence satisfactory to him of the transfer and the information that would be required by paragraph (g) of section 29 in an application by the transferee to register such trade mark. 15

CHANGE OF PURPOSE IN USE OF MARK.

Change of purpose.

48. If a mark is used by a person as a trade mark for any of the purposes mentioned in paragraph (a) or (t) of section 2, it shall not be held invalid merely on the ground that he or a predecessor in title uses it or has used it for any other of the said purposes. 20

REGISTERED USERS.

Registration as user.

49. (1) A person other than the owner of a registered trade mark may be registered as a registered user thereof for all or any of the wares or services for which it is registered.

"Permitted use" defined.

(2) The use of a registered trade mark by a registered 25 user thereof in accordance with the terms of his registration as such in association with wares or services manufactured, sold, leased, hired or performed by him, or the use of a proposed trade mark as provided in subsection (2) of section 39 by a person approved as a registered user thereof, is in this section referred to as the "permitted use" of the trade mark. 30

Effect of permitted use.

(3) The permitted use of a trade mark has the same effect for all purposes of this Act as a use thereof by the registered owner. 35

Owner may be required to take proceedings.

(4) Subject to any agreement subsisting between the parties, a registered user of a trade mark may call upon the owner thereof to take proceedings for infringement thereof, and, if the owner refuses or neglects to do so within two months after being so called upon the registered 40

Sec. 44

(1) The Registrar may approve a person as a registrant for the purposes of this section if he is satisfied that the person is a person of good character and is capable of performing the duties of a registrant.

(2) When a person has been approved as a registrant for the purposes of this section, the Registrar shall register him as such and shall give notice of the registration to the person concerned.

(3) The registration of a person as a registrant for the purposes of this section may be varied by the Registrar as regards the terms or conditions of the registration or as regards the duties which he is to perform.

(4) The Registrar may, if he is satisfied that it is in the public interest, suspend the registration of a person as a registrant for the purposes of this section.

(5) The Registrar may, if he is satisfied that it is in the public interest, terminate the registration of a person as a registrant for the purposes of this section.

(6) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(7) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(8) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(9) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(10) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(11) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(12) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(13) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(14) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(15) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(16) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(17) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(18) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(19) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

(20) The Registrar shall, if so required by an applicant, take such steps as may be necessary to ensure that the information or evidence furnished for the purposes of this section is correct.

user may institute proceedings for infringement in his own name as if he were the owner, making the owner a defendant; but an owner so added as defendant is not liable for any costs unless he takes part in the proceedings.

Application. (5) Concurrently with or at any time after the filing of 5

an application for the registration of a trade mark, an application for the registration of a person as a registered user of the trade mark may be made to the Registrar in writing by such person and by the owner of the trade mark, and the applicants shall furnish the Registrar in writing with 10

(a) particulars of the relationship, existing or proposed, between them, including particulars of the degree of control by the owner over the permitted use which their relationship will confer;

(b) a statement of the wares or services for which 15 registration is proposed;

(c) particulars of any conditions or restrictions proposed with respect to the characteristics of the wares or services, to the mode or place of permitted use, or to any other matter; 20

(d) information as to the proposed duration of the permitted use; and

(e) such further documents, information or evidence as may be required by the Registrar.

Secrecy. (6) The Registrar shall, if so required by an applicant 25 under subsection (5), take steps to ensure that any document, information or evidence furnished for the purpose of that application, other than matter entered in the register, is not disclosed to any other person except by order of a court. 30

Registration. (7) The Registrar may approve a person as a registered user of the trade mark for any of the proposed wares or services, subject to any conditions or restrictions that he considers proper, if he is satisfied that in all the circumstances the use of the trade mark in association with such 35 wares or services by the proposed registered user would not be contrary to the public interest.

Time of registration. (8) When a person has been approved as a registered user of a trade mark, the Registrar shall register him as such forthwith if the trade mark is registered and, if the 40 trade mark is not registered, then concurrently with its registration, and shall give notice of the registration to any other registered user of the trade mark.

Variation of registration. (9) The registration of a person as a registered user of a trade mark may be varied by the Registrar as regards the 45 wares or services for which, or any conditions or restrictions subject to which, it has effect, on the application in writing of the registered owner of the trade mark and not less than one month after giving notice of such application to such

person and all other registered marks if the Registrar is satisfied that in all the circumstances such extension would not be contrary to the public interest.

(10) The Registrar may, at the request of a person who is a registered owner of a trade mark, extend the period of the Registrar's jurisdiction in writing of the Registrar on his own motion in respect of

any goods or services for which the trade mark is no longer used.

(11) The Registrar may, at the request of a person who is a registered owner of a trade mark, extend the period of the Registrar's jurisdiction in writing of the Registrar on his own motion in respect of

any goods or services for which the trade mark is no longer used.

(12) The Registrar may, at the request of a person who is a registered owner of a trade mark, extend the period of the Registrar's jurisdiction in writing of the Registrar on his own motion in respect of

any goods or services for which the trade mark is no longer used.

(13) The Registrar may, at the request of a person who is a registered owner of a trade mark, extend the period of the Registrar's jurisdiction in writing of the Registrar on his own motion in respect of

any goods or services for which the trade mark is no longer used.

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any goods or services for which the trade mark is no longer used.

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any goods or services for which the trade mark is no longer used.

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any goods or services for which the trade mark is no longer used.

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any goods or services for which the trade mark is no longer used.

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any goods or services for which the trade mark is no longer used.

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any goods or services for which the trade mark is no longer used.

(20) The Registrar may, at the request of a person who is a registered owner of a trade mark, extend the period of the Registrar's jurisdiction in writing of the Registrar on his own motion in respect of

any goods or services for which the trade mark is no longer used.

(21) The Registrar may, at the request of a person who is a registered owner of a trade mark, extend the period of the Registrar's jurisdiction in writing of the Registrar on his own motion in respect of

any goods or services for which the trade mark is no longer used.

Continued

100-1000
100-1000
100-1000

person and all other registered users, if the Registrar is satisfied that in all the circumstances such variation would not be contrary to the public interest.

Cancellation.

(10) The registration of a person as a registered user of a trade mark may be cancelled, 5

(a) by the Registrar on the application in writing of the registered owner or the registered user of the trade mark;

(b) by the Registrar on his own motion in respect of any wares or services for which the trade mark is no longer registered; or 10

(c) by the Exchequer Court of Canada upon the application of any person, of which notice is served upon the registered owner and all registered users, on any of the following grounds: 15

(i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause, or to be likely to cause, deception or confusion,

(ii) that the owner or the registered user misrepresented or failed to disclose some fact that if accurately represented or disclosed would have justified the Registrar in refusing the application for registration of the registered user, 20

(iii) that the circumstances have changed since the date of the registration in such a way that at the date of such application for cancellation they would have justified the Registrar in refusing the application for registration of the registered user, or 25

(iv) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested. 30

No right to assign.

(11) Nothing in this section confers on a registered user of a trade mark any transferable right to the use of such trade mark. 35

(12) The Registrar shall not exercise any discretionary power under this section adversely to a person without giving each person who will be affected by the exercise of the power an opportunity of being heard personally or by his agent. 40

When trade mark not to be held invalid.

50. The use of a trade mark by a licensee before the coming into force of this Act and within one year thereafter shall not be held to invalidate such trade mark if,

(a) the licensing was between related companies; 45

- (b) in any proceeding in the Exchequer Court of Canada, the Court declares that to hold such trade mark valid will not adversely affect any existing right of a party to the proceeding acquired before the coming into force of this Act or be contrary to the public interest; 5
or
- (c) an application to register the licensee as a registered user of the trade mark is made within one year after the date on which this Act comes into force and such licensee is so registered. 10

LEGAL PROCEEDINGS.

Custody of
offending
wares.

51. (1) Where it is made to appear to a court of competent jurisdiction that any registered trade mark or any trade name has been applied to any wares that have been imported into Canada or are about to be distributed in Canada in such a manner that the distribution of such 15 wares would be contrary to this Act, or that any indication of a place of origin has been unlawfully applied to any wares, the court may make an order for the interim custody of the wares.

Security.

(2) Before an order is made under subsection (1), the 20 plaintiff or petitioner shall be required to furnish security, in such amount as the court may fix, to answer any damages that may by reason of the order be sustained by the owner or consignee of the wares and for any amount that may become chargeable against the wares while they remain in custody 25 under the order.

Lien for
charges.

(3) Where, by the judgment in any such action finally determining the legality of the importation or distribution of the wares, their importation or distribution is forbidden, either absolutely or on condition, any lien for charges 30 against them that arose prior to the date of an order made under this section has effect only so far as may be consistent with the due execution of the judgment.

Prohibition
of imports.

(4) Where it is made to appear to a court of competent jurisdiction that any wares or the packages containing 35 them would be deemed to be marked contrary to the provisions of this Act if imported into Canada and that such wares are likely to be imported into Canada, the court may make an order prohibiting the importation of such wares or the future importation of wares of the same 40 kind so marked.

By whom
applications
made.

(5) Any order under subsection (1) or (4) may be made on the application of any person interested either in an action or otherwise and either on notice or *ex parte*.

1904
Act No. 10

15. Where it is made to appear to a court of competent jurisdiction that any act has been done contrary to the provisions of this act, the court may make any such order as the circumstances require including provision for relief by way of injunction and temporary or permanent orders and may do so in relation to the disposition of any other person's property, rights and interests and may do so in relation to any other person's property.

16. The Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

Sec. 16.

17. A copy of any instrument registered in the Registrar's office shall be available for inspection by any person who applies in writing to the Registrar for the same, and the Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

18. A copy of any instrument registered in the Registrar's office shall be available for inspection by any person who applies in writing to the Registrar for the same, and the Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

19. The Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

20. A copy of any instrument registered in the Registrar's office shall be available for inspection by any person who applies in writing to the Registrar for the same, and the Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

21. The Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

22. A copy of any instrument registered in the Registrar's office shall be available for inspection by any person who applies in writing to the Registrar for the same, and the Registrar may, in relation to the registration of any instrument, require the production of any document in relation to the instrument or the registration of any instrument, and may require the production of a copy thereof purporting to be a true and correct copy of the instrument.

1904

Act No. 10

1904

1904
Act No. 10

1904

1904

1904
Act No. 10

Power of
court to
grant relief.

52. Where it is made to appear to a court of competent jurisdiction that any act has been done contrary to the provisions of this Act, the court may make any such order as the circumstances require including provision for relief by way of injunction and the recovery of damages or profits, and may give directions with respect to the disposition of any offending wares, packages, labels and advertising material and of any dies used in connection therewith. 5

Evidence.

53. (1) Evidence of any document in the official custody of the Registrar or of any extract therefrom may be given by the production of a copy thereof purporting to be certified to be true by the Registrar. 10

Idem.

(2) A copy of any entry in the register purporting to be certified to be true by the Registrar is admissible in evidence and is *prima facie* proof of the facts set out therein. 15

Idem.

(3) A copy of the record of the registration of a trade mark purporting to be certified to be true by the Registrar is admissible in evidence and is *prima facie* proof of the facts set out therein and that the person named therein as owner is the registered owner of such trade mark for the purposes and within the territorial area therein defined. 20

(4) A copy of any entry made or documents filed under the authority of any Act relating to trade marks heretofore in force certified under the authority of any such Act is admissible in evidence and has the same probative force as a copy certified by the Registrar under this Act as provided in this section. 25

Jurisdiction
of Exchequer
Court.

54. The Exchequer Court of Canada has jurisdiction to entertain any action or proceeding for the enforcement of any of the provisions of this Act or of any right or remedy conferred or defined thereby. 30

Appeal.

55. (1) An appeal lies to the Exchequer Court of Canada from any decision of the Registrar under this Act within two months from the date upon which notice of the decision was despatched by the Registrar or within such further time as the Court may allow, either before or after the expiry of the two months. 35

Procedure.

(2) The appeal shall be made by way of notice of appeal filed with the Registrar and in the Exchequer Court of Canada. 40

Notice to
owner.

(3) The appellant shall, within the time limited or allowed by subsection (1), send a copy of the notice by registered mail to the registered owner of any trade mark that has been referred to by the Registrar in the decision complained of and to every other person who was entitled to notice of such decision. 45

Sec. 17.

(b) The Court may direct that public notice be given of the appeal and of the matters in dispute in such manner as it deems proper.

Public notice

Public notice

Public notice

Sec. 18.

(1) The Registrar may, on the application of the Registrar or any person interested, to order that any entry in the register be struck out or amended on the ground that the date of such application the entry as it appears on the register does not accurately express or define the existing rights of the person appearing to be the registered owner of the land.

Registrar

Registrar

Sec. 20.

(1) Where an appeal is taken under section 15 by the holder of a mortgage, appeal, or an application is made under section 15 by the holder of an existing mortgage of land, the Registrar shall not be bound to give notice of the appeal or application to the mortgagor or other person who is not a party to the appeal or application.

Registrar

Registrar

Sec. 56.

(1) The Registrar shall not be bound to give notice of the appeal or application to the mortgagor or other person who is not a party to the appeal or application.

Registrar

Registrar

Public
notice.

(4) The Court may direct that public notice of the hearing of the appeal and of the matters at issue therein be given in such manner as it deems proper.

Additional
evidence.

(5) On the appeal evidence in addition to that adduced before the Registrar may be adduced and the Court may 5
exercise any discretion vested in the Registrar.

Exclusive
jurisdiction
of Exchequer
Court.

56. (1) The Exchequer Court of Canada has exclusive original jurisdiction, on the application of the Registrar or of any person interested, to order that any entry in the register be struck out or amended on the ground that at 10
the date of such application the entry as it appears on the register does not accurately express or define the existing rights of the person appearing to be the registered owner of the mark.

Restriction.

(2) No person is entitled to institute under this section 15
any proceeding calling into question any decision given by the Registrar of which such person had express notice and from which he had a right to appeal.

How pro-
ceedings
instituted.

57. An application under section 56 shall be made either by the filing of an originating notice of motion, by 20
counterclaim in an action for the infringement of the trade mark, or by statement of claim in an action claiming additional relief under this Act.

Notice to
set forth
grounds.

58. (1) Where an appeal is taken under section 55 by the filing of a notice of appeal, or an application is 25
made under section 56 by the filing of an originating notice of motion, the notice shall set forth full particulars of the grounds upon which relief is sought.

Reply.

(2) Any person upon whom a copy of such notice has been served and who intends to contest the appeal or 30
application, as the case may be, shall file and serve within the prescribed time or such further time as the court may allow a reply setting forth full particulars of the grounds upon which he relies.

Hearing.

(3) The proceedings shall then be heard and determined 35
summarily on evidence adduced by affidavit unless the court otherwise directs, in which event it may order that any procedure permitted by its rules and practice be made available to the parties, including the introduction of oral evidence generally or in respect of one or more issues 40
specified in the order.

Registrar to
transmit
documents.

59. Subject to subsection (6) of section 49, when any appeal or application has been made to the Exchequer Court of Canada under any of the provisions of this Act, the Registrar shall, at the request of any of the parties 45

in such proceedings and the payment of the prescribed fee
transmit to the court all documents on file in his office
relating to the matters in question in such proceedings
or copies thereof certified by him.

50. An appeal lies to the Supreme Court of Canada
from any judgment of the Exchequer Court of Canada
in any action or proceeding under the Act in respect of
the amount of money, if any, claimed to be lawfully

51. The Registrar of the Exchequer Court of Canada
shall file with the Registrar a certified copy of every writ-
tort or other writ by the Exchequer Court of Canada
or by the Supreme Court of Canada relating to any trade
mark on the register.

GENERAL

52. (1) This Act shall be administered by the Registrar
of Trade Marks of Canada.

(2) There shall be a Registrar of Trade Marks appointed
by the Governor in Council, to hold office during pleasure,
who shall be paid such annual salary as the Governor in
Council determines and shall be responsible to the Under
Secretary of State.
(3) When the Registrar absent or unable to act, his
duties shall be performed and his powers exercised in the
absence of acting Registrar by such other officer as may be
appointed by the Secretary of State.

53. The Registrar shall cause to be published periodically
particulars of the registrations made and extended from
year to year under the Act and shall in each publication
give particulars of any trade marks by which have been
to serve as precedents for the determination of similar
questions in future cases.

54. The Governor in Council may make
provision for effecting the purposes and provisions of
this Act in particular may make regulations with respect
to the following matters:
(1) the form of the register and of the indexes to be
maintained thereon to this Act and of the entries to be
made therein;

(2) the form of applications to the Registrar
for the registration of trade marks, the
particulars of other documents relating to any trade
mark.

Supreme Court of Canada

Registrar of Trade Marks

to such proceedings and the payment of the prescribed fee, transmit to the court all documents on file in his office relating to the matters in question in such proceedings, or copies thereof certified by him.

Appeal to
Supreme
Court.

60. An appeal lies to the Supreme Court of Canada 5
from any judgment of the Exchequer Court of Canada
in any action or proceeding under this Act irrespective of
the amount of money, if any, claimed to be involved.

Judgments to
be filed.

61. The Registrar of the Exchequer Court of Canada
shall file with the Registrar a certified copy of every judg- 10
ment or order made by the Exchequer Court of Canada
or by the Supreme Court of Canada relating to any trade
mark on the register.

GENERAL.

Administra-
tion.

62. (1) This Act shall be administered by the Secretary
of State of Canada. 15

Registrar.

(2) There shall be a Registrar of Trade Marks, appointed
by the Governor in Council, to hold office during pleasure,
who shall be paid such annual salary as the Governor in
Council determines and shall be responsible to the Under
Secretary of State. 20

Acting
Registrar.

(3) When the Registrar is absent or unable to act, his
duties shall be performed and his powers exercised in the
capacity of acting registrar by such other officer as may be
designated by the Secretary of State.

Publication
of
registrations.

63. The Registrar shall cause to be published periodically 25
particulars of the registrations made and extended from
time to time under this Act, and shall in such publication
give particulars of any rulings made by him that are intended
to serve as precedents for the determination of similar
questions thereafter arising. 30

Regulations.

64. The Governor in Council may make regulations
for carrying into effect the purposes and provisions of this
Act and, in particular, may make regulations with respect
to the following matters:

- (a) the form of the register and of the indexes to be main- 35
tained pursuant to this Act, and of the entries to be
made therein;
- (b) the form of applications to the Registrar;
- (c) the registration of transfers, licences, disclaimers,
judgments or other documents relating to any trade 40
mark;

- (d) the form and contents of certificates of registration;
and
(e) the payment of fees to the Registrar and the amount thereof.

NEWFOUNDLAND.

Newfound-
land.

65. (1) The registration of a trade mark under the laws of Newfoundland prior to the 1st day of April, 1949, has the same force and effect in the Province of Newfoundland as if Newfoundland had not become part of Canada, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if Newfoundland had not become part of Canada. 5 10

Idem.

(2) The laws of Newfoundland as they existed immediately prior to the expiration of the 31st day of March, 1949, continue to apply in respect of applications for the registration of trade marks under the laws of Newfoundland pending at that time and any trade marks registered under such applications shall, for the purposes of this section, be deemed to have been registered under the laws of Newfoundland prior to the 1st day of April, 1949. 15 20

Idem.

66. For the purposes of this Act the use or making known of a trade mark or the use of a trade name in Newfoundland before the 1st day of April, 1949, shall not be deemed to be a use or making known of such trade mark or a use of such trade name in Canada before such date. 25

COMING INTO FORCE.

Coming into
force.

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

REPEAL AND TRANSITIONAL.

Repeal and
transitional.

68. (1) If this Act comes into force before the Revised Statutes of Canada, 1952, come into force,
(a) any application for the registration of a trade mark received before the day on which this Act comes into force by the person appointed to act as Registrar under *The Unfair Competition Act, 1932*, chapter 38 of the statutes of 1932, shall be dealt with in accordance with the provisions of that Act, and any registration 30 35

under payment in any such application shall, for the purposes of this Act, be deemed to have been made on the day on which the application was made, notwithstanding that the application was made on a later date; and the day on which the application was made shall be deemed to be the day on which the application was made for the purposes of this Act.

Sec. 60A.

(1) The following Acts are repealed in the whole or in part, namely:—
(a) the Patent Act, 1882, chapter 117 of the Revised Statutes of Canada, 1927, as amended; and
(b) the Patent Act, 1902, chapter 117 of the Revised Statutes of Canada, 1927, as amended.

(2) It shall not be necessary to make any application for the purposes of this Act, and the day on which the application was made shall be deemed to be the day on which the application was made for the purposes of this Act.

(3) The following Acts are repealed in the whole or in part, namely:—
(a) the Patent Act, 1882, chapter 117 of the Revised Statutes of Canada, 1927, as amended; and
(b) the Patent Act, 1902, chapter 117 of the Revised Statutes of Canada, 1927, as amended.

(4) The following Acts are repealed in the whole or in part, namely:—
(a) the Patent Act, 1882, chapter 117 of the Revised Statutes of Canada, 1927, as amended; and
(b) the Patent Act, 1902, chapter 117 of the Revised Statutes of Canada, 1927, as amended.

- made pursuant to any such application shall, for the purposes of this Act, be deemed to have been on the register maintained under *The Unfair Competition Act, 1932*, on the day on which this Act comes into force;
- (b) the *Unfair Competition Act*, chapter 274 of the Revised Statutes of Canada, 1952, is repealed on the day the Revised Statutes of Canada, 1952, come into force; and
- (c) the following Acts are repealed on the day this Act comes into force, namely,
- (i) *The Unfair Competition Act, 1932*, chapter 38 of the statutes of 1932,
 - (ii) sections 22, 24 and 25 of the *Trade Mark and Design Act*, chapter 201 of the Revised Statutes of Canada, 1927, and
 - (iii) *The Shop Cards Registration Act, 1938*, chapter 41 of the statutes of 1938.

Idem.

- (2) If this Act comes into force on or after the day on which the Revised Statutes of Canada, 1952, come into force,
- (a) any application for the registration of a trade mark received before the day on which this Act comes into force by the person appointed to act as Registrar under the *Unfair Competition Act*, chapter 274 of the Revised Statutes of Canada, 1952, shall be dealt with in accordance with the provisions of that Act, and any registration made pursuant to any such application shall, for the purposes of this Act, be deemed to have been on the register maintained under the *Unfair Competition Act*, on the day on which this Act comes into force; and
- (b) the following Acts are repealed on the day this Act comes into force, namely,
- (i) the *Unfair Competition Act*, chapter 274 of the Revised Statutes of Canada, 1952,
 - (ii) Part III of the *Industrial Design and Union Label Act*, chapter 150 of the Revised Statutes of Canada, 1952, and
 - (iii) the *Shop Cards Registration Act*, chapter 250 of the Revised Statutes of Canada, 1952.

THE SENATE OF CANADA

BILL S³.

An Act to amend The Statistics Act.

Read a first time, Tuesday, 3rd February, 1953.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL S³.

An Act to amend The Statistics Act.

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

PART I.

1. (1) Paragraph (b) of section 2 of *The Statistics Act*, chapter 45 of the statutes of 1947-48, is repealed and the following substituted therefor: 5

"Carrier".

"(b) 'carrier' means any person engaged in the business of transporting persons, goods, wares or merchandise by land, water or air;"

(2) Paragraph (e) of section 2 of the said Act is repealed 10 and the following substituted therefor:

"Public utility".

"(e) 'public utility' means any person owning, operating or managing an undertaking for the supply of electricity, gas or water or for the supply of any telegraph, cable or telephone service; and" 15

2. Section 5 of the said Act is amended by adding thereto the following subsection:

Other public servants.

"(2) The Minister may, for such periods as he may determine, utilize the services of any member of the public service of Canada in the exercise or performance of any 20 duty, power or function of the Bureau or officer of the Bureau under this or any other Act, and every person whose services are so utilized shall, for the purposes of this Act, be deemed to be employed under this Act."

3. Subsection (3) of section 15 of the said Act is repealed 25 and the following substituted therefor:

Exceptions.

"(3) This section does not apply to

(a) returns or answers made pursuant to section twenty-five or section twenty-six;

EXPLANATORY NOTES.

PART I.

1. (1) The amendment will permit the collection of statistics on the transportation of passengers as well as goods. Paragraph (b) of section 2 of *The Statistics Act* now reads as follows:

“(b) ‘carrier’ means any person engaged in the business of transporting goods, wares, or merchandise by land, water or air, including an express company;”

(2) The reference to pipe lines is deleted. Paragraph (e) of section 2 of the Act now reads as follows:

“(e) ‘public utility’ means (i) any person owning, operating or managing an undertaking for the supply of electricity, gas or water or for the transmission of oil by pipe line; and (ii) any telegraph, cable or telephone company;”

2. This new subsection permits the Minister to utilize the services of officers of other Departments in the compilation and use of statistics. They will be subject to the same secrecy and penalty provisions as the regular employees of the Bureau.

3. Subsection (3) of section 15 of the Act now reads as follows:

“(3) This section does not apply to returns or answers made pursuant to section twenty-five or section twenty-six.”

- (b) returns or answers made by any hospital, library, university, mental institution, tuberculosis institution, charitable and benevolent institution or other similar non-commercial institution, except particulars of a financial nature comprised in any individual return or particulars so arranged as to enable any person to identify them as being particulars relating to any individual patient, inmate or other person in the care of any such institution; or 5
- (c) an index or list, whether published separately or in a report, summary of statistics or other publication under this Act, of particulars, taken from individual returns, of 10
- (i) the names and locations of individual firms or businesses, or 15
- (ii) the types of products produced, manufactured or dealt with by individual firms or businesses, but no such list or index shall otherwise reveal any of the particulars comprised in any individual return."

4. Section 19 of the said Act is repealed and the following substituted therefor: 20

Census details.

"19. Each census of population and agriculture shall be so taken as to ascertain with the utmost possible accuracy for Canada, its various territorial divisions or the provinces of Manitoba, Saskatchewan and Alberta, as the case may be, 25

- (a) the population;
- (b) the number of houses for habitation;
- (c) the number of farms;
- (d) such characteristics of the subjects described in paragraphs (a), (b) and (c) as may be prescribed by the Governor in Council; and 30
- (e) such other matters as may be prescribed by the Governor in Council."

5. Section 22 of the said Act is amended by adding thereto the following paragraph: 35

Statistics on inland and coastal commerce and navigation.

"(c) prepare such reports as the Minister may require on the statistics of commerce and navigation on the inland waterways of Canada or in connection with the coastal trade of Canada or both." 40

6. Section 28 of the said Act is repealed and the following substituted therefor:

Courts to furnish criminal statistics.

"28. The clerk of every court or tribunal administering criminal justice, or in case of there being no clerk, the judge or other functionary presiding over such court or tribunal shall, at such times, in such manner and respecting such periods as the Minister may direct, fill in and transmit the schedules he receives relating to the criminal business transacted in such court or tribunal." 45

The new paragraph (b) permits the publication of information given by hospitals and other non-commercial institutions which, for maximum value, must be related to the individual institutions.

The new paragraph (c) permits the publication of lists of the names of firms and their products. These lists are of value to business generally. The information must necessarily be taken from individual returns but this exception will be strictly limited to names and products and will not permit disclosure of any other information given in such returns.

4. Subsection (2) of section 19 of the present Act with reference to sampling is no longer used and is deleted. Subsection (1) in its present form rigidly fixes the types of information required on each census and does not permit the deletion or addition of characteristics that may lose or gain value with changing conditions. Section 19 of the Act now reads as follows:

"19. (1) Each census of population and agriculture shall be so taken as to ascertain with the utmost possible accuracy for the various territorial divisions of Canada, or of the provinces of Manitoba, Saskatchewan and Alberta, as the case may be,

- (a) their population and the classification thereof, as regards name, age, sex, conjugal condition, relationship to head of household, nationality, race, education, wage-earnings, religion, profession or occupation and otherwise;
- (b) the number of houses for habitation, whether occupied or vacant, under construction or otherwise, the materials thereof and the number of rooms inhabited;
- (c) the area of occupied land and its value and its condition thereof as improved for cultivation, in fallow, in forest, unbroken prairie, marsh or waste land, and otherwise; the tenure and acreage of farms and the value of farms, buildings and implements;
- (d) the products of farms, with the values of such products and the number and value of domestic animals within the preceding census or calendar year; and
- (e) such other matters as may be prescribed by the Governor in Council.

(2) To promote economy, the method of statistical sampling may be used for the securing of some of the information specified in subsection one if, in the opinion of the Dominion Statistician, the sampling method will yield data adequate to meet census needs and the Dominion Statistician may, as he deems advisable, omit some of such information from the quinquennial census if, in his opinion, the change at five-year intervals is not of sufficient importance to warrant the expense of collection and compilation."

5. This new paragraph authorizes the collection of statistics on commerce and navigation respecting inland waterways and coastal trade.

6. This amendment permits flexibility in the collection of criminal statistics. Section 28 of the Act now reads as follows:

"28. The clerk of every court or tribunal administering criminal justice, or in case of there being no clerk, the judge or other functionary presiding over such court or tribunal shall, before the end of October in each year, fill in and transmit to the Dominion Statistician, for the year ending the thirtieth day of September preceding, such schedules as he receives from time to time from the Dominion Statistician relating to the criminal business transacted in such court or tribunal."

7. Section 29 of the said Act is repealed and the following substituted therefor:

Wardens
and sheriffs.

"29. The warden of every penitentiary and reformatory and the sheriff of every county, district or other territorial division shall, at such times, in such manner and respecting 5
such periods as the Minister may direct, fill in and transmit
the schedules he receives relating to the prisoners committed to any penitentiary, reformatory or gaol under his charge
or within his jurisdiction."

8. Section 31 of the said Act is repealed and the following 10
substituted therefor:

Pardons.

"31. The Secretary of State shall cause to be filled in and transmitted to the Dominion Statistician, at such times
and for such periods as the Minister may direct, such 15
schedules as the Minister may prescribe relative to the
cases in which the prerogative of mercy has been exercised."

PART II.

9. (1) Paragraph (b) of section 2 of the *Statistics Act*, chapter 257 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

"Carrier".

"(b) 'carrier' means any person engaged in the business 20
of transporting persons, goods, wares or merchandise
by land, water or air;"

(2) Paragraph (e) of section 2 of the said Act is repealed and the following substituted therefor:

"Public utility".

"(e) 'public utility' means any person owning, operating 25
or managing an undertaking for the supply of electric-
ity, gas or water, or for the supply of any telegraph,
cable or telephone service; and"

10. Section 5 of the said Act is amended by adding thereto the following subsection: 30

Other public servants.

"(2) The Minister may, for such periods as he may determine, utilize the services of any member of the public service of Canada in the exercise or performance of any duty, power or function of the Bureau or officer of the Bureau under this or any other Act, and every person whose 35
services are so utilized shall, for the purposes of this Act, be deemed to be employed under this Act."

11. Subsection (3) of section 15 of the said Act is repealed and the following substituted therefor:

Exceptions.

"(3) This section does not apply to 40
(a) returns or answers made pursuant to section 25 or section 26;

7. This amendment permits flexibility in the collection of statistics on prisoners. Section 29 of the Act now reads as follows:

"29. The warden of every penitentiary and reformatory and the sheriff of every county and district shall, before the end of October in each year, fill in and transmit to the Dominion Statistician, for the year ending the thirtieth day of September preceding, such schedules as he receives from time to time from the Dominion Statistician relating to the prisoners committed to the penitentiary, reformatory or jail."

8. This amendment permits flexibility in the collection of statistics on pardons. Section 31 of the Act now reads as follows:

"31. The Secretary of State shall, before the end of October in each year, cause to be filled in and transmitted to the Dominion Statistician such schedules for the year ending the thirtieth day of September last preceding, relative to the cases in which the prerogative of mercy has been exercised, as the Minister may prescribe."

PART II.

The purpose of Part II is to amend the new Revised Statutes, which are now in press and are expected to appear during the present session.

- (b) returns or answers made by any hospital, library, university, mental institution, tuberculosis institution, charitable and benevolent institution or other similar non-commercial institution, except particulars of a financial nature comprised in any individual return or particulars so arranged as to enable any person to identify them as being particulars relating to any individual patient, inmate or other person in the care of any such institution; or 5
- (c) an index or list, whether published separately or in a report, summary of statistics or other publication under this Act, of particulars, taken from individual returns, of
- (i) the names and locations of individual firms or businesses, or 15
 - (ii) the types of products produced, manufactured or dealt with by individual firms or businesses, but no such list or index shall otherwise reveal any of the particulars comprised in any individual return."

12. Section 19 of the said Act is repealed and the following substituted therefor: 20

Census details.

"**19.** Each census of population and agriculture shall be so taken as to ascertain with the utmost possible accuracy for Canada, its various territorial divisions or the provinces of Manitoba, Saskatchewan and Alberta, as the case may be, 25

- (a) the population;
- (b) the number of houses for habitation;
- (c) the number of farms;
- (d) such characteristics of the subjects described in paragraphs (a), (b) and (c) as may be prescribed by the Governor in Council; and 30
- (e) such other matters as may be prescribed by the Governor in Council."

13. Section 22 of the said Act is amended by adding thereto the following paragraph: 35

Statistics on inland and coastal commerce and navigation.

"(c) prepare such reports as the Minister may require on the statistics of commerce and navigation on the inland waterways of Canada or in connection with the coastal trade of Canada or both." 40

14. Section 28 of the said Act is repealed and the following substituted therefor:

Courts to furnish criminal statistics.

"**28.** The clerk of every court or tribunal administering criminal justice, or in case of there being no clerk, the judge or other functionary presiding over such court or tribunal shall, at such times, in such manner and respecting such periods as the Minister may direct, fill in and transmit the schedules he receives relating to the criminal business transacted in such court or tribunal." 45

13. Section 29 of the said Act is repealed and the following substituted therefor:

"29. The warden of every penitentiary and reformatory and the sheriff of every county, district or other territorial division shall, at such times, in such manner and respecting such periods as the Minister may direct, fill in and transmit the schedules he receives relating to the prisoners committed to any penitentiary, reformatory or jail under his charge or within his jurisdiction;

Penitentiaries and Reformatories

14. Section 31 of the said Act is repealed and the following substituted therefor:

"31. The Secretary of State shall cause to be filled in and transmitted to the Dominion Statistician, at such times and for such periods as the Minister may direct, such schedules as the Minister may prescribe relative to the cases in which the prerogative of mercy has been exercised."

Statistics

15. This Part shall come into force on the day the Revised Statutes of Canada, 1962, come into force.

Enacted at Ottawa this 14th day of June 1962.

YVES LACROIX, Minister of Justice

15. Section 29 of the said Act is repealed and the following substituted therefor:

Wardens and
sheriffs.

"29. The warden of every penitentiary and reformatory and the sheriff of every county, district or other territorial division shall, at such times, in such manner and respecting such periods as the Minister may direct, fill in and transmit the schedules he receives relating to the prisoners committed to any penitentiary, reformatory or gaol under his charge or within his jurisdiction."

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16. Section 31 of the said Act is repealed and the following substituted therefor:

Pardons.

"31. The Secretary of State shall cause to be filled in and transmitted to the Dominion Statistician, at such times and for such periods as the Minister may direct, such schedules as the Minister may prescribe relative to the cases in which the prerogative of mercy has been exercised."

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17. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force.

THE SENATE OF CANADA

BILL T³.

An Act to incorporate The Evangelical Lutheran Synod
of Western Canada.

Read a first time, Wednesday, 4th February, 1953.

Honourable Senator ASELTINE.

THE SENATE OF CANADA

BILL T³.

An Act to incorporate The Evangelical Lutheran Synod of Western Canada.

Preamble.

WHEREAS a petition has been presented praying that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Incorporation.

1. Julius E. Bergbusch, of the city of Saskatoon, in the province of Saskatchewan, clergyman, Alexander Graf, of the city of Saskatoon, in the province of Saskatchewan, treasurer, and Leonard J. F. Koss, of Rosenfeld, in the province of Manitoba, clergyman, together with such other 10 persons as become members of the religious body hereby incorporated, are hereby incorporated under the name of "The Evangelical Lutheran Synod of Western Canada", hereinafter called "the Corporation", for the purposes set out in this Act and for the purpose of administering the 15 property, business and other temporal affairs of the Corporation.

Corporate name.

Directors.

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

Head office.

3. (1) The head office of the Corporation shall be at the 20 city of Saskatoon, in the province of Saskatchewan, or at such other place as may be decided by the Corporation.

Notice of change.

(2) Notice in writing shall be given to the Secretary of State by the Corporation of any change of the head office and such notice shall be published forthwith in the *Canada* 25 *Gazette*.

Objects.

4. The objects of the Corporation shall be,
(a) to promote, maintain, superintend and carry on in accordance with the faith, doctrines, constitution, acts and rulings of the Corporation any or all of the work 30 of that body;

- (b) to advance and increase the diffusion of the faith of the Corporation in all lawful ways;
- (c) to organize, maintain and carry on churches and missions and to erect and maintain and conduct therein churches, schools, colleges, hospitals, dispensaries, orphanages and homes for the aged; 5
- (d) to promote the erection and purchase of houses of worship and parsonages;
- (e) to administer the property, business and other temporal affairs of the Corporation; 10
- (f) to establish, support and maintain a publishing house for the purpose of printing and disseminating Gospel literature for the support of the doctrines and faith of the Corporation;
- (g) to promote the spiritual welfare of all the congregations and mission fields of the Corporation. 15

Power to
make
by-laws.

5. The Corporation may from time to time make by-laws, not contrary to law, for

- (a) the administration, management and control of property, business and other temporal affairs of the Corporation; 20
- (b) the appointment, functions, duties and remuneration of all officers, agents and servants of the Corporation;
- (c) the appointment, or deposition of an executive committee or any special committees or boards from time to time created for the purposes of the Corporation; and defining the powers of such committees or boards; 25
- (d) the calling of regular or special meetings of the Corporation or of the executive committee or the board of directors; 30
- (e) fixing the necessary quorum and the procedure to be followed at all meetings referred to in the preceding paragraph;
- (f) determining the qualifications of members; 35
- (g) defining and applying the principles, doctrine and religious standards of the Corporation;
- (h) generally carrying out the objects and purposes of the Corporation.

Management.

6. Subject to and in accordance with the by-laws enacted by the Corporation under section five of this Act, an executive committee consisting of such persons as the Corporation may from time to time elect or appoint thereto shall manage all the temporal affairs of the Corporation. 40

Incidental
powers.

7. The Corporation may do all such lawful acts and things as are incidental or as may be conducive to the attainment of its objects. 45

Committees.

8. The Corporation may exercise all its powers by and through an executive committee or through such boards or committees as may from time to time be elected or appointed by the Corporation for the management of its affairs.

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Power to acquire and hold property.

9. (1) The Corporation may purchase, take, have, hold, receive, possess, retain and enjoy property, real and personal, corporeal and incorporeal, and any or every estate or interest whatsoever, given, granted, devised or bequeathed to it, or appropriated, purchased or acquired by it in any manner or way whatsoever, to, for or in favour of the uses and purposes of the Corporation, or to for or in favour of any religious, educational, eleemosynary or other institution established or intended to be established by, under the management of, or in connection with the uses or purposes of the Corporation.

(2) The Corporation may also hold such real property or estate therein as is bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts or judgments recovered.

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Investment in and disposal of property.

10. Subject always to the terms of any trust relating thereto, the Corporation may also sell, convey, exchange, alienate, mortgage, lease or demise any real property held by the Corporation, whether by way of investment for the uses and purposes of the Corporation or not; and may also from time to time, invest all or any of its funds, or moneys, and all or any funds or moneys vested in or acquired by it for the uses and purposes aforesaid, in and upon any security by way of mortgage, hypothec or charge upon real property; and for the purpose of such investment may take, receive and accept mortgages or assignments thereof, whether made and executed directly to the Corporation or to any corporation, body, company or person in trust for it; and may sell, grant, assign and transfer such mortgages or assignments either wholly or partly.

Obligation to dispose of lands.

11. (1) No parcel of land or interest therein at any time acquired by the Corporation and not required for its actual use or occupation, and not held by way of security, shall be held by the Corporation, or by any trustee on its behalf, for a longer period than ten years after the acquisition thereof, but shall, at or before the expiration of such period, be absolutely sold or disposed of, so that the Corporation shall no longer retain any interest or estate therein except by way of security.

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Extension of time.

(2) The Secretary of State may extend the time for the sale or disposal of any such parcel of land, or any estate

or interest therein, for a further period or periods not to exceed five years.

(3) The whole period during which the Corporation may hold any such period of land or any estate or interest therein under the foregoing provisions of this section, shall not exceed fifteen years from the date of the acquisition thereof, or if it shall have ceased to be required for actual use or occupation by the Corporation.

(4) Any such period of land or any estate or interest therein not within the exceptions herebefore mentioned, which has been held by the Corporation for a longer period than authorized by the foregoing provisions of this section without being disposed of, shall be forfeited to Her Majesty for the use of Canada.

(5) The Corporation shall give the Secretary of State, when required, a full and correct statement of all lands, at the date of such statement, held by the Corporation, or in trust for it, and subject to the provisions of this section.

12. In regard to any real property which, by reason of its situation or otherwise, is subject to the legislative authority of the Parliament of Canada, a licence to mortgage shall not be necessary for the exercise of the powers granted by this Act, but otherwise the exercise of the said powers shall in any province of Canada be subject to the laws of such province as to the acquisition and holding of lands by religious corporations, in so far as such laws apply to the Corporation.

13. In so far as authorization by the Parliament of Canada is necessary, any person or corporation, in whose name any property, real or personal, is held in trust or otherwise for the use and purposes of the Corporation, or any such person or corporation is whom and such property devolves, may, subject always to the terms and conditions of any trust relating to such property, transfer such property or any part thereof to the Corporation.

14. Any deed or other instrument relating to real estate vested in the Corporation or to any interest in such real estate shall, if executed within the jurisdiction of the Parliament of Canada, be deemed to be duly executed if there is affixed thereto the seal of the Corporation and there is thereon the signature of any officer of the Corporation duly authorized for such purpose or of his lawful attorney.

15. The Corporation may make a gift of or lease any of its property, whether real or personal, for or to assist in the erection or maintenance of any building or buildings

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or interest therein, for a further period or periods not to exceed five years.

Fifteen year
limit.

(3) The whole period during which the Corporation may hold any such parcel of land, or any estate or interest therein, under the foregoing provision of this section, shall not exceed fifteen years from the date of the acquisition thereof, or after it shall have ceased to be required for actual use or occupation by the Corporation. 5

Forfeiture
of property
held beyond
time limit.

(4) Any such parcel of land, or any estate or interest therein, not within the exceptions hereinbefore mentioned, which has been held by the Corporation for a longer period than authorized by the foregoing provisions of this section without being disposed of, shall be forfeited to Her Majesty for the use of Canada. 10

Statement.

(5) The Corporation shall give the Secretary of State, when required, a full and correct statement of all lands, at the date of such statement, held by the Corporation, or in trust for it, and subject to the provisions of this section. 15

Application
of mortmain
laws.

12. In regard to any real property which, by reason of its situation or otherwise, is subject to the legislative authority of the Parliament of Canada, a licence in mortmain shall not be necessary for the exercise of the powers granted by this Act; but otherwise the exercise of the said powers shall in any province of Canada be subject to the laws of such province as to the acquisition and holding of lands by religious corporations, in so far as such laws apply to the Corporation. 20 25

Transfer of
property
held in
trust.

13. In so far as authorization by the Parliament of Canada is necessary, any person or corporation, in whose name any property, real or personal, is held, in trust or otherwise, for the uses and purposes of the Corporation, or any such person or corporation to whom any such property devolves, may, subject always to the terms and conditions of any trust relating to such property, transfer such property or any part thereof to the Corporation. 30 35

Execution of
documents.

14. Any deed or other instrument relating to real estate vested in the Corporation or to any interest in such real estate shall, if executed within the jurisdiction of the Parliament of Canada, be deemed to be duly executed if there is affixed thereto the seal of the Corporation and there is thereon the signature of any officer of the Corporation duly authorized for such purpose or of his lawful attorney. 40

Disposition
of property
by gift or
loan.

15. The Corporation may make a gift of or lend any of its property, whether real or personal, for or to assist in the erection or maintenance of any building or buildings 45

desired necessary for any church, college, library, school or hospital or for any other religious, charitable, educational, congregational or social purpose upon such terms and conditions as it may deem expedient.

16. (1) The Corporation may, from time to time, for the purposes of the Corporation:

- (a) borrow money upon the credit of the Corporation;
- (b) lend or advance the amount to be borrowed;
- (c) make, draw, accept, endorse, or become party to promissory notes and bills of exchange and every kind of note or bill made, drawn, accepted or endorsed by the party thereto, authorized by the by-laws of the Corporation, and consented to by the proper party thereto, authorized by the by-laws of the Corporation, and shall be binding upon the Corporation and shall be presumed to have been made, drawn, accepted or endorsed with proper authority until the contrary is shown, and it shall not be necessary in any case to have the seal of the Corporation affixed to any such note or bill;

(d) mortgage, hypothecate, or pledge any property of the Corporation, real or personal, to secure the repayment of any money borrowed for the purposes of the Corporation;

(e) issue bonds, debentures or other securities of the Corporation;

(f) pledge or sell such bonds, debentures or other securities for such sums and at such prices as may be deemed expedient.

(2) Nothing in the preceding subsection shall be construed to authorize the Corporation to issue any note or bill payable to bearer thereof, or any promissory note intended to be circulated as money or as the note or bill of a bank, or to engage in the business of banking or insurance.

17. The Corporation may also invest and reinvest any of its funds:

- (a) in any bonds or debentures of any municipality or public school corporation or district in Canada or in securities of or guaranteed by the Government of Canada or of any province thereof;
- (b) in first mortgages or feehold property in Canada and for the purpose of the same may take any steps or assignments thereof whether such mortgages or assignments be made directly to the Corporation or its own corporate name or to some company or person in trust for it, and may sell and assign the same.

deemed necessary for any church, college, manse, school or hospital or for any other religious, charitable, educational, congregational or social purpose upon such terms and conditions as it may deem expedient.

Borrowing
powers.

16. (1) The Corporation may, from time to time, for 5
the purposes of the Corporation

- (a) borrow money upon the credit of the Corporation;
- (b) limit or increase the amount to be borrowed;
- (c) make, draw, accept, endorse, or become party to promissory notes and bills of exchange and every 10 such note or bill made, drawn, accepted or endorsed by the party thereto, authorized by the by-laws of the Corporation, and countersigned by the proper party thereto, authorized by the by-laws of the Corporation, shall be binding upon the Corporation and 15 shall be presumed to have been made, drawn, accepted or endorsed with proper authority until the contrary is shown, and it shall not be necessary in any case to have the seal of the Corporation affixed to any such note or bill; 20
- (d) mortgage, hypothecate, or pledge any property of the Corporation, real or personal, to secure the repayment of any money borrowed for the purposes of the Corporation;
- (e) issue bonds, debentures or other securities of the 25 Corporation;
- (f) pledge or sell such bonds, debentures or other securities for such sums and at such prices as may be deemed expedient.

Limitation.

(2) Nothing in the preceding subsection shall be construed 30 to authorize the Corporation to issue any note or bill payable to bearer thereof, or any promissory note intended to be circulated as money or as the note or bill of a bank, or to engage in the business of banking or insurance.

Investment
of funds.

17. The Corporation may also invest and reinvest 35 any of its funds

- (a) in any bonds or debentures of any municipality or public school corporation or district in Canada, or in securities of or guaranteed by the Government of Canada or of any province thereof; 40
- (b) in first mortgages or freehold property in Canada and for the purposes of the same may take mortgages or assignments thereof whether such mortgages or assignments be made directly to the Corporation in its own corporate name or to some company or person 45 in trust for it, and may sell and assign the same;

(c) in any securities in which life insurance companies are authorized from time to time by the Parliament of Canada to invest funds subject to the limitation on investments in stocks, bonds and debentures set out in *The Canadian and British Insurance Companies Act, 1932.* 5

Scope.

18. The Corporation may exercise the rights and powers conferred upon it by this Act in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, and that portion of the province of Ontario lying west of the eighty-sixth meridian of longitude and in the Yukon Territory and the Northwest Territories. 10

THE SENATE OF CANADA

BILL U³.

An Act respecting The Detroit and Windsor Subway Company.

Read a first time, Thursday, 5th February, 1953.

Honourable Senator HAYDEN.

THE SENATE OF CANADA

BILL U³.

An Act respecting The Detroit and Windsor Subway Company.

Preamble
1926-27, c. 83.

WHEREAS The Detroit and Windsor Subway Company, a company incorporated by chapter 83 of the statutes of 1926-27, 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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1926-27, c. 83,
added
sections.

1. Chapter 83 of the statutes of 1926-27 is amended by adding at the end thereof, as sections 23, 24, 25 and 26, the following:

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Company
may sell,
etc., to
public
authority.

“23. The Company may at any time sell, assign, transfer, convey or lease the subways, tunnels, works and undertakings set forth in section 12 of this Act and the franchises, privileges, powers, rights and property vested in or belonging to the Company, or such part or parts thereof as the directors may deem fit and advisable, to any public authority, body or commission constituted under the laws of Canada or of the United States of America or of the state of Michigan, for such consideration and on such terms and conditions and subject to such reservations as the directors may deem fit and advisable: Provided that such sale, assignment, transfer, conveyance or lease shall have been first approved by the holders of two-thirds of the shares at a special general meeting of the shareholders duly called for the purpose of considering it, at which meeting shareholders representing at least two-thirds in number of the issued shares of the Company are present in person or represented by proxy, and that such sale, assignment, transfer, conveyance or lease shall also have received the sanction of the Governor in Council and a certified copy thereof shall be filed forthwith in the office of the Secretary of State for Canada and, for the purposes of this section, sections 151 to 153 inclusive of the *Railway Act* shall not apply.

Proviso.

EXPLANATORY NOTES.

1. The Detroit and Windsor Subway Company, in conjunction with Detroit & Canada Tunnel Corporation, a Michigan corporation, owns and operates a vehicular tunnel under the Detroit River between the cities of Windsor, Ontario, and Detroit, Michigan. With the exception of directors' qualifying shares all of the shares of the capital stock of the Subway Company are owned by the Tunnel Corporation.

2. Section 12 of the original Act of Incorporation, being 1926-27 17 Geo. V., chapter 83, provides in part as follows:

“**12.** The Company may,—

(h) sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of the Company;”

The purpose of the proposed section 23 is to remove any doubt that the Company may dispose of its undertaking to a public authority, body or commission.

3. The amendment proposed by section 24 is necessary for the effective ownership and operation of the tunnel by any public authority, body or commission to which a sale might be made under section 23.

Effect of
sale, etc.

Sections
of this Act
applicable to
public
authority.

Appointment
of attorney.

Powers of
public
authority.

Agreement
between
Company and
city of
Windsor
ratified.

24. If and when the Company sells, assigns, transfers, conveys or leases pursuant to and as empowered by section 23 of this Act, then and in such event, but in such event only,

(a) sections 2, 20, 21, 22, 23, 24, 25 and 26 of this Act, 5
but no others, shall extend to, apply to and affect the public authority, body or commission to which a sale, assignment, transfer, conveyance or lease shall have been made as fully and effectively as if it were the Company; and 10

(b) the public authority, body or commission concerned shall, within thirty days after such sale, assignment, transfer, conveyance or lease, appoint by resolution of its governing body a person resident in the county of Essex in the province of Ontario as its attorney to 15
receive service of process in all suits and proceedings instituted in Canada against it, and after the adoption thereof shall cause a certified copy of such resolution to be filed in the office of the Secretary of State of Canada. 20

25. Any such public authority, body or commission is hereby authorized and empowered, subject to the provisions of this Act, to exercise its powers and

(a) to acquire, own, maintain, manage, operate and/or dispose of the properties referred to in section 23 of 25
this Act and any improvements, replacements or additions thereto;

(b) to charge tolls in respect to its properties, subject to the provisions of the *Railway Act*;

(c) to sue and be sued; to contract and be contracted 30
with;

(d) to issue bonds, debentures and other securities, in aid of the purchase in section 23 of this Act mentioned, or in aid of improvements, replacements or additions to its properties, and such bonds, debentures or other 35
securities may be secured by deed of mortgage but it shall, before enacting any resolution or ordinance required, submit the deed of mortgage to the Governor in Council for his inspection and approval from the standpoint of the interest of Canada; 40

(e) to enter into agreements with any municipal or other public authority in Canada respecting the exercise of any of the powers herein granted to it;

(f) to do all things which are incidental to the powers herein expressly granted or which are essential to 45
give effect to those powers.

26. Nothing in this Act contained shall vary the agreement made the 24th day of April, 1928, between the Company and the Municipal Corporation of the city of Windsor, set out in the Schedule hereto, which agreement 50
is hereby ratified and confirmed."

4. Section 17 of the said Act of Incorporation provides as follows:

"17. The Company shall not construct or operate any of the works mentioned in this Act along, under and over any highway, street or other public place, without first obtaining the consent, expressed by by-law, of the municipality having jurisdiction over such highway, street or other public place, and upon terms to be agreed upon with such municipality."

Pursuant to section 17 the Company entered into an agreement made the 24th day of April, 1928, with the city of Windsor. This agreement provides among other things that the city of Windsor may purchase all the property of the Company, exclusive of certain specified assets but including the tunnel, at different times until 1990 when such property may be acquired by the city of Windsor without payment of any sum therefor. The amendment as proposed in section 25 expressly provides that any sale under section 23 is subject to the provisions of this agreement.

SCHEDULE

THIS AGREEMENT, made in duplicate the 24th day of April, A.D. 1928.

BETWEEN

THE DETROIT AND WINDSOR SUBWAY COMPANY,
a corporation created under Chapter 83 of the Statutes of
Canada, 1927,

of the First Part,

AND

THE MUNICIPAL CORPORATION OF THE CITY
OF WINDSOR,

of the Second Part.

WHEREAS by-law number 3780 of the party of the second part was passed on the 4th day of August, 1927, and provided therein that the provisions of the said by-law should be incorporated into and form part of a formal agreement between the parties to be subsequently executed by them.

THEREFORE, in consideration of the premises and the sum of One (\$1.00) Dollar paid by the party of the first part to the party of the second part, it is agreed between the parties as follows:

1. The party of the first part, its successors and assigns, is hereby permitted and authorized to construct, maintain and operate one or more international tunnels and approaches thereto for travel between the City of Windsor in the Province of Ontario, Canada, and the City of Detroit in the State of Michigan, one of the United States of America, under and across all streets, alleys, thoroughfares, municipal property and the sub-soil under the Detroit River included within an area bounded by the Southerly limit of Wyandotte Street on the south, the westerly limit of Ouellette Avenue on the west, the Detroit River on the north and the easterly limit of Goyeau Street on the east and extending in so far as the party of the second part has authority to sanction same to the International Boundary Line between the Dominion of Canada and the United States of America.

2. The party of the first part, its successors and assigns, will commence construction of one such tunnel on or before August 4th, 1928, or within such further period as the Council of the City of Windsor may hereafter permit, and will complete the same and all work connected therewith and necessary therefor in order that one such tunnel may be thoroughly equipped and adequate for the carriage of passengers and vehicles between the said Cities of Windsor and Detroit on or before August 4th, 1931.

BY-LAW No. 3780.

A By-law respecting the Detroit & Windsor
Subway Company.

Passed the 4th day of August, 1927.

WHEREAS the Detroit & Windsor Subway Company has requested the Council of the Corporation of the City of Windsor to pass a by-law pursuant to Section 17 of Chapter 83 of The Statutes of Canada, 1927, being an Act to incorporate the Detroit & Windsor Subway Company, consenting to the construction, operation and works mentioned in the said Act, along, under and over certain highways, streets or other public places in the said City of Windsor.

THEREFORE the Corporation of the City of Windsor by the Council thereof enacts as follows:

1. The Detroit and Windsor Subway Company after it has entered into an agreement under seal on behalf of itself, its successors and assigns, with the Corporation of the City of Windsor, agreeing as follows:

- (a) To grant, transfer, convey and set over to the Corporation of the City of Windsor or its nominee or trustee or trustees all land, buildings and equipment of the said Company in Canada, which without restricting the generality of the foregoing shall include the tunnel or tunnels, lands and buildings the property of the said Company in Canada, free and without payment or allowance of any compensation therefor within sixty years from the day of the formal opening thereof;
- (b) To commence actual construction of a subway or tunnel connecting the said City of Windsor with the City of Detroit in the State of Michigan, one of the United States of America, within one year from the date of the passing of this by-law, or such further period as the Council of the City of Windsor may hereafter permit, and to complete one subway or tunnel and all works connected therewith and necessary therefor in order that one subway or tunnel may be thoroughly equipped and adequate for the carriage of passengers and vehicles between the said cities of Windsor and Detroit within four years from the date of the passing hereof, otherwise the consent hereby granted for the construction of said subway or tunnel is to cease and be null and void;

3. In the construction, maintenance and operation of the said tunnel or tunnels and approaches in so far as the same shall be within the City of Windsor all valid applicable regulations under the laws of the Dominion of Canada and the Province of Ontario or the Ontario Municipal Act or police regulations of the City of Windsor, including all traffic regulations, shall be complied with by the party of the first part, its successors and assigns. The work thereof shall be subject to the inspection and supervision of the City Engineer of the City of Windsor and other officials having jurisdiction in regard to the same and any connection with any storm or sanitary sewer shall be made only under the direction of the City Engineer for the City of Windsor, and for these purposes the accredited representative of the City of Windsor in the Province of Ontario in the Dominion of Canada shall have the right to inspect the books and records of the said Company at any and all reasonable times.

4. The City of Windsor or any municipal body or commission or trustees duly appointed and authorized so to do in behalf of the residents of the City of Windsor may acquire and purchase all the property of the Detroit and Windsor Subway Company, its successors and assigns, used for the purpose of the first tunnel constructed and operated hereunder, excluding cash, accounts receivable, shares of stock, bonds, notes and other evidence of indebtedness upon one year's written notice to the Company at the following times and upon the following terms and not otherwise:

(1) At the end of twenty years from the date of formal opening of the tunnel for traffic at the value of such property as determined within one year after the formal opening of the tunnel without any deduction whatever for accrued amortization of investment. Such value shall be determined by a Board of Arbitration of three members consisting of one member appointed by the party of the first part, one member appointed by the party of the second part, and the third member appointed by the said two other arbitrators, provided, further, that if said first two arbitrators appointed by the parties hereto respectively, shall fail to agree upon the appointment of said third arbitrator within thirty days from the appointment of the said first two arbitrators, the third arbitrator shall be appointed by the Senior Judge of the County Court of the County of Essex. All expenses incurred by the Board of Arbitrators shall be paid by the party of the first part. The value as determined by the Board of Arbitrators shall include in addition to the then appraised value of the real estate and the original cost of the buildings, tunnel, equipment and improvements, reasonable organization expenses, engineering expenses, interest and taxes during construction, discount on securities and other costs of money and all other charges which, according to established accounting practice, may be added to the property account of the Company.

(2) At the end of thirty (30) years from the date of formal opening, at said value determined as aforesaid, less ten (10) per cent thereof for amortization of investment.

(c) To furnish an approved Surety Company bond in the sum of \$100,000.00 indemnifying the Corporation of the City of Windsor against all actions, causes of action or claims of any kind whatsoever made by any person by reason of the construction of said works, subway or tunnel, and also to indemnify the said Corporation of the City of Windsor against any damage caused to the property of the Corporation of the City of Windsor by the construction of said subway or tunnel,

shall be and is hereby permitted to construct within the period above set forth in clause (b) and operate for a period not exceeding sixty years from the date of the formal opening thereof, any of the works mentioned in the Act incorporating the Detroit & Windsor Subway Company Chapter 83, 1927 Canada Statutes, under the surface of the following highways, streets, alleys or lanes in the Municipality of the City of Windsor, being those within the area bounded by Wyandotte Street on the south, the Detroit River on the north, westerly limit of Ouellette Street on the west, and the easterly limit of Goyeau Street on the east, and for the purposes aforesaid or any of them by its servants, agents, employees, contractors, workmen or others to enter in, over, along or upon any streets, alleys or lanes in the City of Windsor, but this shall not empower or authorize the said Company to construct subways or tunnels under any streets, alleys or lanes in the said City of Windsor other than those within the limits above specifically set forth. Provided, however, that the said works shall be done with the least possible interference with the traffic and general use of highways, streets, alleys and lanes of the said City of Windsor.

2. The consent hereby given shall cease and be null and void if actual construction of the subway or tunnel is not commenced within one year from the date hereof or such further period as the Council of the City of Windsor may hereafter permit, and shall also cease and become null and void if one subway or tunnel is not complete, thoroughly equipped and open for the use of the general public as a means of communication between the Cities of Windsor and Detroit within four years from the date hereof.

3. It is further provided that any provisions contained in any ordinance of the City of Detroit or agreement between the Subway Company and the said City of Detroit as to construction of said subways or tunnels shall at the option of the Corporation of the City of Windsor be included in the agreement under seal between the City of Windsor and the said Company to be hereafter drawn up and executed

(3) At the end of forty (40) years from the date of formal opening, at said value determined as aforesaid, less forty (40) per cent thereof for amortization of investment.

(4) At the end of fifty (50) years from the date of formal opening, at said value determined as aforesaid, less fifty (50) per cent thereof for amortization of investment.

(5) At the end of sixty (60) years from the date of formal opening, without any payment whatever.

And the party of the first part agrees that in the event of the exercise by the party of the second part of its option of purchase or acquisition at any of the aforesaid times, the party of the first part will, in accordance with the foregoing terms and provisions, grant, transfer, convey and set over to the party of the second part, or its nominee or trustee or trustees, all of the said lands, buildings and equipment of the party of the first part in Canada used for the purposes of said Tunnel.

(6) The said City Board, or commission or trustees, may likewise purchase and acquire all such property of the party of the first part, its successors and assigns, used for the purposes of each subsequent tunnel constructed and operated hereunder upon the expiration of similar periods after the formal opening of each such subsequent tunnel, respectively, for traffic, upon the same terms and conditions as above provided in respect to the said first tunnel, provided further that during the period the party of the first part, its successors or assigns, is operating any such subsequent tunnel it shall have the right to use the terminal facilities constructed by it in connection with any prior tunnel, which terminal facilities may have been acquired by said City Board or Commission or Trustees upon the payment of a reasonable rental therefor in accordance with the foregoing provisions.

(7) Nothing contained in Section 3 of this agreement shall be construed as extending or adding to the rights and privileges granted to the party of the first part, its successors and assigns, by Section 1 hereof.

5. The said tunnel or tunnels and approaches shall be so constructed and maintained so as not to interfere in any way with the carrying out of any city works which may be hereafter undertaken and not inconsistent with the provisions hereof.

6. The party of the first part, its successors and assigns, shall furnish and deposit with the Treasurer of the party of the second part an approved surety company bond in the sum of One Hundred Thousand (\$100,000.00) Dollars indemnifying the party of the second part against

notwithstanding anything hereinbefore contained and especially as to the terms and time of the transfer back to the said municipal corporations of subway and tunnel property.

4. The Corporation of the City of Windsor hereby reserves to itself the right to amend, change or extend the consent hereby given in any manner it may hereafter see fit, but such amendment, change or extension shall be made only with the consent of the said Subway Company, its successors or assigns.

(Signed) C. E. Jackson,
Mayor.

(Signed) M. A. Dickinson,
Clerk.

(SEAL)

all actions, causes of action or claims of any kind whatsoever made by any person by reason of the construction of said tunnel or tunnels, and also indemnifying the party of the second part against any damage caused to the property of the party of the second part by the construction of said tunnel or tunnels.

7. Tolls shall be reasonable and just and shall be fixed upon a basis of a fair and reasonable return on the fair value of all property, improvements and rights acquired and/or used in or about the construction and operation of any such tunnel or tunnels, and shall be in accordance with the laws of the Dominion of Canada and the Province of Ontario as administered by the Dominion Railway Board and The Ontario Railway and Municipal Board, and such authorities and regulatory bodies as shall have jurisdiction in accordance with the laws of the Dominion of Canada and the Province of Ontario in that behalf.

8. The party of the first part, its successors and assigns, upon being summoned or notified to appear before any regulatory body, including any body having jurisdiction in the State of Michigan or the United States of America over the fixing of tolls for traffic through the said tunnel or tunnels, shall notify the Clerk of the party of the second part and its Mayor and Solicitor of the time and place of any such hearing and shall give such officials and persons all or any information from the books and records of the Company as they may reasonably require or demand on such hearing.

9. Nothing contained herein shall, at any time, be construed as amounting to any waiver of the right of the party of the second part to impose taxes, either personal taxes or taxes upon the real estate or upon the property of the party of the first part, its successors and assigns, within the limits of the City of Windsor.

10. The party of the first part, its successors and assigns, shall establish and maintain suitable facilities for the interchange of passengers with any Municipal Transportation system of the City of Windsor, and will enter into agreements with the City of Windsor for such traffic interchange by mutual transfer subject to fare and toll adjustment on a basis of a fair and reasonable return on the fair value of all property, improvements and rights acquired and/or used in or about the construction and operation of any such tunnel or tunnels.

11. This agreement shall become effective between the parties hereto upon the bond provided for by Section 6 hereof being deposited with the Treasurer of the party of the second part as provided in said Section 6.

12. All the provisions of by-law No. 3780 of the City of Windsor shall remain in force and be construed as part of this agreement.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals by the hands of their proper officers.

THE DETROIT AND WINDSOR SUBWAY CO.

Per Fred W. Martin,
President.

(SEAL)

Per E. H. Brower,
Secretary.

C. E. Jackson,
Mayor.

M. A. Dickinson,
Clerk.

Signed, Sealed and Delivered
In the Presence of:

Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952-53.

THE SENATE OF CANADA

BILL V³.

An Act to incorporate Canadian Reinsurance Company.

Read a first time, Thursday, 5th February, 1953.

Honourable Senator HUGESSEN

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

68509

(h) explosion insurance;	
(i) falling aircraft insurance;	
(j) forgery insurance;	
(k) guarantee insurance;	
(l) hail insurance;	5
(m) impact by vehicles insurance;	
(n) inland transportation insurance;	
(o) live stock insurance;	
(p) marine insurance;	
(q) personal property insurance;	10
(r) plate glass insurance;	
(s) real property insurance;	
(t) sickness insurance;	
(u) sprinkler leakage insurance;	
(v) theft insurance;	15
(w) water damage insurance;	
(x) weather insurance;	
(y) windstorm insurance.	

Subscription
and payment
of capital
before
commencing
business.

7. The Company shall not commence any business of insurance until at least one million dollars of its capital has 20 been bona fide subscribed and that amount paid thereon. It may then transact all or any of the classes authorized by section six of this Act.

1932, c. 46,
to apply.

8. *The Canadian and British Insurance Companies Act, 1932*, shall apply to the Company. 25

THE SENATE OF CANADA

BILL W³.

An Act respecting The Apostolic Trustees of the
Friars Minor or Franciscans.

Read a first time, Thursday, 5th February, 1953.

Honourable Senator VIEN.

THE SENATE OF CANADA

BILL W³.

An Act respecting The Apostolic Trustees of the
Friars Minor or Franciscans.

Preamble.
1950, c. 63.

WHEREAS The Apostolic Trustees of the Friars Minor or Franciscans, a corporation incorporated by chapter 63 of the statutes of 1950, 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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 2 of chapter 63 of the statutes of 1950 is repealed and the following substituted therefor:

Head office.

"2. (1) The head office of the Corporation shall be at the city of Montreal, in the province of Quebec.

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

(3) No by-law for such purpose shall be valid or acted upon until it is sanctioned by the majority of votes cast at a special general meeting of trustees duly called to consider the by-law and after a copy of the by-law, certified under the seal of the Corporation, is published in the *Canada Gazette*."

2. Section 5 of the said Act is repealed and the following substituted therefor:

Management
of Corpora-
tion.

"5. (1) The Corporation shall be managed by a general board elected by the trustees, selected and composed in the manner required by the constitution and by-laws of the Corporation.

General
board to be
executive
body of
Corporation.

(2) The general board shall be the executive body of the Corporation; it shall exercise the powers mentioned in this Act in the manner required by the constitution and by-laws of the Corporation and in conformity with the rules and constitution of the Friars Minor or Franciscans.

EXPLANATORY NOTES.

The Corporation's activities have increased and it is considered expedient to provide for a general board to manage its affairs and to give that board appropriate powers.

1. The new clause 2 sets out formalities relating to a change of head office. Section 2 reads as follows:

"2. The head office of the Corporation shall be at the city of Montreal, in the province of Quebec."

2. The new clause 5 institutes a general board and indicates, without restricting its powers, some of its functions. Section 5 reads as follows:

"5. The Corporation shall be bound by the signature and consent of the majority of the members."

Corporation
may contract,
etc.

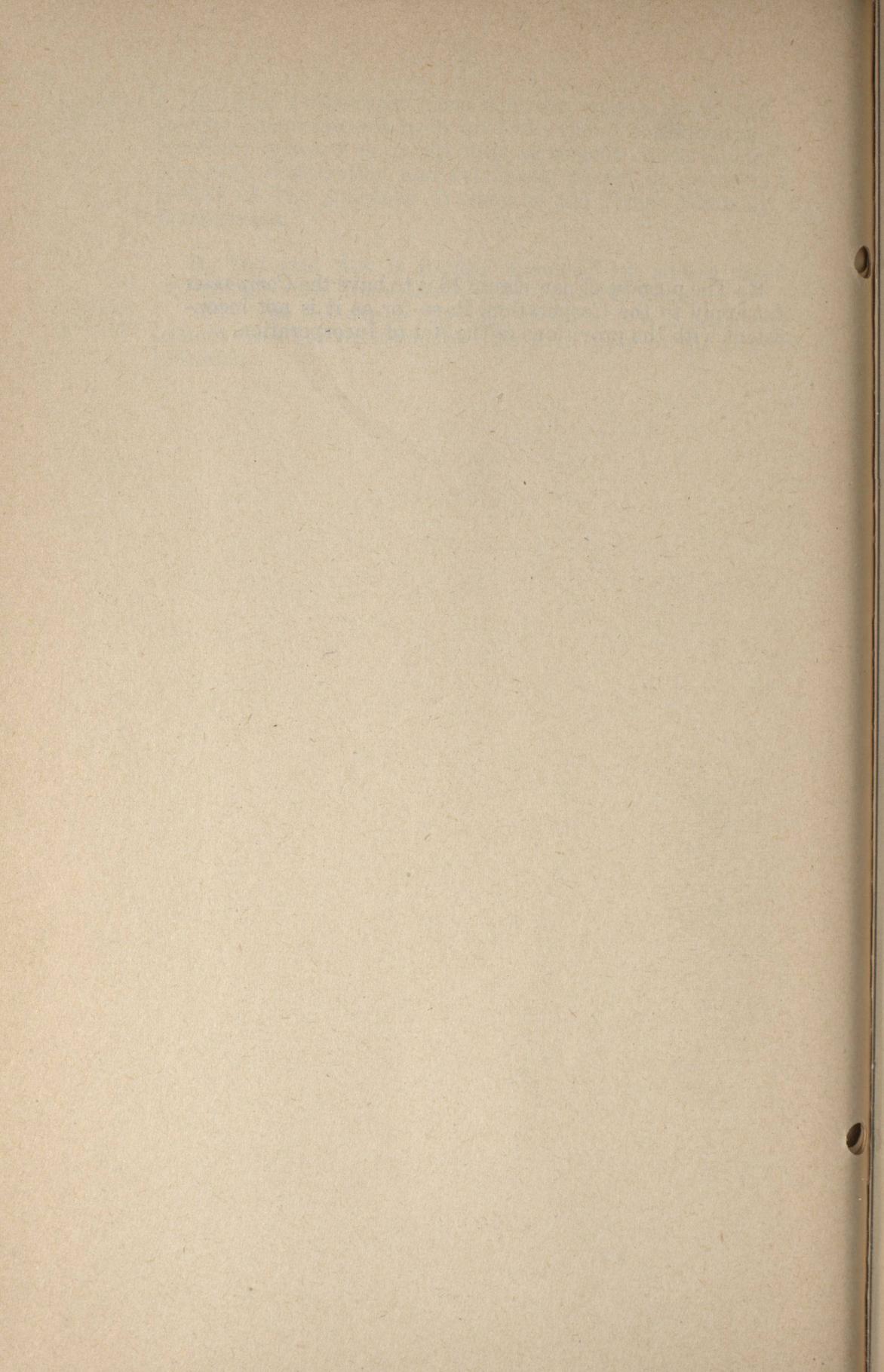
(3) The Corporation may contract, engage itself and pledge others towards itself for and without consideration, confirm, approve or ratify any agreement, undertaking, contract, deliberation and act taken, passed or made on behalf of The Apostolic Trustees of the Friars Minor or Franciscans." 5

3. The said Act is further amended by adding the following section, immediately after section 15 thereof:

*Companies
Act to apply.*

"16. The *Companies Act* shall, so far as it is not inconsistent with the provisions of this Act, apply to the Corporation." 10

3. The purpose of new clause 16 is to have the *Companies Act* apply to the Corporation, in so far as it is not inconsistent with the provisions of the Act of Incorporation.



Seventh Session, Twenty-First Parliament, 1 Elizabeth II, 1952-53.

THE SENATE OF CANADA

BILL X³.

An Act to incorporate The Callow Veterans' and
Invalids' Welfare League.

Read a first time, Thursday, 5th February, 1953.

Honourable Senator ISNOR.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

THE SENATE OF CANADA

BILL X³.

An Act to incorporate The Callow Veterans' and Invalids' Welfare League.

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 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Incorporation.

1. (1) Walter Callow, inventor, Richard W. Harris, executive, John Godwin, barrister-at-law, Harold Coleman, retired, John M. Kinnard, army officer, and Frank M. Covert, Queen's Counsel, all of the city of Halifax, in the province of Nova Scotia, together with such persons as become members of the league hereby incorporated, are hereby constituted a body corporate under the name "The Callow Veterans' and Invalids' Welfare League", hereinafter called "the League". 15

(2) The persons named in subsection (1) shall be the provisional directors of the League.

Head office.

2. The head office of the League shall be at the city of Halifax, in the province of Nova Scotia, or in such other place in Canada as may be from time to time determined by the directors. 20

Objects.

3. The objects of the League shall be to promote the welfare of veterans and invalids.

Governing body.

4. (1) The governing body of the League shall be a board of directors. 25

(2) The number of such board, the manner and time of election and their qualifications shall be determined by the by-laws.

Powers.

5. The League may:

By-laws.

(a) make, alter, amend or repeal by-laws, rules and regulations for the control of the League and the management of its affairs, and the admission and qualifications of its members, the choice, duration of office, 5 powers and duties of the officers and for the carrying on of the work and business of the League generally;

Property.

(b) acquire, take and hold by purchase, grant, lease, gift, donation, demise, legacy or bequest, real and personal property including money and receive the rents and 10 profits of such real and personal property and invest any moneys received, and sell, lease, mortgage or otherwise deal with the whole or any part of such real and personal property in such manner as may be deemed most advantageous for the carrying out of the 15 objects of the League and for such consideration and on such terms and conditions as the League may determine;

Borrowing.

(c) lend and borrow money upon such terms and conditions and secure any loans in such manner as the 20 directors may deem advisable.

Non-profit.

6. The League shall be operated without profit or gain to any of its members and all moneys received by it shall be devoted to further its objects and purposes.

THE SENATE OF CANADA

BILL Y³.

An Act respecting a certain patent and patent application of Florence F. Loudon.

Read a first time, Tuesday, 10th February, 1953.

Honourable Senator WILSON.

THE SENATE OF CANADA

BILL Y³.

An Act respecting a certain patent and patent application of Florence F. Loudon.

Preamble.

WHEREAS Florence F. Loudon, of the city of Toronto, in the province of Ontario, has by her petition represented that on the thirty-first day of May, 1945, an application was filed in the Patent Office under Serial No. 527,454 for a patent in respect of her invention entitled "Means for Supporting Curtains and Drapes"; that through no fault of hers, but solely by reason of the conduct of the patent attorney then acting for her, the said application was held by the Patent Office to have become completely abandoned through failure to prosecute the same in due time after action taken thereon by an examiner on the eighth day of July, 1947; that she was informed of this fact in November 1949, and was advised by another patent attorney then acting for her that the only course open to her was to file a new application in place of the said application Serial No. 527,454; that at the time of such advice the subject of possible previous public use of the said invention in Canada was not raised with her, and she was unaware that it had any significance in relation to the filing of such a new application; that such new application was filed on the twenty-seventh day of February, 1950, and Patent No. 474,716 was granted thereon on the twenty-sixth day of June, 1951; that the said invention was in public use in Canada in the year 1946, with the result that the said Patent No. 474,716 is not valid having regard to the provisions of *The Patent Act, 1935*; and that she did not become aware until March, 1952, that such public use had any significance in relation to her said patent; and whereas the said Florence F. Loudon has by her petition prayed that it be enacted as hereinafter set out, and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

May file
application.

1. If, within two months after the passing of this Act, Florence F. Loudon files with the Commissioner of Patents a surrender of her aforementioned Patent No. 474,716 and prosecutes the aforementioned application Serial No. 527,454, the said patent shall be deemed never to have had effect and the said application shall, notwithstanding anything in *The Patent Act, 1935*, be deemed not to have been abandoned, and the Commissioner of Patents shall consider and act upon the said application accordingly. 5

Effect of
filing
application.

Protection
of other
parties.

2. If any person has, before the thirty-first day of 10 December, 1952, commenced in Canada the manufacture and sale of the invention described in the said application Serial No. 527,454, such person may, notwithstanding the issue of any patent pursuant to this Act, continue such manufacture and sale in as full and ample a manner as if 15 this Act had not been passed.

Expiration
of patent.

3. Notwithstanding anything in *The Patent Act, 1935*, any patent, which may be granted on the said application Serial No. 527,454, shall expire on the first day of January, 1965. 20

THE SENATE OF CANADA

BILL Z³.

An Act for the relief of Marguerite Irene Bastien
Taschereau.

Read a first time, Wednesday, 11th February, 1953.

The Honourable the Chairman of the
Committee on Divorcee.

THE SENATE OF CANADA

BILL Z³.

An Act for the relief of Marguerite Irene Bastien
Taschereau.

Preamble.

WHEREAS Marguerite Irene Bastien Taschereau, re-
siding at the city of Quebec, in the province of Quebec,
wife of Henry Edward Taschereau, who is domiciled in
Canada and residing at the city of Granby, in the said
province, has by her petition alleged that they were married 5
on the fifth day of October, A.D. 1935, at the said city of
Quebec, she then being Marguerite Irene Bastien, a spinster;
and whereas by her petition she has prayed that, because of
his adultery since then, their marriage be dissolved; and
whereas the said marriage and adultery have been proved 10
by evidence adduced and it is expedient that the prayer
of her petition be granted: Therefore Her Majesty, by and
with the advice and consent of the Senate and House of
Commons of Canada, enacts as follows:—

Marriage
dissolved.

1. The said marriage between Marguerite Irene Bastien 15
and Henry Edward Taschereau, her husband, is hereby
dissolved, and shall be henceforth null and void to all
intents and purposes whatsoever.

Right to
marry again.

2. The said Marguerite Irene Bastien may at any time 20
hereafter marry any man whom she might lawfully marry
if the said marriage with the said Henry Edward Taschereau
had not been solemnized.

23

